

*Measuring Tenure Security of the Rural Poor
Using Pro-Poor Land Tools: A case study of Itaji-
Ekiti, Ekiti State Nigeria.*



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Abstract

The sustainable development goals aim to improve the lives of rural dwellers by ensuring the security of tenure of the rural poor. This led researchers and non-governmental organisations to investigate the security of tenure of the urban and rural poor in developing countries. To improve the security of tenure of the rural poor, many developing countries have initiated programmes that encompass reform of land tenure and land administration systems. To provide a solution to the insecurity of tenure, researchers and non-governmental organisations developed pro-poor land tools to address the gap created by the formal land administration system. To test the developed land tools, researchers apply them in selected case study areas.

This study investigates and analyses the tenure security of the rural poor of Itaji-Ekiti, Ekiti State, Nigeria. The New Continuum of Land Rights Model (NCLRM) and the Social Tenure Domain Model (STDm) were applied to land rights types found in the case study. Techniques, theories and tools used were based on a single case study methodology. The mixed methods approach was used to analyse and evaluate the tenure situation in Itaji-Ekiti. This yielded an in-depth understanding of the case. The research further examines critical areas of the Land Use Act of 1978 using the conceptual framework for understanding cadastral system development in customary land rights context. The mixed methodology approach was used in analysing the vital areas of the Act. Land professionals, civil servants and students were the target group that contributed to the study.

The research findings showed that security of tenure is weak because every land rights types found in Itaji-Ekiti can be affected by conflicts with customary and informal tenure. The results of this research showed that the Land Use Act is effective in some areas and dysfunctional in others. This is attributed to the age of the Act and many sections of the Act that are not pro-poor. The implementation of the Act showed that it is effective in urban areas while it is not solving land-related problems in rural areas. The research further revealed that the use of case study methodology using mixed methods are suitable for measuring tenure security of the rural poor.

The findings provide an understanding of the current land policy in Nigeria and as well as understanding land tenure insecurity in Itaji-Ekiti. The research also provides information for researchers in the field of cadastral system research on the use of pro-poor land tools as alternative approaches to recording land rights and measuring tenure security of the rural poor.

Acronyms

ADR	Alternative Dispute Resolution
CLT	Community Land Trust
CMC	Citizen's Mediation Centre
ETLR	Evolutionary Theory of Land Rights
FAO	Food and Agricultural Organisation
FIG	International Federation of Surveyors
FLTS	Flexible Land Tenure System
FPA	Federal Polytechnic Ado-Ekiti
FUTA	Federal University of Technology Akure
GLTN	Global Land Tools Network
GPS	Global Positioning System
HRSI	High-Resolution Satellite Imagery
IIRR	International Institute of Rural Reconstruction
IS	Information System
IT	Information Technology
LAAC	Land Allocation and Advisory Committee
LADM	Land Administration Domain Model
LAPCAS	Improvement of Land Administration Procedures, Capacity and Systems
LAS	Land Administration System
LEAP	Legal Entity Assessment Project
LMDC	Lagos Multi-Door Courthouse
LTT	Land Titling Theory
LUA	Land Use Act
LUAC	Land Use and Allocation Committee
MDC	Multi-Door Courthouse
MDG	Millennium Development Goals
NBC	National Boundary Commission
NCLRM	New Continuum of Land Rights Model
NCMG	Negotiation and Conflict Management Group
RRRs	Rights, Restrictions and Responsibilities
SDGs	Sustainable Development Goals
STDM	Social Tenure Domain Model
SURCON	Surveyor Council of Nigeria
UN-HABITAT	United Nations Human Settlements Program

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CHAPTER ONE

1 Introduction

1.1 MOTIVATION

All over the world disputes on land are common. For example, “neighbours disagreeing over boundaries, two parties disputing ownership over a piece of land, conflicts between landlords and tenants, disputes over use rights on common property or collective land, intra-household disputes, and inheritance disputes” (Palmer, Fricska & Wehrmann , 2008. P. 49). Land disputes can occur at any time or place; this can be attributed to greed and need of people. Increases in land value and scarcity can also cause land disputes. Land disputes occur especially in customary and informal tenure system with adverse effects on the economic, social, spatial and ecological development of any nation (Wehrmann, 2008).

Land rights in rural areas are of primary importance if poverty and hunger will be reduced in society. Three of the United Nations Sustainable Development Goals (SDGs) have land as a component. These goals are: “end poverty in all its forms everywhere; end hunger, produce food, security and improved nutrition and promote sustainable Agriculture; and achieve gender equality and empower all women and girls” (United Nations, 2015, p. 14). Land rights are essential in communities for peasant farmers to have access to land for agricultural purposes. Farming activities boost agricultural production which provides a means of livelihood for the rural poor. In the millennium development goals (MDGs), tenure security is indicator 32 in target 11. This target aimed at providing a better livelihood for rural dwellers (UN-HABITAT, 2003).

The inclusion of land as a parameter in the SDGs showed that land rights are important when addressing the issues of poverty, hunger and sustainability (United Nations, 2015). Securing land rights of rural dwellers who depend solely on land as a means of livelihood is considered important in generating wealth for poor people (World Bank, 2003). In reducing poverty, it is recognised that land tenure security is a significant factor (FAO, 2002a). However, land tenure security improvement is considered more important for achieving the global development agenda (Simbizi, 2016). In ensuring tenure security of the urban and rural poor, various reforms

in customary tenure have been initiated. These tend towards formalization or conservative theories (see section 2.3.5). Documenting land rights may not be enough to reduce poverty and ensure tenure security of the rural poor, because of the link of land and land rights to social context (Whittal, 2014). Hence land policy and land administration must include the social parameters of the people (ibid).

The Social Tenure Domain Model (STDM) has been used to record land rights in customary land tenure systems and informal settlements (Griffith-Charles, 2010; Lemmen, 2013; Zevenbergen et al., 2013; Mwanyungu et al., 2017). The Global Land Tools Network (GLTN) and UN-HABITAT have successfully conducted a pilot study using STDM to record land rights of people living in Saint Lucia, Saint Vincent and the Grenadines (UN-HABITAT & GLTN, 2012) as well as in rural Uganda and rural Kenya (UN-Habitat & GLTN, 2014). In this study, the STDM is used to record land rights in Itaji-Ekiti. In all these studies, High-Resolution Satellite Imagery (HRSI) was employed to describe the human-land relationship without altering what is on the ground. The use of HRSI has proven to be an effective and efficient alternative approach to the demarcation of boundaries which supports the formal land administration system. The STDM has not been used to record land rights in Nigeria to date.

A New Continuum of Land Rights Model, NCLRM (Whittal, 2014) was developed to measure the tenure security of the rural poor. The model employs the use of legitimacy, legality and certainty to measure tenure security. Land rights are mapped along the horizontal axis using land value while the strength of tenure relating to the land rights is measured along the vertical axis using legitimacy, legality and certainty. The model had been used to measure tenure security in a rural South African context (Whittal, and Rikhotso, 2016).

Strengthening security of tenure may be essential for poverty reduction, economic growth and the empowerment of the poor. The number of people dying because of land conflicts continues to grow every year with Nigeria experiencing many deaths over the last decades (Conroy, 2014). Nigeria recorded total mortality of 2 846 on land conflicts between 2006-2014 (Nigeria Watch, 2014). In 2015 alone, a total of 111 deaths were recorded due to land issues (Nigeria Watch, 2016).

1.2 DEFINITION OF TERMS

Defining some terms associated with this study is essential. In the modernisation of cadastral systems, the definitions of terms are often unclear (Hull & Whittal, 2013). There is a need for “a body of basic theory of cadastral systems which includes a definition of concepts that may serve worldwide applications” (Silva & Stubkjaer, 2002, p.418). Lemmen et al. (2013, p.27) described one of the goals of Land Administration Domain Model (LADM) as the “establishment of a shared ontology [to enable] communication between involved persons.” In this study, the dominant terms used will be briefly defined to communicate to the reader the meaning of the words used.

UN-HABITAT & GLTN (2011, p.5) defines **land tenure** as “the way in which land is held or owned by individuals and groups, or the set of relationships legally or customarily defined by people with respect to land tenure reflects relationships between people and land directly, and between individuals and groups of people in their dealings with land.” The **cadastre** is “a parcel-based, and up-to-date land information system containing a record of interests in land [and] includes a geometric description of land parcels linked to other records describing the nature of the interests” (FIG, 1995, p. 1).

A **Cadastral System** consists of a cadastre (spatial focus) and a land register (legal focus) (Silva and Stubkjaer, 2002). The cadastral system depends on four independent agencies: land tenure, land valuation, land use control and land development (Williamson *et al.*, 2010). A cadastral system comprises processes that support land tenure security by providing institutions, human resources and technical resources (Barry, 1999). Cadastre is not only attributed to ‘formal land ownership’ the parcel, interest and attributes can also be attributed to informal and customary land ownership (Hull and Whittal, 2013). However, the term cadastre is normally attributed to formal systems (*ibid*).

Security of tenure denotes that a known set of rules underwrites the right of access, usage of the land and property and that this right is justiciable. Land tenure security “guarantees the existence of land rights, ensures the protection of rights through legal remedies, and creates land markets that unlock its potential as an asset and encourages efficient allocation and transactions” (de Zeeuw, Blake & Chaka, 2016 p.4). Tenure security will enable landowners to use land suitably for a long time. Security of tenure is defined as:

“The degree of confidence that land users will not be arbitrarily deprived of the rights they enjoy over land and the economic benefits that flow from it. The certainty that others will recognise an individual's rights to land and protect it in cases of specific challenges; or, more specifically the right of all individuals and groups to effective government protection against forced evictions” (UN-HABITAT & GLTN, 2011 p.5).

Based on this definition, security of tenure is the quiet enjoyment and assurance that landholders derive from the use of their land. Per Palmer, Friccka & Wehrmann, (2008), the benefits of tenure security includes: a) increase in the number of people investing in their environments; b) improved agricultural production, food security and the use of natural resources; c) rural and poor urban livelihoods are improved particularly women and the vulnerable, through small-scale enterprise; d) allows for investment in rural areas; e) eradicates informal land markets; f) provides quality of life for people in informal and rural settlements; g) increases revenue generated by government from land-based taxes; and h) improved community harmony.

Land tenure security is the way people perceive whether they are secured on their land. Land tenure security was described by Place, Roth and Hazell (1994) as the perception by individual or group of people that their rights to ownership to a piece or parcel of land will be free from encroachment, eviction or interferences from both internal and external sources. They further add that it is the ability to ‘reap benefits’ of their investment either in cash or labour by transferring to another user. More recent definitions explain land tenure security based on three schools of thought: economic, legal and adaptation schools of thought (Simbizi, 2016). Also, legitimacy, legality and certainty were used to measure land tenure security (Whittal, 2014)- see section 2.2. In this thesis, way of strengthening tenure security are investigated, where strengthening means securing or improving tenure security. For example, the application of NCLRM by improving legitimacy, legality and certainty of land rights holders.

Land governance has been defined as “policies, processes and institutions by which land, property and natural resources are managed. Sound land governance requires a legal, regulatory framework and operational procedures to implement policies consistently within a jurisdiction or country, in sustainable ways” (Enemark et al., 2014, p. 5). Hull & Whittal (2013) describe the principles of good governance related to cadastral system development as a) Efficient,

effective and enduring; b) Transparency, accountability and the rule of law; c) Equity and participation, and d) Security and integrity. Whittal, (2011, p. 171) further asserts that these are “ideas rather than achievable objectives that can guide and inform the development of land administration initiatives.”

A **Land Information System (LIS)** “is an information system that is established and maintained for purposes of land management” (Hull & Whittal, 2013, p. 345). LIS incorporates four subsystems namely cadastral, juridical, regulatory, and fiscal cadastral systems (Whittal, 2008). **Land Administration System (LAS)** is defined as the process of gathering, recording and disseminating information about ownership, value and use of land (UN-ECE, 1996). As indicated in the cadastre, the basic unit of any LAS is the land parcel (Williamson et al., 2010).

Land administration is “the study of how people organize land. It includes the way people think about land, the institutions and agencies people build, and the processes these institutions and agencies manage” (Williamson et al., 2010, p. 37). The principles of good governance are important in land administration (Enemark, 2012; Whittal, 2011). A modern land administration system should provide policies that are sustainable and good governance services for business and improved quality of life (Kalantari, 2008). **Land registration system** refers to the method of keeping records of land rights in a public system which is legally recognised. Formal land registration consists of registration of deeds and registration of titles (Roth et al., 1989).

The **statutory tenure** system is based on the land law of a nation. Most African countries derive statutory tenure systems from their colonial masters during colonisation. Akrofi (2013) describes a **customary tenure system** as a system that ascribes the power of ownership to the people while enjoying their legitimate right. “Customary land tenure refers to the systems that most rural African communities operate to express and order ownership, possession, and access, and to regulate use and transfer” (Wily, 2011, p. 1). **Informal tenure** is not associated with any of the two tenures earlier described. Tenure becomes informal when people’s land rights are not associated with any of customary and statutory tenures. This category of people is called squatters or illegal settlers (van Asperen, 2014). In Nigeria, informal tenure is largely found in the urban centre where landholding is governed by customary laws. It is reported that 80% of urban landholding is informal (Aribigbola, 2007; Nwaka, 2005 cited by USAID, ND).

The lack of sufficient land for housing purposes in the urban areas of Nigeria results in informal tenure (Nwaka, 2005). Informal tenure also exists in rural areas because of development on land without adequate planning (Ibid).

Customary tenure is described as a form of tenure by custom, and this has nothing to do with time or history. **Traditional tenure** is defined as tenure in consonance with traditions and history. **Communal tenure** refers to a form of tenure where groups rights are recognised (Nkwae, 2006). **Customary law** is defined “as a normative order observed by a population, having been formed by natural social behaviour and the development of an accompanying sense of obligation. A normative order is a body of interrelated norms, or of rules and principles” (Woodman, 2011, p.10).

Land tools may be defined as “a practical way to solve a problem in land administration and management. It is a way to put principles, policies and legislation into effect. The term covers a wide range of methods: from a simple checklist to use when conducting a survey, a set of software and accompanying protocols, or a broad set of guidelines and approaches” (UN-Habitat, IRR & GLTN, 2012, p.8).

Pro-Poor is a term used to address policies that consider the people living in slum areas, which was later extended to the rural poor (Simbizi, 2016). It is used to define concepts that concern people living in poverty (UN-HABITAT, 2008). In this context, it is referred to land tools that consider the poor people.

Land Tenure in Nigeria

Land tenure in Nigeria is discussed in three evolutionary stages: pre-colonisation, colonisation, and post-colonisation. These stages are relevant to most countries in Africa. Van Asperen, (2014) observes that pre-colonial rule was the time in which groups occupied an area and these sets of people are referred to as tribes; the period of the colonial government ushered in laws from foreign nations. The post-colonial era ushered in the independent countries.

There were only two systems of tenure in Nigeria before colonisation (before 1900): the tenure system obtained in the north was different from the one received in the south. In the north, the land was held by the Emirs (community head) who in turn gave land use rights to the people while in the south, the land belonged to the village, community, and families. The community

head held land in trust for the whole community (Maduekwe, 2014; Atilola, 2010). The laws governing customary land tenure systems in the south differed from community to community (Omotola, 1982). The tenure practice was according to the norms and beliefs of every tribe. The headman was never regarded as an owner but as caretaker performing pure administrative functions in his capacity under the customary law. Omuojine (1999), Dosumu (1977) and Aniyom (1978) all confirmed that customary rights were the tenure type in southern Nigeria before colonisation.

The period of colonisation was from 1900-1960. During this period various legislations in different parts of the country were promulgated. This was because of different colonial masters in different colonies and protectorates within the nation (Atilola, 2010). Some of this legislation will be briefly mentioned and explained. The first was the proclamation no. 8 of 1900 and proclamation no. 13 of 1902 (Native Lands Acquisition) which stipulated that land could be acquired by natives as they used to under the native law and tradition. They further specified that non-natives could not buy any land except under lease from the government. This proclamation divided the land into Crown Lands and Public Lands (Maduekwe, 2014; Olawoye, 1981).

In 1916, Niger Lands Transfer Ordinance was promulgated, and this vested the control and management of all native lands and rights to the government. This was to be held in trust and administered for the use of the people. No allocation of land was valid without the consent of the governor. This ordinance brought about the Land Tenure Law of Northern Nigeria in 1962 and the Land Use Act 1978. The Public Lands Acquisition Ordinance 1917 vested power in the governor to acquire any land for public purposes and such land is termed Crown Lands. The last of the proclamations was the Public Land Acquisition Ordinance of 1958 which vested the ownership of land in the state (Maduekwe, 2014; Olawoye, 1981).

The post colonisation stage was the time after independence in 1960. The first law enacted was the Land Tenure Law of 1962. This was in line with the 1916 version of the Niger Lands Transfer Ordinance with some amendments. These amendments are: the power of the governor became vested in the minister (later commissioner), the only right is right of occupancy which is either statutory or customary, and the provision of no occupation without the consent of the

governor was valid with an amendment to refer to non- natives (Maduekwe, 2014). The evolution of land tenure in Nigeria is shown in Figure 1-1.

Figure 1-1 shows that Nigeria is a multi-ethnic state with different modes of customary tenure systems on land. There are different multi-traditional land institutions because of the different settlement patterns. The adoption of a legal land policy based on western principles resulted in public and private tenure. Public and private tenures are referred to as customary and statutory tenure.

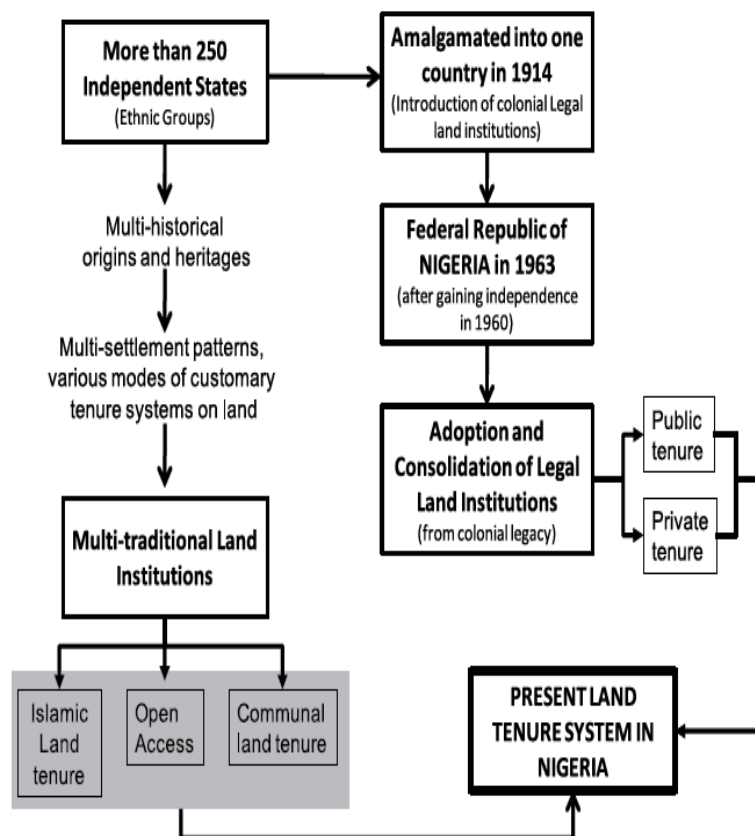


Figure 1-1: Evolution of Land Tenure System in Nigeria (Chigbu et al., 2016, p.67)

The land tenure of 1962 operated till 1978 when a decree was promulgated for the new land law in Nigeria. Before the promulgation of this law, it was observed by The Food and Agricultural Organization (FAO) report on agricultural development in Nigeria in 1965 that “as the country moves from tribal to national state and from a traditional to a modern society, a fundamental revolution in the land tenure is inevitable” (FAO, 1966, cited by Utuama, 2016, p.71). This led to the concern of the Federal government in the third national development plan

(1975-1980) to build a modern society. In this plan, land tenure was identified as a significant factor to be considered for National Development (Abugu, 2012).

In the quest for the above, the Land Use Decree (now Act) was promulgated on 29th March 1978 with some specific objectives to make land readily available for every Nigerian, whether corporate bodies, individuals, institutions or government agencies. This was to enable the government to easily acquire land in any part of the country for developmental purposes. This act aimed to ensure a uniform land tenure system within the country. This aim was never achieved as there are multiple tenures (statutory, customary and informal tenure system) existing, where some are even overlapping.

Formal land tenure (statutory) derived its existence from the Land Use Act 1978. Formal land tenure is the right to use land, and it's supported by section 5(1) (Land Use Act, 1978). The governor of a state grants a statutory right of occupancy. A statutory right can be deemed to be issued by the governor or expressly granted by the governor (Olawoye, 1981). Customary land tenure system derives its existence from the Land Use Act 1978. A customary right of occupancy is granted by the Local Government to land not in urban areas. Section 6(1) (Land Use Act, 1978). Customary land tenure system relates to family ownership, inheritance, groups, and communal ownership of land. Under this type of ownership, individual access to land resources for use is guaranteed. In customary land tenure rules, every member of the family has access to land to feed both himself and his family (Arua & Okorji, 1997). The prominent feature of customary land tenure system is that "land is an ancestral trust which the living shares with the dead, hence land is inalienable" (Amankwah, 1989).

Informal tenure is not recognised by any law in Nigeria but do exist (common law, civil law or customary law). Illegal subdivision of land which is not legally approved could be termed informal. Informal land tenure system is often not seen to be governed by any institution, whereas in the case of Nigeria as statutory and customary are administered by the formal institution. Informal institutions are also govern mainly by customary institutions.

Itaji-Ekiti and Ayede-Ekiti have co-existed for many centuries. History has it that Ayede-Ekiti is a tenant to Itaji-Ekiti, meaning that Itaji-Ekiti gave Ayede-Ekiti land for settlement. In the nineteenth century, a land dispute occurred between the two communities which resulted in many years of land litigation in court. The judgement was later in favour of Itaji-Ekiti. In 2017,

a similar land dispute occurred between the two communities towards the southern part of Itaji-Ekiti farmland. Residents of Ayede left their community to attack the people of Orisumbare Street, Itaji-Ekiti on their farm which resulted in the death of three persons from Ayede-Ekiti and one person from Itaji-Ekiti was seriously injured (Ogundele, 2017). The present land dispute case is in State High Court Ado-Ekiti, Ekiti State Nigeria. The state government also established a panel of enquiry to examine the dispute between the two communities. The panel consists of the Surveyor General (SG) of the state, a retired High court judge, representatives of the boundary commission and stakeholders.

1.3 PROBLEM STATEMENT

A land dispute occurred recently in a town called Itaji- Ekiti in Ekiti State Nigeria. A community within the town called ‘Orisumbare’ were predominantly farmers from neighbouring Kwara State. They were attacked by people from Ayede-Ekiti village claiming ownership of land within Itaji-Ekiti. During this land conflict, three deaths were recorded (Ogundele, 2017). The residents of Itaji-Ekiti are facing tenure insecurity. They need the means to secure their customary and informal land rights. The Land Use Act is not meeting their needs. For these groups of people to have access to land, pro-poor land tools must be applied to record their land rights.

1.4 RESEARCH AIM, OBJECTIVES AND QUESTIONS

1.4.1 RESEARCH AIM

The aim of the research is to investigate pro-poor land tools for strengthening tenure security in customary land tenure system in south-western Nigeria.

1.4.2 RESEARCH OBJECTIVES AND ASSOCIATED QUESTIONS

Objective 1- Understanding factors affecting tenure security in customary land tenure system in south-western Nigeria.

- 1.1 What are the causes of land disputes in customary land tenure systems?
- 1.2 How are land disputes resolved in customary land tenure systems?
- 1.3 How can title to land in customary tenure systems be secured?
- 1.4 Who are the vulnerable or marginalised group in the study area?
- 1.5 What proportion of land rights-holders in the study area have insecure land tenure?

Objective 2- Investigating the impact of Land Use Act on customary land tenure system

- 2.1 How has the objective of Land Use Act been achieved?
- 2.2 What are the problems created by the enactment of the Land Use Act?
- 2.3 What areas of the Act support customary land tenure?
- 2.4 What areas need a review?
- 2.5 Has the Land Use Act improved the security of title to land?

Objective 3 - Identifying suitable pro-poor land tools and applying to selected case study.

- 3.1 What pro-poor land tools have been developed for securing tenure in customary contexts?
- 3.2 What criteria can be used to choose suitable tools for the study area?
- 3.3 How can the tools be used to strengthen customary tenure security?
- 3.4 What can be learnt from the application of the land tools?

Objective 4- Making recommendations and generalising findings

1.5 SELECTION OF STUDY AREA

Itaji-Ekiti in Ekiti State, Nigeria located in the south-west region of Nigeria is chosen as the study area for this research. The recent land dispute between Itaji-Ekiti and Ayede-Ekiti towards the Southern part of the town provided the motivation for this choice. The researcher is also a native of the area, so granting the audience from the community head and the people for sensitisation and awareness programme was easier. The land tenure and land ownership in Ekiti State are obtained from the customary land tenure system, although the statutory and informal tenure exist. Ekiti State has a boundary with Kwara State and Kogi State in the North, Osun State in the west, Kogi State and Ondo State in the East and Ondo State in the South (see Figure 1-2 & Figure 1-3). It lies between longitude $5^{\circ} 15'E$ and latitude $07^{\circ} 40'N$ with land area $6\ 353\text{km}^2$. Ekiti State was created in 1996. The language of the Ekiti people is Yoruba, and the native dialect is Ekiti. Ekiti State has a tropical climate with two different seasons: the rainy season (April-October) and the dry season (November-March).

The region experience high humidity and temperatures range between 21°C and 28°C . A tropical forest exists in the south, while savannah occupies the northern peripheries. The state is made up of sixteen (16) local government areas. Itaji-Ekiti is located in Oye Local Government Area. Itaji-Ekiti has a boundary with Ayede/Oloje/Ipere Ekiti in the North,

Imojo/Oye Ekiti in the South, Orin/Ido Ekiti in the West and Ijelu/Omu Ekiti in the East. The people from Itaji-Ekiti are predominantly farmers while migrants to this town are primarily people for farming activities.

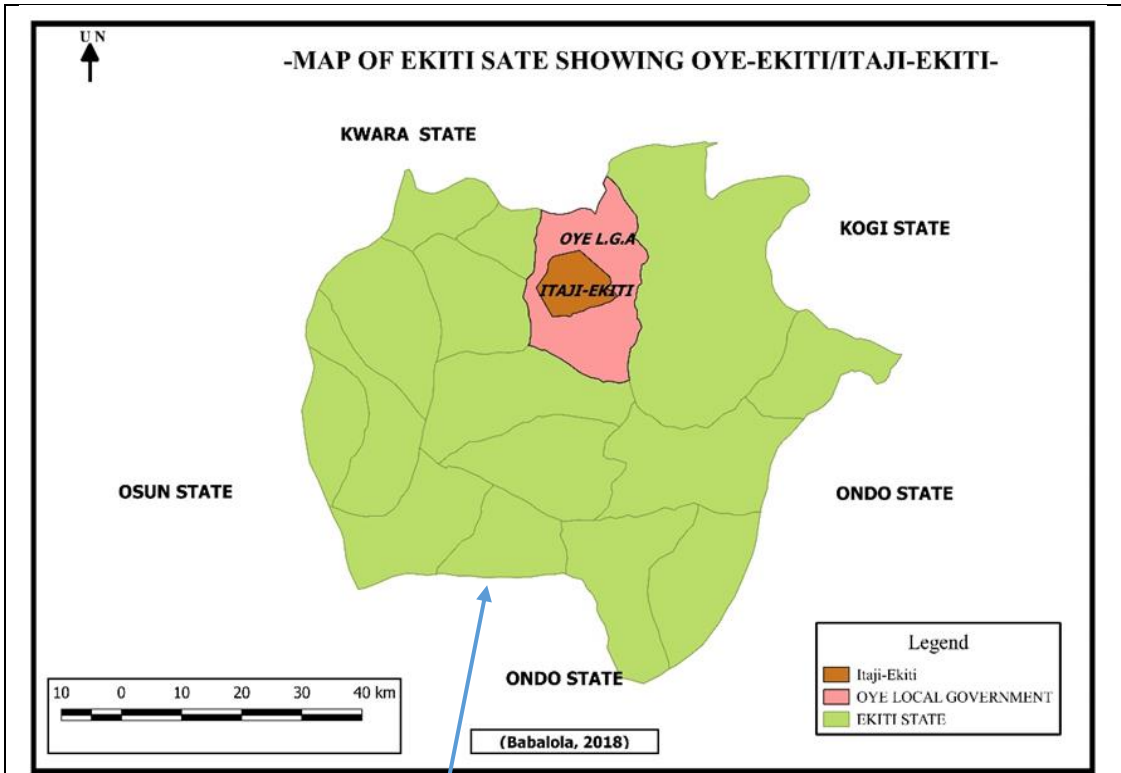


Figure 1-2: Ekiti State Showing Oye-Ekiti and Itaji-Ekiti

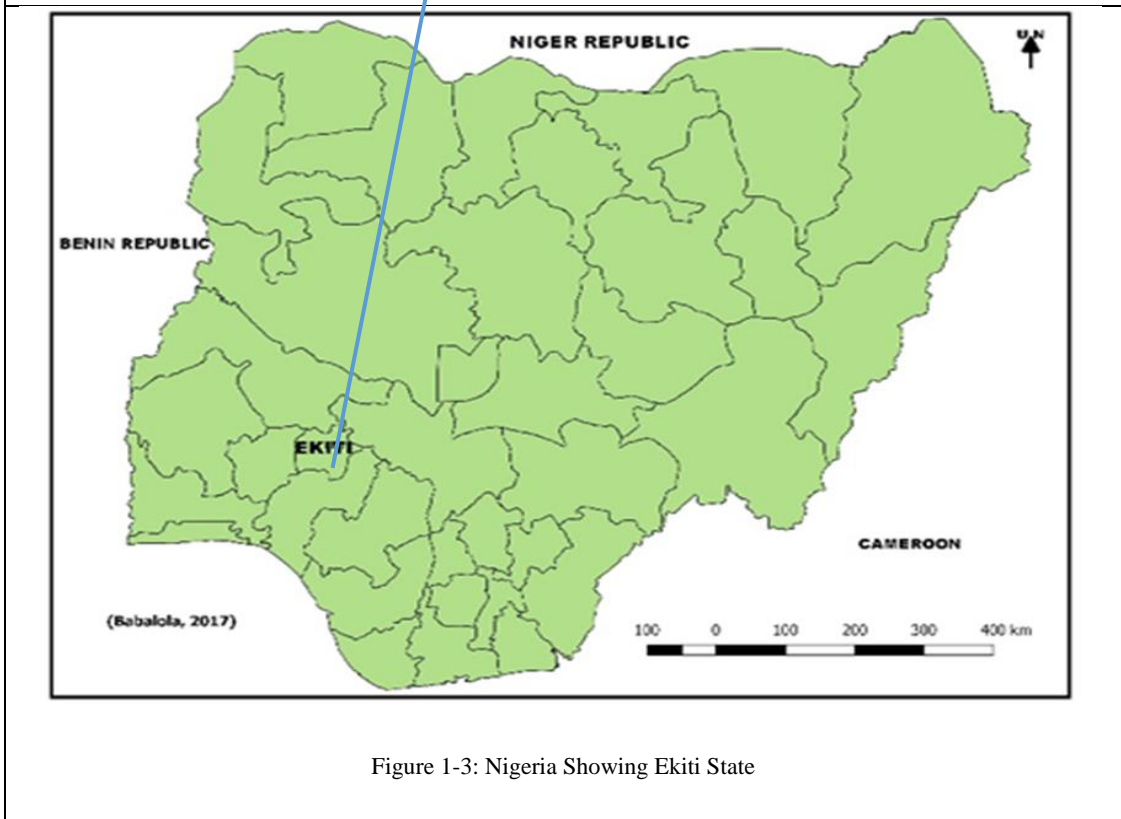


Figure 1-3: Nigeria Showing Ekiti State

1.6 RELEVANCE OF THE STUDY

Many researchers have worked on how to improve tenure security; (Van Asperen, 2014; Archer, 2016; Simbizi, 2016). The applicability of STDM and LADM within customary and informal land tenure systems had been conducted by few researchers (Griffith-Charles, 2010; Ary Sucaya, 2009; Mithofer, 2006; Hespanha et al., 2006). GLTN and UN-Habitat had conducted some pilot studies, such as the pilot study in rural Kenya, rural Uganda, and the Eastern Caribbean. This study provides additional knowledge for researchers in the field of cadastral systems studies as it test the applicability of STDM and NCLRM to record land rights and the study of the legal environment of the customary land tenure system.

This is new in its entirety. Hence the use of STDM and NCLRM to record land rights in the study area will be available as a prototype for the entire rural areas within south-western Nigeria.

1.7 RESEARCH DESIGN & METHODOLOGY

The research involves exploring methods used in cadastral system research and then applying same to this study at a practical level. It aids understanding of the tenure system and adds to knowledge acquisition in the field of cadastral systems. The measuring of tenure security of the rural poor using NCLRM is conducted through review of relevant literature, methodologies, land policy, Land Use Act (LUA) analysis and application of pro-poor land tools. The methodology employed in the study comprises of mixed methodology (qualitative and quantitative) and case study (single).

The STDM and NCLRM are used to measure tenure security of the rural poor with a specific focus on recording land rights, land value, land use type, title ownership, duration of stay on land, transferability of land and title ownership. The other aspect of this study is the evaluation of the land legislation in Nigeria (Land Use Act 1978), using the conceptual framework for understanding cadastral system development in customary land rights context (Hull and Whittal, 2017), see section 4.4.1. This is to understand landholding in relation to existing land tenure in Nigeria. The evaluation of LUA is an aspect of tenure security as per NCLRM.

The research adopts a case study approach using a single case study (Yin, 2009). The case study is based on practical rather than theoretical considerations. It is an exploration of a study in its actual life settings. This is carried out when the confines of the phenomenon and the setting are not apparent (Yin, 2009). The use of the single case study allows the measure of tenure security in Itaji-Ekiti to be investigated in its natural context. Multiple sources of evidence are used in this research. This improves rigour in research. The adoption of multiple sources of evidence strengthens the validity of the research. Primary and secondary data sources are used. The primary data is based on attribute data, raster data and vector data (see chapter 4). The secondary data is from thesis reports, journals articles, online resources and published books.

The attribute data were collected based on two different structured questionnaires which were administered to professionals in the land industry and the rural poor in order to evaluate the LUA and to record land rights. The study also utilized semi-structured interviews with three respondents types (community head, land rights holders and the head of formal institutions). The three respondents groups were chosen because they have the knowledge required to achieve the research objectives.

A vital source of evidence is the participant observation in which the researcher is a resident of the case study area. Bias may be added to this study by participant observation; this is minimized by triangulating evidence of data obtained from multiple sources.

STDM and NCLRM are models used in the analysis of this research and are presented in chapter 7 of this thesis. These models are pro-poor land tools that enable tenure to be modelled in its natural context. These are measured by evaluating elements of tenure (objects and subjects). The STDM is a land tool used to record land rights and developed by GLTN (UN-Habitat & GLTN, 2014). The NCLRM is a pro-poor land tool which measures tenure security of the rural poor (Whittal, 2014).

The research is therefore primarily based on selecting tools to measure the tenure security of the rural poor using pro-poor land tools such as the measure of tenure security in Itaji-Ekiti, Ekiti State Nigeria. The case study research process is shown in Figure 1-5. The thesis structure which gave a description of each chapter is discussed in section 1.8.

1.8 THESIS STRUCTURE

This thesis examines the various pro-poor land tools that can be used to measure tenure security of the rural poor. The thesis further evaluates the LUA of 1978, to understand the legal holding of land in the customary land tenure system. This thesis comprises eight chapters in all.

Chapter one: Introduction/Motivation

The chapter discuss motivation behind the study; definition of terms; land tenure in Nigeria; problem statement; research aim, objectives, and questions; choice of the study area; relevance of the study; research design; and thesis structure.

Chapter two: Appraisal of Literature in Land Administration

The chapter presents the reviews of the literature on customary land tenure and land administration. The chapter further gave theoretical concepts on land tenure and its related theories by discussing land tenure security. The ideas of customary tenure reforms theories were presented. Also, land tools used in measuring tenure security was discussed. It also documents continuum of land theories by providing knowledge on the conservative or emerging and pro-formalisation theories. Country-specific examples of innovations in customary tenure reform were also presented. An overview of the concept of land tools and why it is needed in measuring tenure security of the rural poor was discussed. The chapter further presents the conventional land administration and the reasons attributed to the failure of traditional land administration. The importance of proper governance in the customary land administration is also discussed. It analyses the continuum of land rights and the alternative, a new conceptual model of the continuum of land rights. The theoretical concept underlying the use of STDM as a pro-poor land tool was examined.

Chapter three: Reforms in Cadastral System and Dispute Resolution in customary land.

The chapter starts with reforms in the cadastral system by firstly examining the reform drivers and goals. Also, the roles of government in cadastral systems reform and best practices in the cadastral systems were discussed. It analyses the mechanisms of resolving the disputes in the customary land tenure system; this leads to the causes of disputes in the customary land tenure system. The chapter concludes by discussing the various modes of the formal and informal mechanism for resolving conflict.

Chapter four: Methodologies used in cadastral systems/ research methodology

Presents the tools, techniques and methodologies that are used for this research. It further shows the theoretical framework applicable to the cadastral system. It discusses Case Study and Mixed Methodology, the previous research where Case Study and Mixed Methodology were applied. The single case study and mixed methodology were employed as a research strategy used in this research. The various data were collected using the survey questionnaires, interviews, archival records, personal observation. These viewpoints were obtained from professionals, students and key informants in the study area. The researcher forms the participant observer as a member of the community and the researcher. The chapter is vital as it is the foundation upon which the research is built.

Chapter Five: The Nigerian Land Use Act

Review previous literature on the LUA of 1978. Starting with a background study of the LUA and its effect on customary land tenure system. The review went further by examining the areas that needed a review based on previous literature. This leads to a study on the need for a review and areas of concern in the Act. Also, the chapter examines the problems in the Act and classified it as problems of implementation and problems inherent in the Act. The areas of concern in the Act were also discussed. The chapter closes by briefly analysing the Nigerian land reform agenda.

Chapter Six: Analysis of the Land Use Act

The chapter begins by describing the characteristics of respondents to the survey. The determination of the sample size which lead to description and reporting of the questionnaire. This chapter is informed by the data collected in chapter four. The section concluded by analysing the questionnaire survey based on the research questions.

Chapter Seven: Application of pro-poor land tools.

Application of the NCLRM and STDM: a case study of Itaji-Ekiti (Nigeria). This chapter is divided into two parts: the first part analyses the application of pro-poor land tools in the case study. It begins with case analyses by applying the principles of The NCLRM. It analyses the continuum of land rights on both horizontal and vertical axes by describing the legitimacy, legality and certainty of the land rights holders. Land value and complexity were also analysed. The second part uses the STDM to record land rights in the study area. The chapter concluded by giving a summary of the results.

Chapter Eight: Conclusions, recommendations & further research

The chapter summarises the results of the research in line with the research objectives. The conclusion of the study and further recommendations for the area of new research in tenure security is proposed.

The research design involves six stages as shown in figure 1-4. Stage 1 involves problem definition in chapter 1. Chapters 2 and 3 involves literature review in stage 2 to achieve objectives 1 & 3. The analysed literature leads to stage 3 where the case study was designed (objectives 2 & 3) in chapter 4. The literature in Chapter 5 review addresses objective 2 (stage 4). In stage 5, comprising chapters 6 and 7, the case study analysis addresses objectives 2 and 3. Stage 6 involves the conclusions and recommendations (chapter 8), addressing objective 4 and linking back to stage 1 to close the research loop.

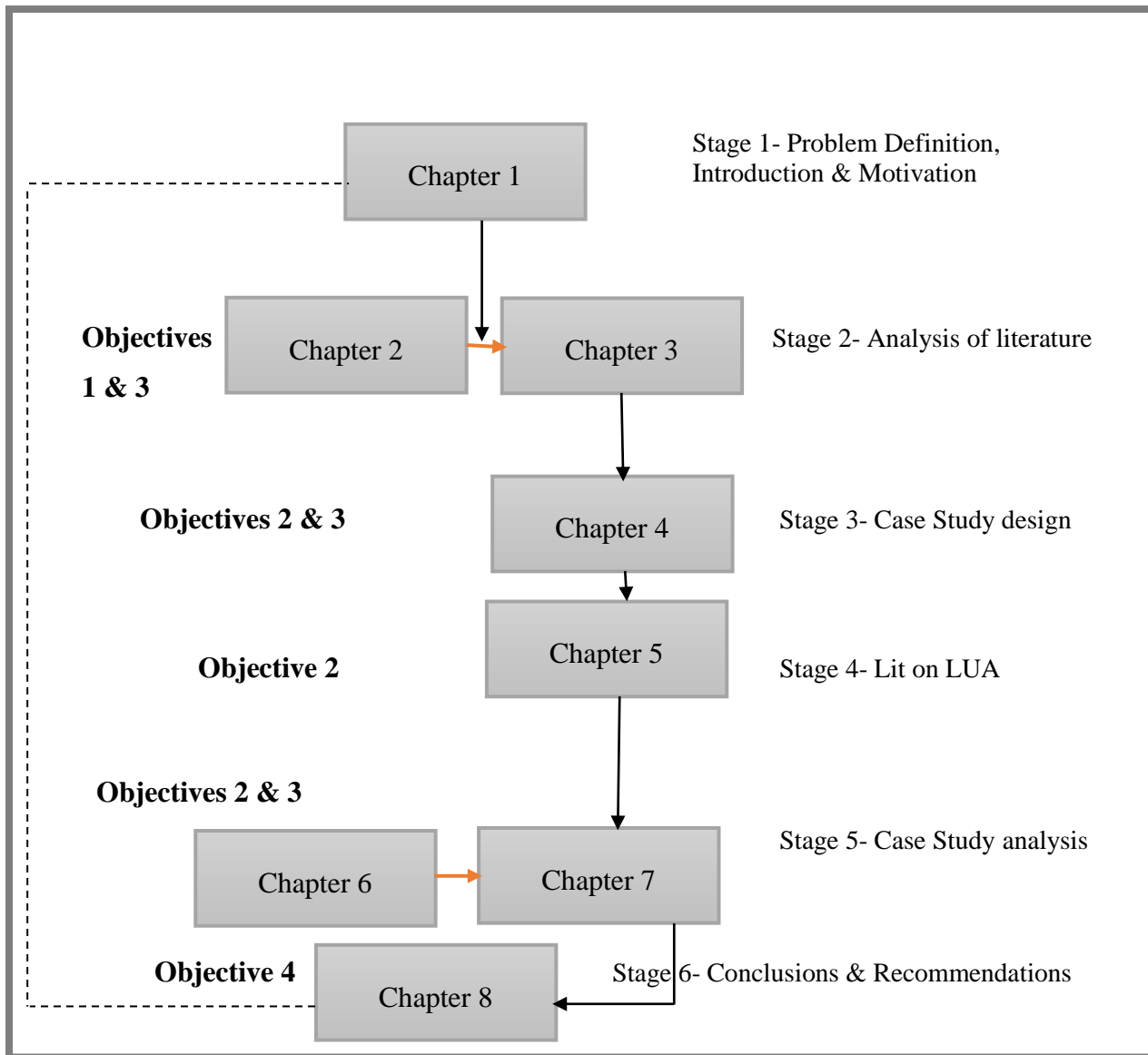


Figure 1-4: Research Design

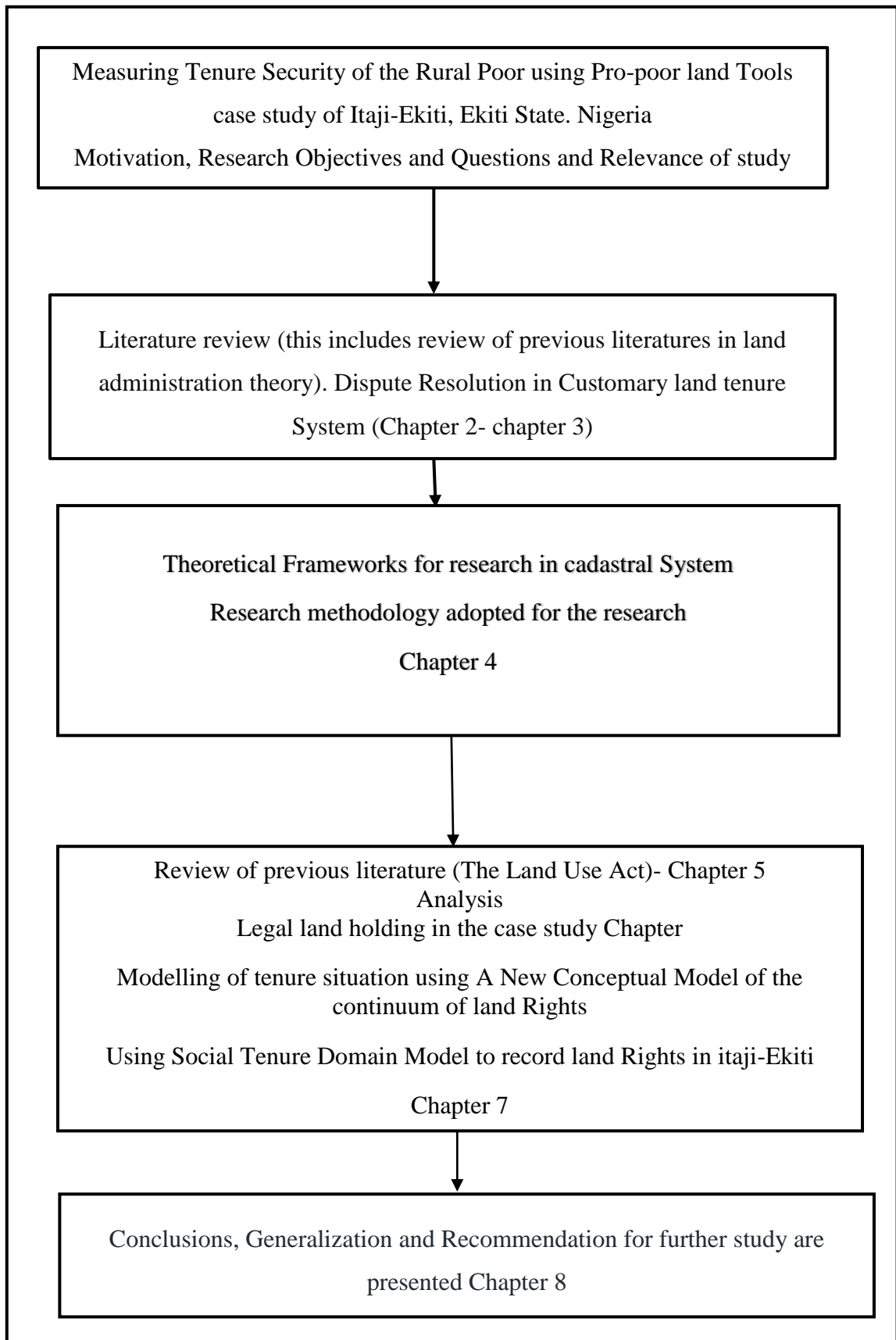


Figure 1-5: Case Study research Process of Itaji-Ekiti, Ekiti State, Nigeria.

Chapter two

2 Appraisal of Literature in Land Administration.

2.1 LAND TENURE

Per FAO, (2002a) land is the source of wealth, social status and power where basic shelter, food and economic activities take place. It may be very scarce in urban areas. Access to land is essential because household, community and decision making powers take place on land. The right to use land is administered through land tenure systems (ibid). It is the main source of employment in the rural areas of Nigeria where people engage in peasant farming.

Understanding the concepts of land tenure and land tenure security is vital for this study. The understanding of the two concepts forms the foundation upon which the research objectives could be achieved. Having defined land tenure broadly in section 1.2, more detailed knowledge of land tenure will be sought in this section.

Different intersecting interests in land tenure exist namely: overriding, overlapping, complementary and competing interests. Overriding interest is when a country allocates or reallocates land through expropriation (this may be in the public interest). Overlapping interest occurs when two or more parties are earmarked for the same piece of land. Complementary interest arises when different parties have the same interest in the same parcel of land. Competing interest occurs when different parties contest the same interest in the same parcel of land (FAO, 2002b).

Per Whittal (2014) the objects of tenure are personally occupied space, surface area or volume, temporary dwelling, semi-permanent dwelling, permanent dwelling, and permanent non-habitable building. These objects of tenure are referred to land and structures that may be natural or artificial. The objects of tenure are shown in Table 2-1.

Table 2-1: Objects of Tenure: What Land Tenure refers to (adapted from Whittal, 2014, p. 28)

Personally occupied space	The space occupied by a person or his/her personal belongings, e.g. homeless people, people occupying space at any moment in time, individually or collectively.
Surface area or volume	Area of land surface or 3D spatial envelope that may be occupied or used or unused, permanent or temporary or repeatedly used within a timeframe (e.g. seasonal grazing, holiday sharing). May range from being bounded by very fluid natural and social boundaries to fixed delineated hard boundaries, with possibly natural and social nature.
Temporary dwelling	A dwelling erected for as long as the use is continuous, e.g. a night shelter, bounded by the extremes of the structures.
Semi-permanent dwelling	A structure without foundations that is erected for dwelling even when the occupation is discontinuous, e.g. a shack/informal house, bounded by the extremes of the structures.
Permanent dwelling	A dwelling made from durable materials with foundations, e.g. Bricks/stone/wood that is designed for permanence, bounded by the extremes of the structure.
Permanent non-habitable	A structure made from permanent materials with foundations, e.g. bricks/stone/wood, that the extremes of the structure bound its building designed for permanence and non-dwelling purposes.

In studying land tenure, the people, their culture and their beliefs need to be considered. The knowledge of the local situation in which the tenure is to be analysed is fundamental. Tenure exists in diverse cultures and ethnicities, for example, in Nigeria where over 250 ethnicities live (Alonge & Okunade, 2014). The local knowledge needed in the study of land tenure in each jurisdiction differ. In simple terms, land tenure is classified to be ‘formal’ or ‘informal.’ Land tenure is said to be formal when it is derived from either statutory or customary tenure

systems. When land rights are acquired not from these two tenure types it is said to be informal (FAO, 2002a; van Asperen, 2014).

The importance of land tenure to the Nigerian people cannot be overemphasised. This is as a result of the value and belief that people attach to the use and ownership of land. The primary bases of land tenure are social influence, customs and traditions, economic needs, religion and public policy on land. In Nigeria, inheritance practices are associated with land tenure systems (Chigbu, et al., 2015). “Land tenure is used as a ‘control mechanism’ of the socio-political life of most Nigerian communities” (ibid, p.69).

2.2 LAND TENURE SECURITY

Tenure security comprises of objective and subjective elements (van Asperen, 2014; Archer, 2016). The objective features include “nature, content, duration and enforceability of the rights, state guarantee, the quality of boundary descriptions and conflict handling.” The subjective deals with the degree of confidence about the uninterrupted use of land as well as landholders’ perception of their security of rights (Kanji et al., 2005). Tenure security hence goes beyond the possession or non-possession of a paper with one’s name on it (Archer, 2016). Two groups of tenure security exist: active and passive tenure security. Active tenure security implies that land rights holders can perform transactions on the land. Passive tenure security entails the perception that land rights holders will not lose possession of their land (UN-Habitat, 2012).

Improving tenure security entails improving legitimacy, legality and certainty (Whittal, 2014). Legitimacy can be measured using material evidence in the form of records of Rights, Restrictions and Responsibilities (RRRs) in land transactions, and demarcation using beacons or any visible marker. Legality refers to the use of formal law to protect RRRs and transaction in land (*ibid*). Certainty is when there is absence of corruption, conflict, natural disasters, and non-abuse of the use of power (*ibid*).

Land tenure security is described as an ‘emergent property’ of the land tenure system (Simbizi, 2016). Being an emergent property means that it contains the whole elements of the system. Three schools of thought emerged from Simbizi, Bennett and Zevenbergen (2014) analysis of the meaning of land tenure security: the economic, legal, and adaptation schools. The economic school looks at tenure security from the economic perspective, considering some economic

benefits such as using the land to obtain credit from a financial institution. This school of thought dominates literature and the understanding of the concept (McKenna and Urban-Karr, 2008; Bruce and Migot-Adholla, 1993; Damnyag et al., 2012). The economic school of thought equates tenure security to an “individualised land tenure system” (Simbizi, 2016, p. 16) and the evidence of having title to land. Invariably, land tenure reform aimed at individual freehold is deemed to provide security (Bezabih, Kohlin & Mannberg, 2011).

Defining land tenure security from a legal point of view means protection and enforcement of landholders’ rights or interests in land. In most literature, security of tenure is reduced to security of land rights (Bellemare, 2009; McKenna and Urban-Karr, 2008; Meinzen-Dick and Mwangi, 2009; Toulmin, 2009). The legal school of thought is considered part of the economic school, but legal aspects of tenure security are separated from the economic perspective. Legal aspects include gender equity, number and types of rights which are offered, and duration of rights (Daley, 2010; Holden, Deininger & Ghebru, 2011; McKenna and Urban-Karr, 2008; Tisikata, 2003; Brasselle, Gaspart & Platteau, 2002; De Soto, 2000).

The adaptation school of thought became evident in the early 1990s, after the study of Bruce and Migot-Adholla (1993) which influenced other development within the school of thought. The study states the need to adopt land tenure security to customary tenure systems. Simbizi, Bennett and Zevenbergen (2014) further summarised two concepts of tenure security 1) customary land rights or communal ownership are secured because customary individual use rights are inheritable and can facilitate investment (Fenske, 2011; Jacoby and Minten, 2007). This form of ownership needs formal legal recognition (*ibid.*). 2) Tenure security as perceived assurance by land rights holders that their rights will be recognised and enforced within the community norms and values. Land rights of any kind regardless of the duration of stay on land should provide tenure security, what matters is not ownership of land but rights in land (Simbizi, Bennett and Zevenbergen, 2014).

2.3 CUSTOMARY TENURE REFORM THEORIES.

Eastern and Southern African countries are undergoing some forms of land reform since the mid-90s except some nations undergoing civil conflicts (Wily, 2000). Many of these countries were enacting new land tenure laws and new land policies. The reasons attributed for this reform are to remove laws derived from colonial rule, initiate programmes that provide land

access, and to redistribute land as a result of the land loss to racially discriminatory laws (Walker, 2007; Wily, 2000).

2.3.1 THE REPLACEMENT THEORY

In replacement theory, land market is believed to be the bedrock of economic development which incorporates individual private property rights as the only solution to proper land management. It is believed that different property rights provide access to credit opportunities (Wily, 2000; Fuller, 1977). The existence of customary land tenure is observed to obstruct the land market economy. Hence it must be replaced (Akrofi, 2013). Using statutory tenure in place of customary tenure is believed to be the appropriate way of solving land disputes, informal tenure arrangements, ‘unofficial’ land markets and litigations (Wily, 2000; Fuller, 1977).

Customary land tenure is believed to evolve based on ideas and history. Based on ideas, the land is seen as goods to be traded in the market and from a historical point of view customary tenure is seen as a point in the ‘historical evolution of societies’ which cannot withstand the time it stands in (Okoth-Ogendo, 2000). Okoth-Ogendo argued further (ibid.) that it is not necessary to improve and acknowledge the existence of customary land tenure. “It is even thought that simply by enacting a new system of land law – usually based on Western property notions – customary land law would atrophy and disappear” (Okoth-Ogendo, 2000, p. 127).

Standard formalisation is termed to mean providing infrastructure for the process of managing registration, planning, development, valuation and taxation. This process of formalisation is expensive, and most of the urban dwellers in Africa cannot afford it. These are the vital elements of replacing customary tenure with individualised tenure. The urban poor cannot afford the required infrastructure to maintain formal tenure because the infrastructure needed is very expensive (U.N-Habitat, 2008). Secure land transactions in customary land markets are of more benefit to the people than individualistic, economic benefits derived from individual ownership. The benefits derived from customary land tenure conform to the accepted norms of acquiring wealth that is holistic and integrated (Un-Habitat, 2012).

The absence of infrastructure in customary land markets used in developed countries discourages the formal financial institution and the people’s interest in the land market. Customary tenure is built on social networks which gives security (Cotula, 2007). The formal

financial institutions are not ready to meet the needs of the poor; they are interested in profit making. The poor are the beneficiaries of customary tenure, hence focussing on land markets is at the disadvantage of the urban poor (Akrofi, 2013).

Nigeria operates three land markets: primary, secondary and the informal land markets (Butler, 2009). This shows that Nigeria operates parallel land markets where people, depending on their category, seek to obtain land from different land markets. Section 2.7 discusses the three land markets in detail.

2.3.2 ANTI-MARKET THEORY

Many sub-Saharan African countries do not yet adopt individualisation of land. The basic tenets of these countries are still in a joint land tenure system or cooperatives that engage in sizeable agricultural production teams. Nationalisation and redistribution of land may be ensured in these countries (Okoth-Ogendo, 2000). The nationalisation policy allows government agencies to be effective with all economic activities and agriculture leaving nothing out to the private sector. Examples are the reform in Ethiopia, Tanzania and Mozambique (Okoth-Ogendo, 2000).

The primary objective of the replacement theory and anti-market theory is to replace customary tenure with statutory tenure or state ownership (Akrofi, 2013). In the real sense neither the free market nor anti-market economies are successful (Bernstein, 2007). Bernstein (ibid) further said that government must be ready to enforce land rights because evidence showed that from the 90s, planned economies are not socially and economically sustainable.

2.3.3 TENURE PLURALISM

Many countries operate parallel tenure where formal, customary and informal tenure systems operate simultaneously (Un-Habitat, 2012; 2008). Tenure pluralism emerges when all possible efforts to erode customary tenure prove unsuccessful. This is evident from the fact that customary tenure still exists in spite of the promulgation of stringent laws by governments of the colonial and post-colonial era (Arko-Adjei, 2011; Wily, 2000, 2011). Western-based formal tenure in urban areas which are controlled by government institutions and the customary tenure in rural areas controlled by traditional institutions are the basic principles of tenure pluralism. Akrofi (2013) argues the necessity of promoting multiple legal regimes in peri-urban areas

where multiple regimes meet. For example, sub-Saharan countries such as Nigeria, Uganda and Tanzania operate dual tenure regimes, where statutory tenure operates in the urban centres and customary tenure operates in the rural areas. Traditional institutions administer land to the people in the rural areas while the government manages the state land in the urban centres (Batungi, 2008).

The pundits of tenure pluralism claim that the same land by different people from the various systems had been observed to cause conflicts (Arko-Adjei, 2011). It is envisaged that multiple institutional and legal structures will cause insecurity and conflict, considering the rights to be recognised and by which institution (Benjaminsen et al., 2009; Toulmin, 2009). Tenure pluralism allows competition between tenure systems. This provides for favourable competitions which help to deliver an efficient land market. Enabling collaboration between customary and formal institutions helps to sort out any differences that exist (Akrofi, 2013).

2.3.4 ADAPTATION THEORY

The advocates for this theory propose that ownership rights are not the only attribute of customary tenure but that it has social, political and religious importance to the community. They further state that it is not advisable to substitute customary tenure with individualised tenure but to let it strive under changing conditions (Arko-Adjei, 2011; Nkwae, 2006). The theory is based on the belief that land management should return to the local communities.

Customary tenure provides security of tenure to groups of people at a relatively low cost (World Bank, 2003). Providing usufructuary rights in customary tenure offers investment opportunities in the form of long-term leases (ibid). The advocates for this theory had argued for the development of land administration that is locally based and which uses traditional structures (Arko-Adjei, 2011).

In sub-Saharan Africa, customary tenure has triumphed over all attempts to extinguish its existence; it has proved to provide tenure security for the majority of the people compared to other forms of tenure (Akrofi, 2013). This view was supported by Wily (2000, p. 2):

“...despite a century of purposeful penetration by non-customary tenure ideology and legal provision, unregistered, customary tenure not only persists but is still by far the majority form

of tenure in the region. None of the strategies adopted to ignore or diminish it has been successful.”

Hence the need to ensure security of tenure of the rural poor which is the primary aim of this research.

2.3.5 CONTINUUM OF LAND THEORIES

The continuum of land theories is the viewing of theories relating to land along a continuum as shown in Figure 2-1. At one end of the continuum are pro-formalisation theories and at the other end of the continuum are conservative theories. The formalisation theory is based on western approaches, which is more of individual ownership. When land is seen as an economic asset, the theory relating to such is of the formalisation group (Hull & Whittal, 2017). The level of individualisation of land that is advocated determines the type of formalisation theory. The replacement theory is deemed to be the most pro-formalisation, followed by land titling theory (LTT), and the evolutionary theory of land rights (ETLR).

In the conservative theories, land is seen as a social and communal asset. In this group, the most ‘anti-formalisation’ is the traditionalist theory, followed by adaptation theory and the unified model (Hull & Whittal, 2017). The conservative theories preserve traditional forms of land administration. Pro-formalisation theories value more centralised, limited, and formal rules and procedures. On the continuum, the six approaches are not separated from each other, because in some situations they may overlap (ibid).

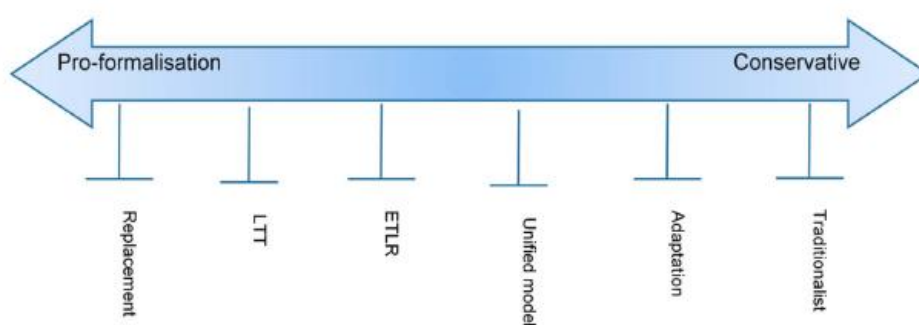


Figure 2-1: Continuum of Land Theories (Hull & Whittal, 2017, p. 8. used with permission).

2.4 INNOVATIONS IN CUSTOMARY TENURE REFORM APPROACHES

Many countries in Africa started to reform land tenure and administration by introducing innovative approaches to customary land tenure. These innovative approaches were due to the flexibility in the customary land. The primary motive is to improve tenure security of the urban and rural poor by using pro-poor land tools (Augustinus & Deininger, 2005). Some such innovative approaches are rural land certification in Ethiopia, certificates of rights in Botswana, community land trust in Kenya, and starter & landholding titles in Namibia (UN-Habitat, 2004). Although these are not the only innovative approaches, the cases presented were based on geographical location and the extent of coverage of innovative approaches. Two countries were selected from northern and southern Africa.

2.4.1 LAND CERTIFICATION IN ETHIOPIA

Land ownership in Ethiopia is vested in the state, and the citizens only have use rights which can be inherited but cannot be mortgaged. There was high tenure insecurity in Ethiopia before the rural land certification was carried out. The tenure insecurity witnessed many forms of indiscriminate evictions and inequality in land access. Productivity and investment were profoundly affected (Deininger *et al.*, 2008). A rural land certification programme was conducted to improve productivity and investment. The rural land certification was based on systematic registration and certification of land use rights. This was achieved by a decentralised, low-cost registration system that was conducted at the community level (Arko-Adjei, 2011; Deininger *et al.*, 2008; IIED, 2006).

Differences in approach were adopted on a regional basis, but the programme commenced with establishing land-use and administration committees (Arko-Adjei, 2011). Compulsory community participation was used throughout the programme with the registration of plots done in the presence of people's neighbours (Deininger *et al.*, 2008; IIED, 2006). During the registration process, the survey team and staff comprising of students and farmers were used to supervise the registration process. The survey team and staff had been trained beforehand in land measurements and registration. The entire process involved the use of simple, traditional tools to demarcate and measure plots (Toulmin, 2009).

Information about plots is documented in an official form, with photographs of the farmer and his wife. Upon completion of registration, a certificate of registration is issued to the head of the household. The certificate of a single page contains the size of the plot, location and the names of adjoining plot owners. The land is registered in the name of both spouses while female-headed households such as widow, a divorcee and single women are issued certificates in their name (Holden, Deininger & Ghebru, 2009).

Ethiopian rural land certification provides a typical example for all African countries to emulate. The rural land certification successfully used low-cost technology and a participatory process to adjudicate boundaries and register land rights. Certificates have been issued to over 5, 5 million households and about 20 million plots within a short period of time and at a very low-cost rate (Deininger *et al.*, 2008).

2.4.2 CERTIFICATE OF RIGHTS IN BOTSWANA

The certificate of rights in Botswana was used to provide flexibility in tenure options (Arko-Adjei, 2011). Its primary objective was to meet the needs of the urban poor and the informal (squatters) dwellers. It was equally aimed at providing support site and services for the urban poor by providing affordable forms of tenure and ensuring tenure security (Nkwae, & Dumba, 2009). The right to use and develop land was provided by this model while land remains in state ownership (Durand-Lasserve, 2006).

In providing a low-cost form of tenure, generated plans or blocks are used to demarcate the boundaries of the certificate of rights. After a reasonable time, the certificate of rights is then upgraded to a full title with a total state grant of 99 years lease. This can only be achieved when the boundary is demarcated, and the title is registered (Nkwae & Dumba, 2009; Durand-Lasserve, 2006). To apply for a certificate of rights, the applicant must be a citizen of Botswana and must be resident in the town in question for a minimum of six months. The municipal authorities issue the certificates. Disputes arising from allocation, encroachment, inheritance, the illegal erection of structures, loan repayments and service levies are managed by the town council (Arko-Adjei, 2011).

The Botswana Land Board has a standard of decentralised decision making over land which other countries in Africa can emulate, although this standard has been compromised and there is a widespread concern that they have weakened community management systems (Cullis &

Watson, 2005). These failures have been attributed to the lack of human resources and inadequate logistics (Tembo & Simela, 2004), lack of proper keeping of records, multiple sales, corruption, and inefficiency (Malatsi & Finnstrom, 2011). The Botswana government commenced a five-year collective project called LAPCAS (Improvement of Land Administration Procedures, Capacity and Systems) with development partners to improve the condition (ibid).

Drawing from the experience of the Land Board of Botswana it is evident that whatever the foundation for the institutional setup for land management, the principles of good governance in land administration must be followed (see section 2.8).

2.4.3 NAMIBIA'S FLEXIBLE LAND TENURE SYSTEM

Due to colonial influence, Namibia also has multiple tenures: statutory (freehold) in urban areas and customary tenure in the rural areas (Akrofi, 2013). The migration of rural settlers to the urban centre after independence reveals the inadequacy of the conventional form of land delivery. The inadequate number of professionals (surveyors) is discovered to be the primary problem of urban land delivery. The available professionals were not enough to meet the need for urban land delivery in respect of planning, surveying and registration. In solving this problem, the Namibian government initiated an affordable land registration system called "Flexible Land Tenure System" (FLTS). The government adopted the FLTS to cater for poor informal urban dwellers, considering their social, cultural and economic circumstances (ibid).

It was designed to meet urban land needs by providing land rights and security of title to all the people in informal urban settlements. FLTS offers two type of tenures: starter and landhold titles.

2.4.3.1 STARTER TITLE

A starter title means merely the type of tenure where a representative is appointed as custodian for the family or household. A land right is then assigned to an unspecified site inside a particular block (Akrofi, 2013). Group registration is done for the block, and the title has no defined extent except for the boundaries of the block. The entire block perimeter is surveyed to avoid land loss of tenure by the government or another land grabbing. Individual informal plots inside the block are not surveyed (Christensen, Werner & Hjgaard, 1999). Community

rules set by the members assigned to each block are strictly adhered to by every member of the community. Block ownership can be a government body, private developer or community organisation. The holder of this title is given temporary place within the block and assured of a place inside the block after the survey and basic infrastructure had been set up. This is done when block members agreed to upgrade their tenure to landhold tenure or freehold (Akrofi, 2013).

Depending on rules within the group, the holder of starter title can sell, donate and pass their title to their children. The number of informal residents within the block is restricted, to avoid overcrowding. Hence such tenure cannot be laden by mortgages or leases. Until infrastructure is completed, no structures are allowed within the block. Starter titles are registered locally, and information is kept in the national Registry (Christensen, 2005).

2.4.3.2 LANDHOLD TITLES

Landhold title is a form of statutory tenure which is a development on the starter title in Namibia. It is issued in respect of land within the block created for the issuance of the starter title. The holder of landhold title can develop a permanent structure but in the essence that the state needs the land for overriding public interest, the holder of landhold title is entitled to compensation by the existing expropriation laws (Akrofi, 2013). All processes make use of paraprofessionals to make it affordable to many people who cannot afford the formal system (ibid).

Landhold title is deposited digitally in the local deeds registry and copies are stored in the Windhoek Deeds Registry office. The holder of landholder title can sell, mortgage, donate, and sell in execution (Christensen, Werner & Hjgaard, 1999). Compared to the cost of registered leasehold and freehold, the block system for starter and landholding titles is more affordable to local authorities and informal communities. These two forms of land title address the technical and financial resource problems associated with land management. The system is acceptable to customary tenure and satisfies 'lower order tenure', security needs, protects people from evictions, and gives occupants secure inheritance rights (Akrofi, 2013).

2.4.4 COMMUNITY LAND TRUST (CLT) IN KENYA

In Kenya groups ownership rights in urban informal settlements are ascribed to a Community Land Trust (CLT), which is a new form of tenure. It is based on the American community land trust model. Ownership of real property is separated and joined with communal and ‘market-based individual ownership.’ Communities own the land while improvements on land are owned by individuals using the land for a long-term lease. CLT is used in some Kenyan towns to deliver cheap access to land for housing and associated activities. The fundamental principle is the use of communal strength to collect permits and infrastructures, preserve all land under a single title and persuade members to invest in their property and improvements in their environments (Durand-Lasserve, 2006).

Holding land in perpetuity requires the communities to develop ‘settlement societies’ (Bassett, 2005). The land management functions of the CLT are overseen by the settlements’ societies. The settlements then hold the legal title to land in the form of trust. The procedure of title holding has the potential to control land speculators and property transfer (Durand-Lasserve, 2006).

The major shortcoming of CLT is the payment of lease fees which seems unaffordable for some communities (Arko-Adjei, 2011). Instead of reducing squatters, in some communities squatters were increasing. This was attributed to weaknesses in community participation in land management related activities (Bassett, 2005). Additional problems identified include lengthy documentation processes, lack of understanding on the part of the administrators, and unwillingness to invest in communal land because people are not allowed to sell directly to outside buyers (Durand-Lasserve, 2006).

Many positive features are attributed to CLT which includes a ban on absentee ownership, restrictions on the sale of land, provisions of community control of land, and the retention of individual ownership rights such as rights to sell improvements (Bassett, 2005). Lessons learned from the principles of CLT of Kenya can be applied in other African countries where land speculation is still practised, for example in Nigeria. Land speculation is one of the reasons why legal holding of land is one of the objectives of this research.

2.5 LAND TOOLS

Conventional land administration (land titling) has operated for many decades now; its operations are being recorded successfully in developed countries (Hanstad, 1998) while it has little or no impact in developing and countries in transition (ibid). This situation calls for the development of land tools (Hanstad, 1998; Simbizi, 2016). Conventional land administration has proved to favour the rich and the elite in the society, leaving the poor and vulnerable, including women, with no access to land (van Asperen, 2014; Simbizi, 2016; Archer, 2016; World Bank, 2003). Securing title for all requires emerging tools. A toolbox approach was developed by GLTN in collaboration with UN-HABITAT-see Williamson et al. (2010).

For a land tool to benefit the poor, women and the vulnerable in the society, the land tool must have the following characteristics: affordable, equitable and gender responsive, and sustainable. The GLTN in collaboration with UN-Habitat has developed eighteen (18) such land tools.

In this study, two land tools are applied to measure the tenure security of the rural poor. The first is the Social Tenure Domain Model (Augustinus, 2010) and the second is the New Continuum of Land Rights Model (Whittal, 2014). These land tools are developed in the context of measuring the tenure security of the rural poor. The STDM is a pro-poor land management tool designed by the GLTN in collaboration with UN-Habitat and other international organisations: International Federation of Surveyors (FIG), International Institute of Rural Reconstruction (IIRR), and World Bank. The model is discussed in Section 2.9.2.

The NCLRM was developed independently by Whittal (2014) drawing on systems thinking. It uses legitimacy, legality, and certainty to measure tenure security. The system elements of the model are the object of tenure; Rights, Restrictions, and Responsibilities; the value of tenure; subjects of tenure; and tenure transactions (Whittal, 2014). The model is discussed in section 2.9.1.

2.6 FAILURE OF THE CONVENTIONAL LAND ADMINISTRATION SYSTEM

Development in literature is filled with the reasons why the conventional land administration had not been successful in most developing countries. Some of these reasons are grouped into five different categories. Firstly, the traditional administration of land had proved to favour the middle class, elite, and investors (World Bank, 2003; Fourie, 2001). This can be attributed to the fact that most developing countries derived their land from customary land tenure systems. The conventional land administration had been biased towards the urban and rural poor of developing countries (Un-Habitat & GLTN, 2012): Cadastre coverage had been unsuccessful in urban centres with less than 30% of the land in developing countries covered by formal land registration system (Lemmen et al., 2007; Deininger, *et al.*, 2009).

Secondly formal land titling is considered too expensive, slow, complex and very bureaucratic. The system is costly to maintain which makes many developing countries not capable of managing such systems (Hanstad, 1998; Durand-Lasserve and Royston, 2002; Tuladhar, 2004; Arko-Adjei, 2011; Reerink, 2011). Too many complex and bureaucratic processes are involved in formal land administration. Augustinus, (2003) had describes developing countries as lacking the institutional capacity to adopt a high standard of land administration. Technical and institutional capacity is a significant constraint on conventional land administration in developing countries. For example, on cost, to carry out a survey of a standard parcel in Nigeria, the price differs from state to state wherein an average state like Ekiti it will cost US\$ 185 (₦70,000) (NIS Scale of fees, 2017). This high-cost component of conventional land administration caused the failure of its success in developing countries.

Thirdly, there is no concrete evidence that formal land administration will reduce poverty in developing countries (Payne, Durand-Lasserve and Rakodi, 2009). Van Asperen (2014) observed that adopting formal land titling increases poverty in developing countries. The system tends to create tenure insecurity for the rural poor instead of delivering tenure security, which is on the global agenda. Formal land administration tends to push the poor out of their land to informal settlements, by putting it up for sale to get cash in replace of their land rights. This process of the poor moving off their land is called gentrification. It is defined as “the

process of neighbourhood change caused by the influx of middle classes into working-class areas, thereby displacing working classes” (Van der Land, Curley, & van Eijk, 2012, p. 275).

Fourthly, the formal land administration has been considered inappropriate for the range of tenures found in real-life situations. These multiple tenures existing in most developing countries cannot be accommodated by the formal LAS (Augustinus, 2010; van Asperen & Zevenbergen, 2012). Formal land administration has been successful in recording land rights in statutory tenure regimes leaving the customary and the informal tenure regimes. Given this gap in customary and informal tenure, the GLTN facilitated by UN-HABITAT developed a continuum of land rights (see section 2.9). The recent global land challenges (earthquake, land grabbing, urbanisation, and slums) make it very difficult for the conventional land administration to handle these challenges.

Fifthly, the formal land administration was developed for the western countries and incorporated into the developing nations (Hanstad, 1998). In developing land administration for developing countries, it is advisable to put local institutions into account (Lavigne Delville, 2002). This omission accounts for the failure of formal land administrations in developing countries. For formal land administration to be successful in developing countries, a practical institutional and technical framework must be adopted (Dekker, 2006).

The conventional land administration encourages the illegal subdivision of land instead of reducing it (Payne, Durand-Lasserve and Rakodi, 2009). Land titling programmes are being used by the government to evict informal settlers from land (Archer, 2016). This tends to push informal settlers to illegally subdivide land, thus increasing the population of squatters and slum dwellers. There is a global call for the recognition of multiple tenures, promotion of security of tenure, identification of the plurality of tenure and applying pro-poor land tools for the recording of land rights (AMCHUD, 2010; United Nations, 2011; UNECA, 2012).

2.7 CUSTOMARY LAND ADMINISTRATION

During colonial and post-colonial periods, customary land tenure in Africa has been tampered with by trying to replace it with a modern form of tenure (statutory). This was done to facilitate development and increase agricultural productivity (Fitzpatrick, 2005; Roma, 2008; Peters, 2009). The low agricultural productivity is believed to be caused by the existence of customary land tenure (Home & Lim, 2004; Cotula & Cissé, 2006). In addition to this, many African

governments had put up programmes to replace customary tenure to meet current urbanisation needs (Akrofi, 2013). Leasehold and freehold forms of statutory tenure were introduced to replace customary tenure. This type of land tenure only favoured political classes and the rich in the society and caused many poor in the rural areas to lose their livelihoods (Besteman, 1994).

Roma (2008) and Peters (2009) argue that replacing customary tenure with statutory (freehold and leasehold) will not necessarily aid productivity and development. Instead, it will only concentrate land in the hands of the few influential people in the society (Akrofi, 2013). Landlessness, insecurity of tenure, wealth inequalities, and declining productivity are the result of the implementation of such programmes (ibid). State interventions such as nationalisation of land may lead to land speculation by different actors such as family leaders, chiefs and officials of the formal land institution, leaving the poor, customary land rights holder landless (Cotula & Cissé, 2006). The major reason why land speculation is still very much on the increase in Nigeria today can be attributed to the nationalisation of land in the state.

An essential feature of customary tenure is that land is passed from one generation to the other. This important feature causes changes in customary tenure (Akrofi, 2013). The changes are caused by internal and external pressures (ibid). In the cause of transferring customary land from one generation to another, an important aspect (customary laws) of this type of tenure remains while others are lost (Kalabamu, 2000).

The colonialisation of African countries brought about changes in customary tenure (Abdulai, 2010). Colonial governments took over the allocation of land and subsequently enacted laws that were seen to be superior to the existing customary law (ibid). After independence, most of the laws enacted during colonial governments were used as a prototype for enacting new land laws for most of the African countries (ibid).

The nationalisation of land in Nigeria by the LUA of 1978 has caused three different land markets to exist in Nigeria namely: primary market, Self-styled Informal market and informal market (Butler, 2009). The primary market relates to the direct state allocation of land, a Self-styled Informal market refers to the statutory land rights, which are documented by official Certificates of Occupancy, and the informal market refers to the pre-1978 land rights which are yet to have a statutory certificate of occupancy (ibid).

Table 2-2: Characteristics of Nigerian Land Market and Issues (Butler, 2009, p. 6, adapted and modified)

Market	Characteristics	Major Issues
Primary Market	<ul style="list-style-type: none"> • Direct State Land Grants • Most new lands need to be taken by the state from current occupants, who may hold equitable rights and be entitled to compensation • First-come-first-served • Deep subsidies regardless of wealth or use • Development covenants • Required infrastructure contribution 	<ul style="list-style-type: none"> • Scarcity – opening up new lands • Compensation issues associated with compulsory state land acquisitions • Misdirected subsidies • Speculation - development covenant rarely enforced • Inability to deliver infrastructure • Inadequate generation of state revenue • Long lag times between “paper” allocations and actual delivery of sites • Illegal occupation – squatting
Self-styled Informal Land Market	<ul style="list-style-type: none"> • Trade in Statutory Rights/Certificates of Occupancy • Mostly Registered Land Rights • Common law conveyancing rules and procedures 	<ul style="list-style-type: none"> • Burdensome land Transaction procedures – the “Governor’s Consent” • Onerous official fees for land transactions • Growing incidence of informality – tax/fee avoidance
Informal land Market	<ul style="list-style-type: none"> • Pre-1978 Land Rights – “Customary” rights • No statutory certificates of occupancy • Equitable right to obtain a statutory certificate of occupancy • Characterized by unregistered transfers of title documents using common law conveyancing rules and procedures 	<ul style="list-style-type: none"> • Burdensome land transaction procedures and official fees discourage formality • Strict and (arguably) inflexible standards for Establishing valid pre-1978 titles and converting to statutory rights • Long delays in conversion of pre-1978 rights to statutory rights of occupancy

Customary land in Africa has been a primary source of land access (Chimhowu and Woodhouse, 2006; Ubink, 2008). Per Oloyede, Ajibola & Oni (2007), land for residential purposes is derived from the informal market by sales of customary land and informal

subdivision of land. This view was confirmed by Chimhowu & Woodhouse (2010) who observe that transactions in land take place in customary areas. These transactions are carried out by customary leaders saddled with the responsibility of administering customary land (Akrofi, 2013). “Recognition of the ‘vernacular land markets’ is essential if state land policies are to succeed in promoting the interests of the poor” (ibid, p. 22).

In pre-colonial times, allocation of land in customary areas was done by the traditional leaders (kings and Chiefs) (Akrofi, 2013). This authority of land allocation was taken away by the colonial administration but was returned a decade before independence (ibid). After independence, the elected members of the local government oversaw land allocation (Chimhowu & Woodhouse, 2010). For example, in the case of Nigeria, the Land Allocation and Advisory Committees (LAAC) was saddled with this responsibility.

Matrilineal and patrilineal inheritance are the methods of land inheritance in sub-Saharan Africa. In matrilineal inheritance, land is acquired through the bloodline of the mother while in patrilineal inheritance, it is through the male line (Meek, 1940). Matrilineal groups in West Africa “are being compelled by new conditions to become patrilineal” (Ibid. p. 4). This showed that colonialization played a vital role in inheritance practice in sub-Saharan Africa (Akrofi, 2013). The patrilineal system remains the main source of land for building, farming and communal areas for grazing and hunting purposes in Nigeria (Knox, 1998). Women are not allowed to control and manage land but can use land through their male relations (Lasterria-Cornhiel, 1997; Rose 2002; Grigsby, 2004).

Boundary disputes may exist in customary areas, as most customary boundary are not adequately defined (Fitzpatrick, 2005; Mendis & de Meijere, 2006; Roma, 2008). Natural features such as swamps, ‘peregu’ mountains, and rivers are used for boundary demarcation (Wily, 2008). ‘peregu’ is a natural plant used to demarcate farmland in Nigeria. Colonial administration compounded the problem by overlapping new administrative boundaries to suit their convenience (Wily, 2008; Roma, 2008). Transferring land from one generation to another places responsibility on the community head who must ensure that land is conserved for the next generation (Akrofi, 2013). Therefore, boundary disputes are a major constraint in customary land tenure systems (Berry, 1998).

As rightly observed in Akrofi (2013), for customary land administration to be improved, the issue of boundary documentation and the unnecessary accumulation of wealth by traditional heads must be checked. He further stresses that to reduce litigation on land, boundary demarcation between adjoining customary communities must be a priority.

2.8 GOOD GOVERNANCE IN CUSTOMARY LAND ADMINISTRATION

There is a rising need to introduce good governance in land administration. The importance of proper management in land administration is evident in Deininger, Selod & Burns (2010, p. 1): *“[It] is now increasingly recognized that, in practice, the establishment and maintenance of institutions to define rights, record and maintain information about these rights, and make information on them available is an important public sector role.”*

The way the government uses power in the management of the country’s social, economic and spatial resources is referred to as good governance (Williamson et al., 2010). It is the government’s ability to achieve stated objectives and at the same time balance the social, economic and environmental needs of the nation in a way that is open to the current and future needs of the society (ibid). Good governance comprises all political systems, how power is used in the administration of a country’s economic and social resources for improvement, and the ability of government to plan, formulate and implements policies and discharge functions (Ozohu-Suleiman, 2016; Kaufman, Kraay & Mastruzzi, 2007).

To ensure good governance in customary tenure, traditional leaders are a significant actor (Akrofi, 2013; Ubink, 2008). However, due to changes in the social, political and economic situation, many traditional leaders abuse the positions they occupy (Ubink, 2008), especially in land management. The love of money, power and self-enrichment are the primary factors attributed to the abuse of their position (Ubink, 2008). This situation requires vigilance by the communities they govern so that they don’t abuse their powers. To maintain the natural land resources, the role of customary leaders is very crucial (Akrofi, 2013).

Good land governance is necessary to achieve the SDGs because it provides efficient land delivery, protects the livelihood of vulnerable groups, encourages private sector investment, and enhances local government accountability (Deininger, Selod & Burns, 2010). In reducing corruption and improving tenure security, there is the need to provide clear and transparent

rules, efficient land delivery process and accessible land information (Akrofi, 2013). This is when SDGs can then be achieved, and the rural poor can then benefit from land administration processes.

The results of bad governance are insecurity in customary rights, which leads to corruption and bribery. The urban and rural poor and other vulnerable are the groups that suffer from bad governance (Arko-Adjei, 2011). Bad governance in customary tenure may be because government and traditional leaders try to manipulate the customary law, and due to abuse of power by the community head, lack of transparency in land allocations, forced evictions, land grabbing by the rich and powerful, loss of women’s land rights, and increased land litigation (Ubink, 2008).

2.9 CONTINUUM OF LAND RIGHTS

At one end of the continuum is a formal right and at the other end is an informal right. The formal rights are registered rights to a parcel of land shown on a map, backed by law and held in a survey record office. Full ownership (registered freehold in Figure 2-2) confers on the owner the rights to build on, transfer by sale, mortgage or rent any part of the land. At the other end of the continuum are the informal rights with which a group might hold a piece of land whose boundaries are not demarcated on any map and for which no legal documents relate to the ownership of such land. In between the formal and the informal are a wide range of rights. The rights should not have been seen to lie on a straight line, because in reality there may be overlapping rights (UN-Habitat, IRR & GLTN, 2012).

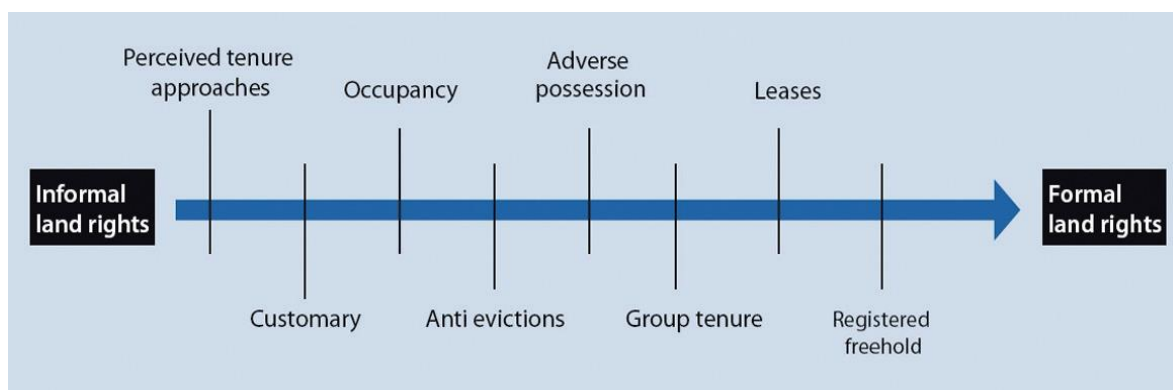


Figure 2-2: GLTN Continuum of Land Rights (UN-Habitat, IRR & GLTN, 2012 p. 12)

2.9.1 A NEW CONCEPTUAL MODEL FOR THE CONTINUUM OF LAND RIGHTS.



Figure 2-3: LEAP Continuum of Land Rights Model (adapted from Whittal, 2014, p. 15 with ref. to Royston 2005 and 2012)

Addressing the inability of the continuum of land rights to accommodate regression, Whittal (2014) developed a NCLRM. She also observed that the continuum indicates that some tenures are more desirable than others. In Augustinus (2013), the continuum of land rights was identified for a review. The Legal Entity Assessment Project (LEAP) also developed a model having two arrows on a linear scale moving from a more formal to a more informal tenure type (Royston, 2005, 2012). The idea of the model developed by LEAP to measure tenure security was criticised based on the multi-faceted nature of land tenure (Cousins et al., 2005) (see Figure 2-3).

The NCLRM employs legitimacy, legality and certainty to measure weak and strong tenure security along the vertical axis. Land rights are mapped along the horizontal axis concerning simplicity and complexity of land value. Mobility is used to represent land rights holders moving to land with different types of rights. Flexibility is represented by the change in land rights over a particular land parcel (see Figure 2-4). The model has been used successfully to measure tenure security in a rural South African case (Giyani).

The modelling in Giyani was successful, and it discovered that if the model is to be applied, an in-depth understanding of the land rights types and tenure situation is required. The correlation

between land value and land rights is of uppermost importance. The modelling relies on data from both qualitative and quantitative measurements. The strength of data collected was found in that one of the researchers was a native of Giyani (Whittal and Rikhotso 2016). The only gap that exists is that the model has not been tested in an area where mobility and dispute over land ownership exist, such as in Itaji-Ekiti.

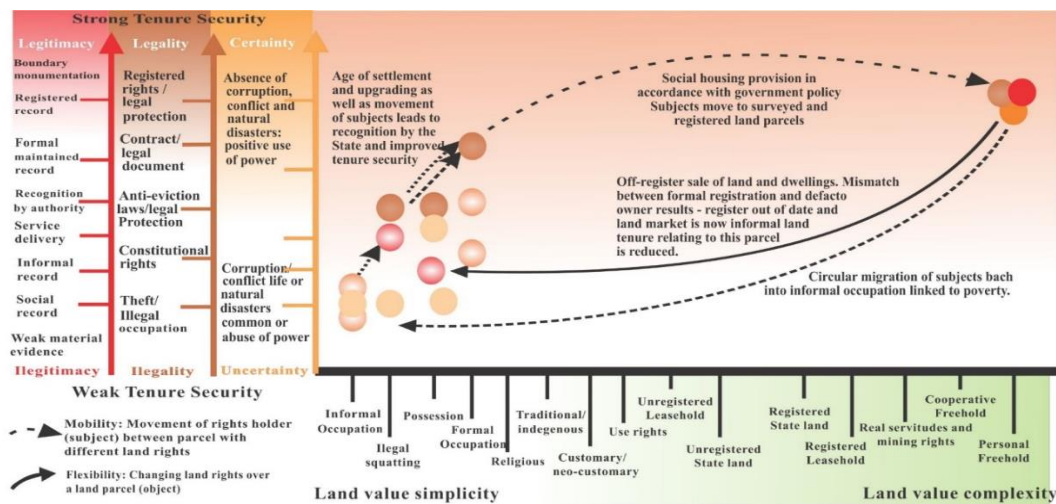


Figure 2-4: The New Continuum of Land Rights Model (Whittal, 2014, p. 23, used with permission)

2.9.2 SOCIAL TENURE DOMAIN MODEL

The STDM is designed to model the tenure relationships between land and humans (Griffith-Charles, 2010; Lemmen, van Oosterom, 2003; UN-Habitat, 2014). The two forms of modelling of STDM are: (1) To describe the human-land tenure relationships; and (2) To provide a platform for the interactions between different land registration systems (Lemmen and van Oosterom, 2003; van Oosterom and Lemmen, 2006). STDM was developed to provide support for the implementation of the concepts of a continuum of land rights. The conventional land registration system had failed to deliver tenure security to all (UN-Habitat & GLTN, 2014; Archer, 2016; Augustinus, 2003). The GLTN in conjunction with professional bodies and partners developed the STDM prototype, which was launched in 2010. UN-Habitat/GLTN continued to work with partners to improve and expand the tool in three ways: providing more functions in the STDM software; making the tool more user-friendly, and redesigning STDM to meet the needs of informal settlements (UN-Habitat & GLTN, 2014).

The STDM is a specialisation of the LADM. It was designed to fill the gap created by LADM in recording informal land tenure rights (UN-Habitat & GLTN, 2014; Lemmen, 2013; UN-Habitat & GLTN, 2012). The potential applications of STDM are in comprehensive planning, tenure security improvement, slum improvement and land information management initiatives (UN-Habitat & GLTN., 2014). It records the different tenures (statutory, customary and informal) existing without altering the people-land relationships (ISO, 2012). The STDM software is designed as a plug-in to QGIS, an open sources software application (UN-Habitat & GLTN, 2012).

2.10. SUMMARY

This section summarises the review of the literature as discussed above. Drawing from the literature, the study of the local context is essential in the study of land tenure. Land tenure security is more than just having a paper document on land. Land tools are developed to improve tenure security of the rural poor. The Conventional land administration has failed to deliver tenure security in customary and informal land tenure systems in developing countries. The continuum of land rights views land rights on a continuum from an informal to more formal land rights. The STDM was developed to measure the people land relationship, which includes all types of tenure in existence. A New Conceptual Model for the Continuum of Land Rights (Whittal, 2014) employs legitimacy, legality, and certainty to measure weak and strong tenure security along the vertical axis.

CHAPTER THREE

3 Reforms in Cadastral System and Dispute Resolution in Customary land.

3.1 INTRODUCTION

This chapter is in two parts. The first part discusses reforms in the cadastral system and the second part deals with dispute resolution in customary land tenure system. Reform in the cadastral system refers to making changes to an existing system, which improves the efficiency and effectiveness of its operations (Williamson & Ting, 2001; Williamson, 2001). Reform in cadastral system delivers a secured land transaction and supports formal land markets (Williamson et al., 2010; Williamson & Ting, 2001; Williamson, 2001).

Reforms in the cadastral system are necessary for developing countries. Some reasons are identified by Williamson et al. (2010). Firstly, the existing system is ineffective and fails to satisfy users and land administrators. Information on the cadastral system has been paper-based, which hinders the dissemination of cadastral information to users (Borzacchiello & Craglia, 2013). For over two decades, there has been a concern for migrating from a paper-based information system to a digital information system. Efficiency and accessibility of information has been hindered by still retaining cadastral information on the paper-based system.

Secondly, reforms in cadastral systems are necessary because researchers and practitioners are challenged to explore new technology. Information technology (IT) and information systems (IS) must be embedded in land administration processes to promote e-governance. Thirdly, there is a growing need to improve transactions in land and ensure tenure security. In fostering economic and social development, an efficient and effective cadastral system must be developed. There is a high informal land market and insecurity of tenure in Nigeria because the cadastral system is not efficient and effective. Lastly, the cadastral system needs to be up-to-date to cater for the needs of society and the rapidly changing humankind-to-land relationship (Williamson et al., 2010).

3.2 REFORM DRIVERS AND GOALS IN CADASTRAL SYSTEM

Global forces, such as development goals, globalisation, economic reform, technology and urbanisation are significant factors that steer cadastral system reforms (Ting & Williamson, 2000). This reform in the cadastral system is aimed at achieving the SDGs. The need to understand the role of land administration in resolving the tension between environment and development (Ting & Williamson, 2000) is essential for reform in the cadastral system. Changes in the human-land relationship also gear the improvement in the cadastral system. This is to enable it to meet the need of the society it is designed for (ibid). Effective and efficient cadastral systems that promote sustainable development are paramount to nation building (Williamson, 2000).

The goals of cadastral system reform are found to be in line with international best practices in land administration (Wallace, 2010). These include good governance; rights, restrictions and responsibilities; e-governance and e-government; the land management paradigm; pro-poor land administration, multi-purpose cadastre; and fit-for-purpose land administration. She further acknowledges that these best practices aim to provide systems that can achieve SDGs. Published research of international organisations (FIG, UN-Habitat, World Bank) reflects the reforms in land administration systems (UNECE, 2005).

3.3 GOVERNMENT'S ROLE IN CADASTRAL SYSTEM REFORM

The role of government in cadastral system reform is essential (Wallace, 2010; UNECE, 2005). Good governance promotes the effective operation of LAS (ibid). Government's role is vital in reform processes, policy reforms and resources provision including financing the project legislature changes, and project planning and implementation (UNECE, 2005). Land administration reform commences with reform in land policy which allows changes in legislation to support the improvement of the system within the limits of the law. The land policy should state the RRRs of citizens (Williamson et al., 2010; UNECE, 2005). Government is saddled with the responsibility of providing land administration services to the citizenry (UNECE, 2005). Having discuss the reform drivers and goals; and government roles in cadastral system reform, the second part of this chapter discuss dispute resolution in customary land tenure system.

3.4 DISPUTE RESOLUTION IN CUSTOMARY LAND TENURE SYSTEM

To address research questions 1.1 and 1.2, this section explains the causes of land disputes in customary land tenure systems and the mechanisms used in solving such conflicts. The words ‘conflicts’ and ‘dispute’ are used interchangeably in this research because conflicts are referred to as disputes, disagreements, quarrels, struggles, fights and wars between individuals, groups or countries (Angaye, 2003).

The cases of land dispute in Nigeria’s history are worrisome. These include inter-ethnic, inter-communal, inter-religious and inter-personal conflicts (Obiakor, 2016). The dependence of man on land as a means of sustenance; food, clothing, and shelter; housing, and manufactured goods, building sites, and recreation opportunities make a dispute on land inevitable (Lockwood, 1956; Alawode, 2013 Obiakor, 2016). Land is the means of sustenance for the rural poor whose means of livelihood depends solely on agriculture. It is a source of basic wealth and power (Alawode, 2013) and is a fixed and immovable asset, i.e. cannot be increased, decreased or destroyed (Hanstad, 1998). The primary factor of production is land, on which agricultural production largely depends.

The rising cause of conflict in sub-Saharan Africa is attributed to land, where land is commonly accessed through customary land tenure systems (Yamano and Deininger, 2005). Local land conflicts result in large civil strife and political movements if not correctly handled (Fredmensah, 1999; Andre and Platteau, 1998; Idowu, 2002). The result of the increased land conflicts in sub-Saharan Africa has been attributed to the increase in population, agricultural production and urbanisation (Van Donge and Pherani, 1999; Cotula, Toulmin & Hesse, 2004). Land conflict causes severe dislocations; suspends or destroys income opportunities; creates food insecurity; damages the environment, and frequently results in the loss of lives and properties (Alawode, 2013; Gizewski & Homer-Dixon, 1995; Justino, 2005). The negative impact of land conflict is on the rural poor whose means of livelihood depends on the use of land (Abdalla and Kelsey, 1996).

3.4.1 CAUSES OF LAND DISPUTE

Wehrmann, (2008, p. 27-29) stated the causes of conflicts on land from an analytical perspective as “political, economic, socio-economic, socio-cultural, demographic, legal/juridical, administrative, technical, ecological and psychological causes.” These causes of land conflict are categorized into institutional shortcomings and institutional change framework. “The political, economic, socio-economic, socio-cultural, demographic and ecological causes are part of the changing structure while the legal, administrative and technical reasons are part of institutional shortcomings” (Wehrmann, 2008). These causes of land conflicts apply to sub-Saharan Africa which is also applicable to Nigeria. The table below shows an example of each of the causes of land conflict.

Table 3-1: Causes of Land Conflict as it relates to Itaji-Ekiti (adapted from Wehrmann, 2005, p. 27-29)

Causes	Examples
Political Causes	<ul style="list-style-type: none"> • Change in the political and economic system, including nationalisation or privatisation. • Lack of political stability and continuity, lack of predictability
Economic Causes	<ul style="list-style-type: none"> • Evolution of land markets • Increasing land prices
Socio-cultural causes	<ul style="list-style-type: none"> • Destroyed or deteriorated traditional values and structures • Low level of education and lack of information on institutions and mechanisms of land markets • Unregistered land transactions
Demographic causes	<ul style="list-style-type: none"> • Strong population growth and rural exodus
Legal and juridical causes	<ul style="list-style-type: none"> • Legislative loopholes • Contradictory legislation • Legal pluralism • Traditional land law without written records or clearly defined plot and village boundaries • The formal law which is not sufficiently disseminated or known • Inadequate implementation of legislation
Administrative causes	<ul style="list-style-type: none"> • Insufficient implementation of formal regulations • Administrative corruption • Lack of communication, collaboration, and harmonization within and between different government agencies as well as between public and private sector (if existent at all). • Limited access to land administration, especially for the poor and rural population (distance, illiteracy, costs etc.) • Meagre wages in the public sector • Lack of transparency

Technical causes	<ul style="list-style-type: none"> • Missing or inaccurate surveying • Missing land register (e.g. destroyed) or one that does not meet modern requirements • Missing, outdated or only sporadic land use planning or planning not adapted to local conditions • Insufficient provision of construction land • Missing housing programs
Psychological causes	<ul style="list-style-type: none"> • Thirst for power

Possible causes of land conflict are land scarcity, insecurity of tenure, the lure of valuable resources, historical grievances, and normative dissonance (Bruce, Boudreaux, & USAID, 2013). A dispute arising from conflict over land goes through three stages, namely pre-conflict, in-conflict, and post-conflict stages. The pre-conflict stage starts with two or more groups having a different view on an issue which tends to lead to conflict. At this stage the problem is hidden, but one of the parties is aware of possible confrontation. In-conflict stage involves confrontation and crisis. At this stage, violence had gotten to the peak, and there is no more communication between the parties concerned. In the post-conflict phase, normalcy has returned between the parties involved. If the crisis is not well solved, there is the tendency for a pre-conflict to occur again (Fisher, 2000).

3.4.2 FORMAL MECHANISM OF RESOLVING LAND DISPUTE

In resolving a dispute arising from land conflict, two mechanisms are identified by Moriarty-Lempke, (2017) and van Leeuwen & Haartsen, (2005) as formal and informal mechanisms. The formal mechanism includes administrative bodies (National, State and Local government boundary commissions) and courts (State High, Appeal, and Supreme Courts). Figure 3-1 shows the formal mechanism of resolving disputes on land.

The structures and powers of formal mechanisms are derived from the laws, policies, and regulations made by the government. Formal mechanisms operates as a judiciary arm and funded by the executive arm of the government. The primary duty is to resolve the dispute by interpreting the law and determining those who violate the laws (Alarcon et al., 2011). The formal justice sector operates from an official court headed by a judge. Other actors include prosecutors, defence attorneys and civil attorneys.

The formal mechanism for resolving land disputes case in Nigeria is categorized into two administrative bodies: the National Boundary Commission (NBC) and The Courts. The National Boundary Commission (ACT CAP. N10 L.F.N. 2004) has its function stipulated by section (7) of the Commission Act CAP 10 2004 which is presented as it relates to this research:

- (b) *Intervene, determine and deal with any boundary dispute that may occur among States, Local Government areas or communities in the Federation to settling the disputes;*
- (e) *Take all necessary steps towards the implementation of resolutions on internal boundary disputes;*
- (f) *organise, run, operate, conduct and participate in such training courses, lectures, seminars, conferences, symposia and similar study groups which may enhance the activities of the Commission or the efficiency of any of its officers and employees;*
- (h) *Do such other things as may be considered by the Commission to be necessary, desirable, expedient, supplementary or incidental to the performance of the functions or the exercise of the powers conferred on the Commission under this Act.*

The local government boundary Commission handles the Inter-community boundary dispute. The State Boundary Commission controls Inter- and intra-Local Government boundary disputes. The second administrative bodies are the courts (High, Appeal and Supreme courts). The third arm of government being the Judiciary operates these courts by section 6(1) of 1999 constitution. All disputes on land such as boundary disputes between countries, states, local government, and communities are heard at the courts at different levels. Hierarchy is ensured in all the courts starting from the lowest to the highest. Court proceedings on land disputes take between 5-20 years before a judgement is delivered. This time constraint makes the Court not a better option for land dispute cases.

The formal mechanism has been both effective and non-effective in resolving the dispute in customary land tenure system. In developing countries, the elite, educated and the rich have been able to explore the formal mechanism to resolve their dispute while the poor and the marginalized of the rural areas have not been able to explore this mode of mechanism due to high cost in engaging a legal professional. Many other factors are responsible for this, such as

the frequent adjournment of court cases, burdensome evidence involved in the process, court capacity issues, and parties not always in control of the outcome.

Another primary constraint to the rejection of the formal mechanism is the approaches adopted in enacting laws used in the formal context. The approaches are not considering the local situation which the laws are to address. This caused a mismatch from the formal to the informal mechanism. The mismatch indicates a gap between the “law in the books” and the “law-in-action.”(Buscaglia, 1996, p. 2). The mismatch between the formal and informal modes of resolving the dispute is caused by the lack of benefit of the formal system (ibid).

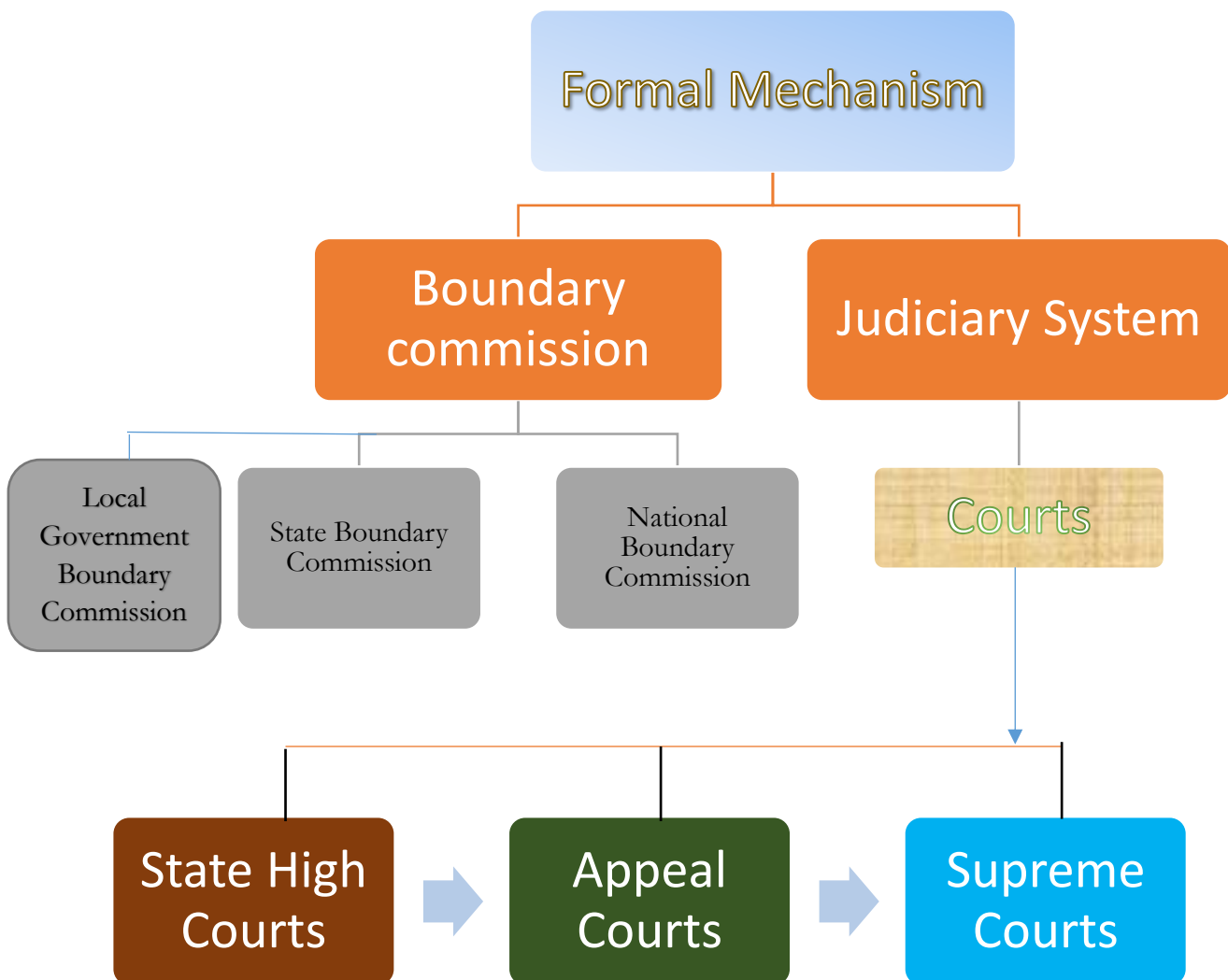


Figure 3-1: Formal Mechanisms for resolving the disputes on land in Nigeria

3.4.3 INFORMAL MECHANISM OF RESOLVING BOUNDARY DISPUTE

The informal mechanism refers to ‘alternative dispute resolutions’ (ADR) which includes: negotiation, arbitration, and mediation. Another good example of the informal mechanism is community-based dispute resolution. This section briefly explains the customary law, customary justice systems within the context of customary tenure and the alternative to dispute resolution.

3.4.3.1 CUSTOMARY LAW

In sub-Saharan Africa, customary law is the indigenous law of the ethnic groups. Customary law is transmitted from generation to generation orally (Akrofi, 2013). The root of these laws is derived from practices, norms and traditions agreed upon in a community. The flexibility in customary law makes it subject to change (Morapedi, 2010). Customary law is not the same but differs from community to community. However, the primary principles of customary laws are the same (Ndulo, 2011). The ‘customary legal framework’ governs the conduct of members of a community (Akrofi, 2013). Customary law is categorised into “official and living customary law” (Diala, 2017, p.143). The official customary law is referred to that which is viewed by observers outside the community in which the norms and values are practised (Bennett, 2009). Official customary law embraces that part of customary law pronounced in courts and depicted in textbooks (ibid). Living customary law is termed the norms and values that control people’s activities within a community (Hamnett, 1975). This is usually different from the views of outsiders, particularly legal experts (ibid).

3.4.3.2 CUSTOMARY JUSTICE SYSTEMS

In the pre-colonial era, disputes over land within communities, clans, villages and hamlets were resolved using the customary justice system. During the colonial period, the customary system of justice was replaced with the formal legal system of resolving the dispute. The rules and practices of the colonial and post-colonial government weakened the customary institution used in determining conflict (Ogbaharya, 2010).

Customary dispute resolution functions outside the confines of a formal state-based legal system. It is based on a system of norms, customs, and practices that are mandatory for every member of a community (Harper, 2011). The socio-political order is ensured in the community by customary dispute resolution which uses rules and norms actively produced and enforced

through participation (Akrofi, 2013). Customary beliefs are used as the basis for their authority rather than the legal or political power of the state (Harper, 2011).

Resolving conflicts through customary mediation managed to survive the effects of colonialism and are still used today to resolve many intergroup and communal conflicts (Ogbaharya, 2010). For example, the ‘Luba Basa’ is a form of customary management institution used to resolve conflicts in southern Ethiopia (ibid). The pastoral people of Oromo relied on using this institution to resolve a dispute arising over natural resources (e.g. water, land and pastures). They are seen as ‘preventive conflict management’ that promotes peaceful co-existence of the Oromo with neighbouring towns and villages (Tsega, 2004). Mediation based on community customary principles in Sudan and Kenya are called ‘Juddiya’ and ‘Luo and the Maasai’ respectively (Ogbaharya, 2010; Mantier & Dhal, 2000). All these mediation principles are used to resolve disputes within the community. With the advent of colonialism, many of these customary systems of ensuring justice were eroded.

3.4.3.3 CHARACTERISTICS OF CUSTOMARY JUSTICE SYSTEM

The nature of the customary system of justice is difficult to define (Harper, 2011). These reasons are attributed to the fact that the rules and principles governing customary justice systems are not static but evolving to cultural interactions, demographic and socio-economic shifts, political processes and environmental change (ibid). Secondly, they are unique to the communities in which they are used. Despite this, some attributes can be identified to distinguish customary systems of justice: restoration of social harmony, the hierarchy of problem-solving forms, dynamic and flexible operating modality, broad jurisdiction, participation in dispute resolution, consensus-based decision making and reconciliation (ibid).

3.4.3.4 ALTERNATIVE DISPUTE RESOLUTION

Alternative Dispute Resolution is the mechanism used to resolve the dispute outside normal court process (van der Bank & van der Bank, C.M, 2017; Oni-Ojo & Roland-Otaru, 2013; Uwazie, 2011). For the purpose of this research ADR is defined as mechanisms, processes and techniques designed to complement the traditional methods of resolving disputes by providing more effective and faster resolution processes (van der Bank & van der Bank, C. M, 2017). To avoid relationship destroying litigation, ADR is provided for means of settling disputes to avoid confrontation (ibid). Using ADR to resolve conflict is not new in its entirety, but “dated back

to history and linked to ancient traditional processes” (Fiadjoe, 2013, pp. 2-6 as quoted by World Bank Group, 2011).

The primary goals of ADR are described by van der Bank & van der Bank, (2017): to relieve court congestion, to facilitate access to justice, to prevent undue cost and delay, and to provide more effective dispute resolution. ADR is offered as an alternative to resolving the dispute to reduce the number of cases that are handled by the court. ‘Justice delayed is justice denied’ is another primary reason why ADR is provided as an alternative to avoid unnecessary court adjournment. The cost of accessing the formal court is too expensive for the poor.

To prevent the rural poor being denied justice the ADR is provided to settle the dispute. The formal court has been found to be lacking in effectiveness, which further constrains the formal mechanism of resolving disputes (Onyema & Odibo, 2017). The different modes of ADR used in sub-Saharan Africa are briefly described below.

There are five different modes of ADR mechanism used in Sub-Saharan Africa. These are mediation, negotiation, conciliation, arbitration and adjudication.

A) MEDIATION

Mediation is an ADR method of resolving a dispute that involves the use of a neutral person to reach consensus by both parties (van der Bank & van der Bank, 2017). This type of ADR is used to expedite negotiations between parties in conflict to resolve their dispute. The process is voluntary and non-binding. The primary role of the third party is to encourage the parties involved in the dispute to resolve their differences themselves. The use of legal rules may be relevant but not compulsory. This is a significant factor while most people adopt mediation to settle differences that are confidential and sensitive because it allows the settlement to be done in private rather than in public. The mediator is selected based on his/her knowledge of the issue at hand, usually an expert lawyer. The decision by a mediator is jointly agreed upon but not binding on the parties in the dispute (Lucas, 2014). If the conclusion of a mediator is agreed upon by the disputing party, the mediator will provide the parties concerned with written documents that will be signed by both parties. This agreement will then be binding on both parties (Wilcocks & Laubscher, 2017). A mediation process is illustrated in Figure 3-2. The

dotted line showed that a mediator is a neutral person whose opinion is not binding. It further illustrates that both parties agreed to the form of the solution proffered by the mediator.

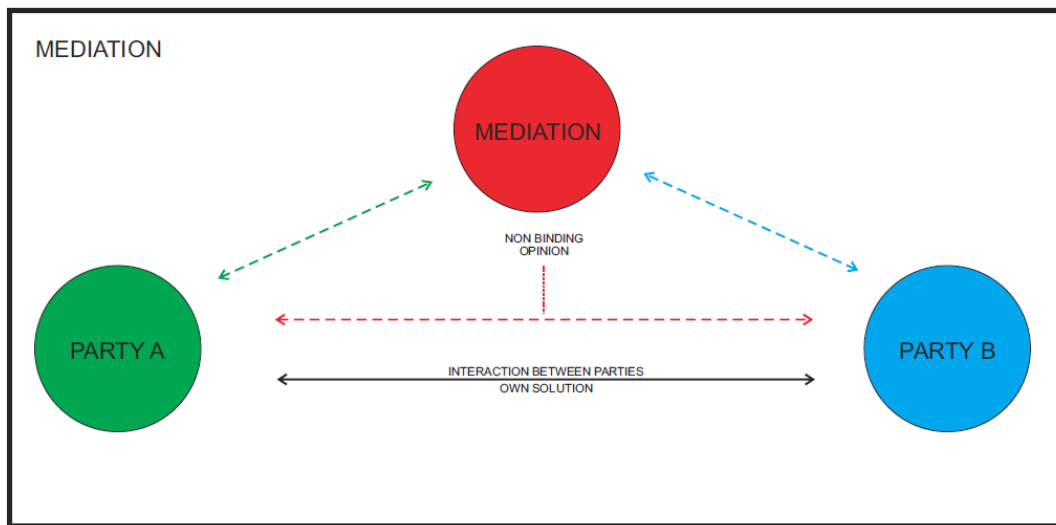


Figure 3-2: Mediation Process (Wilcocks & Laubscher, 2017, p. 153)

B) NEGOTIATION

Negotiation is defined as “a basic means of getting what you want from others” (Fisher & Ury 1991, p.6). This form of ADR mechanism is commonly used to resolve the dispute because it is the informal measure used to resolve a dispute between two parties which are in the best position to know the strength and weakness in their case (Wang, 2000). Negotiation as a means of settling disputes has become indispensable in our daily endeavour because it happens in every transaction between two or more people (van der Bank & van der Bank, 2017). “It is a means to an end and not an end in itself, the end being a mutually beneficial dispute settlement” (ibid, p. 2661). The parties involved in negotiation are in full control of both the processes and outcome, either in person or proxy, unlike in mediation and arbitration where the parties concerned must be there in person (Bryan, 2017). When a decision is made, the disputing parties are bound by the decision, since they are the architect of both the process and the solution (van der Bank & van der Bank, C. M, 2017). Figure 3-3 shows that there could be a proposal and counter-proposal between the two parties. The outcome can be successful and unsuccessful.

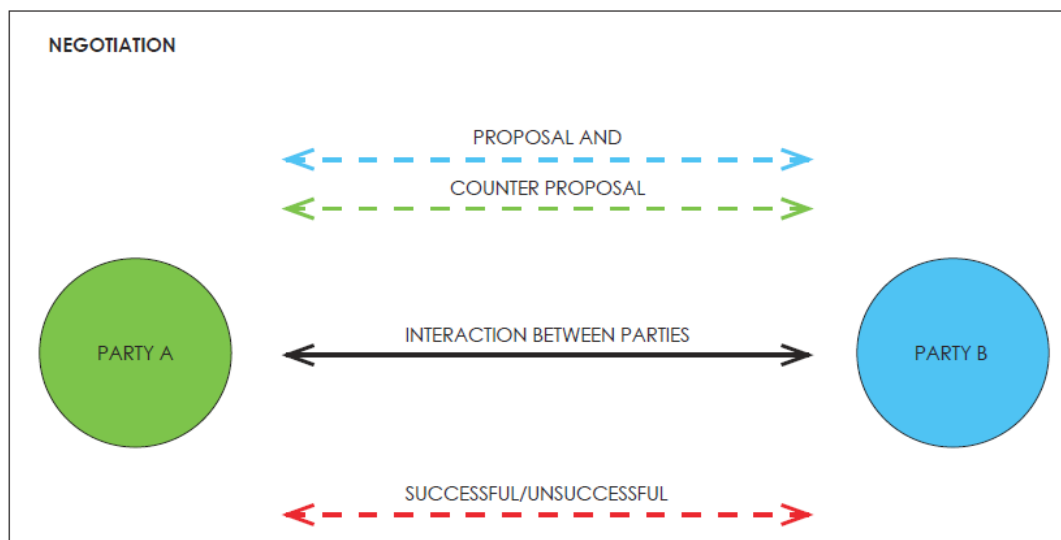


Figure 3-3: Negotiation Process (Wilcocks & Laubscher, 2017, p. 152)

C) CONCILIATION

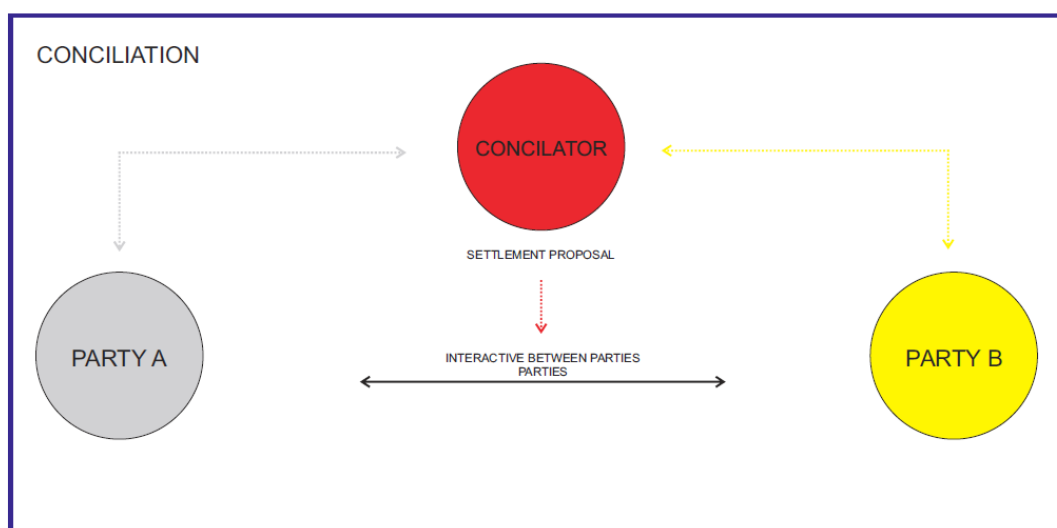


Figure 3-4: Conciliation process (Wilcocks & Laubscher, 2017, p. 154)

Conciliation as a mode of ADR involves the use of an ‘impartial third party’ (Wilcocks & Laubscher, 2017). The process is voluntarily entered upon by the disputing parties (ibid). Conciliation is flexible as the outcome of the dispute depends on if the disputing parties are ready to participate (Loots, 1991). The method is more effective in resolving conflicts compared to litigation because the outcome of the dispute is entirely based on the interest of both parties rather than rights-based (Rao, 1997). The process involved in conciliation is not

as prolonged compared to that of litigation. A conciliation process is illustrated in Figure 3-4 which shows that the procedures of settlements are suggested by a conciliator. Both parties agreed to use the procedures of settlement and the outcome of the process.

D) ARBITRATION

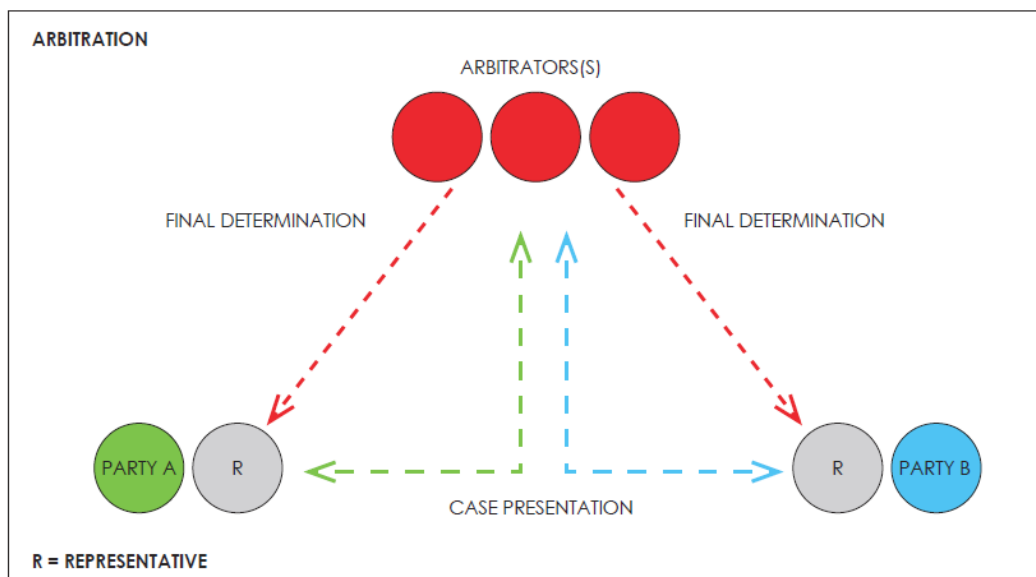


Figure 3-5: Arbitration Process (Wilcocks & Laubscher, 2017, p. 156)

Arbitration is when disputing parties agree to settle their differences in a private method outside the court system by appointing a neutral third party to render a decision (World Bank Group, 2011; Fiadjoe, 2013, p. 27). Pretorius (1993, p. 5) defined it as “a judicial and more formal process where the disputing parties present their cases to an independent third party of their choice, known as the arbitrator.” The similarity between the method of arbitration and a court process is that arbitration may involve a formal trial process but can be more informal and relaxed as compared to the court process (Wilcocks & Laubscher, 2017). This is a suitable method of ADR because it involves a neutral third party with specialised skills making a final decision which is binding on both parties (ibid). Figure 3-5 illustrates that the two parties concerned present their case to an arbitrator. The parties concerned have a representation. The arbitrator then gives a final position on the dispute based on the case presented.

E) ADJUDICATION

An adjudication is an accelerated form of ADR whereby a neutral person pronounces a verdict on the dispute between two parties, except it is reversed by an arbitrator (Timpson and Totterdill, 1999). After the adjudicator makes his or her pronouncement, the parties involved may not proceed to arbitration or litigation until after twenty-eight (28) days. This method allows for a relationship to continue while parties resolve their differences (Wilcocks & Laubscher, 2017). The diagrammatical illustration is shown in Figure 3-6.

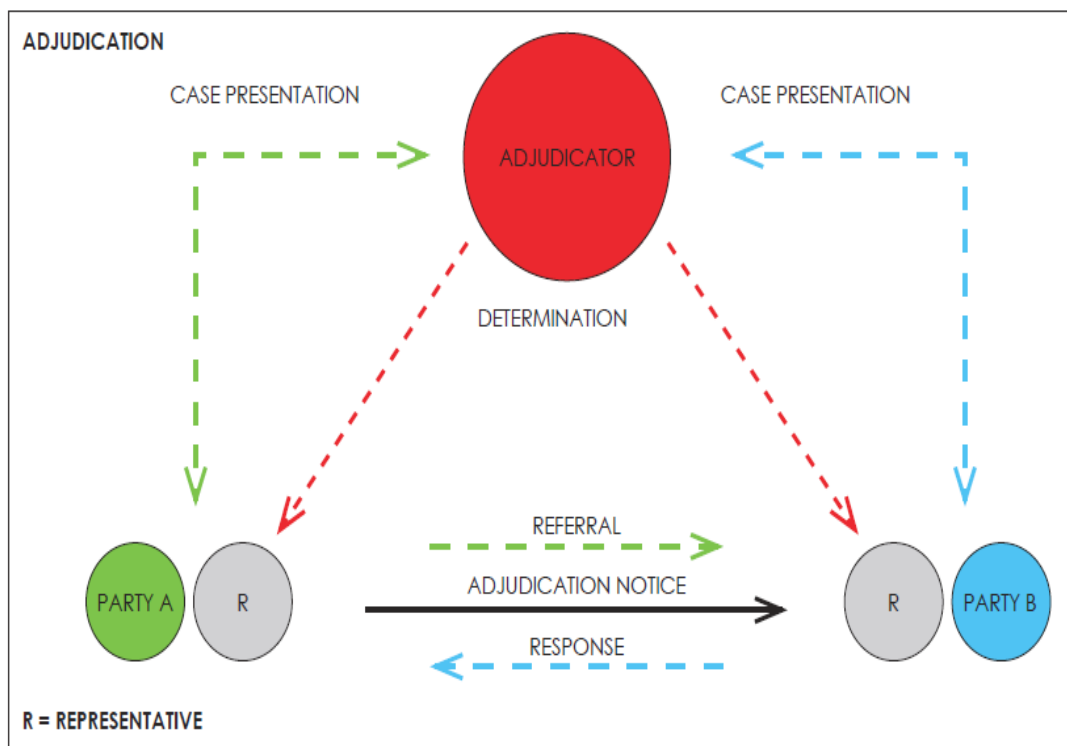


Figure 3-6: Adjudication Process (Wilcocks & Laubscher, 2017, p. 155)

3.4.3.5 ALTERNATIVE DISPUTE RESOLUTION PRACTICES IN NIGERIA

In Nigeria, the existence of ADR can be traced back to the post-colonial era. The formal legal system incorporated from the colonial period could no longer meet the needs of the people. It takes between two to twenty years before a court case is concluded (Onyema & Odibo, 2017). A review in the year 2012 showed that commercial cases before the courts in Lagos take an average of 583 days to resolve for the first instance (i.e. first trial court where an action is brought) (Arnot, 2015). Nigerians could no longer cope with the state of the formal legal system. Due to unnecessary delay, cost and operational mode, an alternative to resolve disputes

become inevitable. For affordability, effectiveness and accessibility, ADR provides an option for resolving the conflict.

In 1999, the Ministry of Justice in Lagos established Citizen's Mediation Centre (CMC) to provide free dispute resolution services to disputants who are unable to secure the funds for a real litigation service (formal legal system) (Onyema & Odibo, 2017). The CMC focuses on debt recovery, disputes among small-medium scale enterprises, quarrels between employers and employees, landlords and tenants and among members of the same family (ibid). In 2007 the CMC became a separate legal entity which offers free services across Lagos. The CMC model in Lagos had been replicated in sixteen other states of the Federation (ibid). This had reduced the burden on the court's system and provides access to justice services for the citizens. Considering the population and the number of states in Nigeria, this is still a minimal impact on the citizens. Other states are to emulate for the state that had to incorporate the model of CMC.

In 2012-2013, 46% of all cases handled were resolved while in 2014-2015 this increased to 54%. During these periods the number of cases dealt with increased from 25 641 to 35 203. The success of the CMC made the judiciary system to widen the dispute resolution channels available to all 'Lagosians' (Onyema & Odibo, 2017). From the Negotiation and Conflict Management Group (NCMG), technical support from lawyers was enlisted. This promotes the awareness of the alternative to dispute resolution mechanism of resolving the dispute.

In June 2002, the founder of the NCMG incorporated a model of ADR from Harvard University which is known as the 'Multi-Door Courthouse' (MDC). The 'doors' in this refers to different methods of accessing dispute resolution. When the Lagos Multi-Door Courthouse (LMDC) was established in 2002, it became the first court-connected ADR centre in Africa (Onyema & Odibo, 2017). This was to enable timely, cost-effective and user-friendly access to justice. In 2007, the state legislature enacted the LMDC Law making the scheme having a legal backing. This allows the private dispute resolution processes to exist alongside the public dispute management space within the courts.

In November 2009 the LMDC settled 45% of cases mediated compared to 12.5% of cases pursued through litigation within the same period. All these cases were mediated during an extraordinary session which lasted only three hours. The success of ADR in Nigeria has seen

an ally rather than a rival to the formal legal system. Awareness of ADR is still low in most part of the country. The only gap existing in the use of ADR is for it to be integrated formally into the constitution of Nigeria. This will build citizens confidence in accessing justice through the use of ADR

3.4.3.6 ALTERNATIVE DISPUTE RESOLUTION CONTINUUM

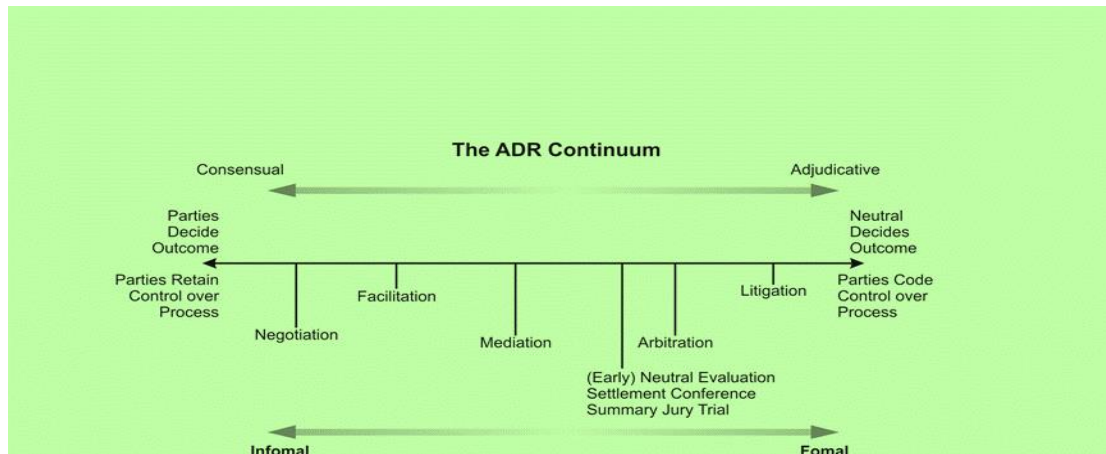


Figure 3-7: A Continuum of different ADR Methods (Lau & Johnson, 2014, p. 105)

In Lau & Johnson (2014) a continuum of ADR models was described as shown in Figure 3-7. At the right side of the model is the formal mechanism of resolving dispute. This side of the mechanism depends solely on a neutral third party to decide the outcome of the process, which usually takes the form of litigation in court. A judge always determines the result. On the left side of the model is the informal mechanism depicted such as mediation and negotiation. The parties involved have greater control over the proceedings.

3.5 SUMMARY

This chapter identified the reforms drivers and goals in the cadastral system and substantiated the role of government in cadastral system reform. The chapter further discusses the cause of disputes in land tenure system by categorising it into institutional shortcomings and institutional change framework. The meaning of customary law, customary justice and the characteristics of customary justice were discussed. Two mechanisms of resolving dispute: formal and informal were stated. The formal mechanism is through the courts while five different modes of informal mechanism were mediation, negotiation, conciliation, arbitration and adjudication. The chapter concluded by discussing the ADR modes in Nigeria. The next

chapter discusses the methodologies used in cadastral system research and the research methodology of the case study.

CHAPTER FOUR

4 Methodologies Used for Research in Cadastral Systems.

4.1 INTRODUCTION

In cadastral system research, different theories, methodologies, paradigms and analysis frameworks are used. This chapter discusses the various conceptual frameworks of methods that are used in cadastral system research. It includes critical realism, multimethodology, case study, system thinking theory, and the social systems theory. The chapter emphasises on case study as a research methodology.

4.2 CASE STUDY AS A RESEARCH METHODOLOGY

Case study as a research strategy employed the use of multiple sources of data to investigate a phenomenon in its natural state (Yin, 2009). Qualitative and quantitative methods are both used in a case study (Denzin & Lincoln, 1998). The use of multiple sources of empirical data differentiates case study research from other research strategies (Yin, 2009; Denzin & Lincoln, 1998). The various sources of data as used in case study research include questionnaires, documentation, interviews, direct observation, participant-observation, archival records and physical artefacts (Yin, 2009 see Section 4.3.1).

The primary purpose of a case study researcher is to conduct research rather than the implementation of a system or improvement on an existing system (Onsrud, Pinto & Azad, 1992). When doing an in-depth and holistic investigation, a case study methodology is appropriate (Yin, 2009; Feagin, Orum & Sjoberg, 1991). The analysis of land tenure in the customary and informal situation requires an in-depth investigation and holistic approach to investigate all the existing tenure systems.

According to Yin, (2009), a case study is used when a ‘how’ or ‘why’ question is being asked about a natural phenomenon. The qualitative and quantitative methods as a research strategy are used because the insight derived from using both provides clarity in research. This research method offers understanding, rather than a solution to the problem, but might give direction to

solving the problem. The following steps are highlighted by Yin (2009) in designing a case study: research questions, its propositions, the unit of analysis, linking data to propositions, and criteria for interpreting findings.

Various methodologies had been employed in solving a real-world problem in the cadastral system. Such methodologies include soft system methodology, case study methodologies, viable system modelling, and mixed methodology. Silva & Stubkjaer, (2002) stated that the methodologies employed in the cadastral system are mainly that of the social sciences. This is consistent with the assertion that cadastre and land administration system relates as much to people as they relate to land which is governed by social, political and economic conditions as well as by legal and technical factors. They further stated that case study methodology is used as a research method in most of the cadastral research studies (see e.g. Barry, 1999; Bittner, Frank & Wolff, 2000; Zevenbergen, 2002, 2004 Silva & Stubkjaer, 2002; Akingbade, 2005; Whittal, 2008; Mabesa, 2011; Mabesa & Whittal, 2011; Akrofi, 2013; Gulliver, 2015; Archer, 2016; Simbizi, 2016;) as explored below.

4.2.1 REVIEW OF PREVIOUS RESEARCH IN CADASTRAL SYSTEM

This section identifies the current cadastral system research that is relevant to this study. It documents past research which uses appropriate methodologies and techniques for cadastral system research. The methods comprise the single case study and mixed method research strategy – see Section 4.2.2.

The researchers in the field of cadastral system studies are using case study methodology to investigate land tenure and land administration issues. In the review of methods used in research on cadastral development by Silva & Stubkjaer, (2002), out of nine publications reviewed, five used case study methodology in addressing the research problem. A single case study is becoming prominent in cadastral study research.

Barry (1999) and Akingbade (2005) applied a single case study to solve cadastral problems and found them very useful. Furthermore, Whittal (2008) applied a single case study to investigate an extreme and unique case in the City of Cape Town. She used this methodology to investigate the reform of the fiscal cadastral system in the study of the General Evaluation Project 2000 in the City of Cape Town. The investigation was an extreme case because the

study was carried out in the circumstances of change in political power. It was unique because the study was the first of its kind in the reform of cadastral system research in South Africa.

Akrofi (2013) used a case study to assess customary land administration systems in peri-urban land in Ghana. Various studies have also investigated access to land by the urban poor in different countries using a case study approach. Ali (2013) further supported the case study strategy while using an exploratory and explanatory case study to develop a framework to apply quality management concepts to land administration in the Islamic Republic of Pakistan. He also found the case study strategy a helpful tool to investigate the objectives and issues of the existing system holistically. Gulliver (2015) also found a case study strategy viable in solving problems in cadastral systems research. While developing a 3D cadastral system, a single case study of New Zealand was used.

Archer (2016) used a single case study to investigate the impact of Social Tenure Domain Model (STDM) on tenure security of the rural poor of Mission cluster Namakwekwe ward/settlement located in the Northern division in Mbale municipality in Uganda. He further assesses if the enumeration exercises provide a sense of tenure security for the rural poor. He also investigates the relationship between tenure security and investment in the land after the recordation exercise. The instruments used for data collection were interviews, questionnaires, documents, and field observations. His findings showed that STDM alone could not provide tenure security for land rights holders despite the assurance that their rights to land are preserved.

Simbizi (2016) also used a case study approach to assess land tenure security after regularization in Rwanda. In all these studies the case study approach was found suitable.

This research will also use a single case study to measure the tenure security of the rural poor using pro-poor land tools. This is because case study strategy has been widely used by researchers to solve various cadastral problems.

4.2.2 MIXED METHODOLOGY IN CADASTRAL SYSTEM RESEARCH

The mixed methodology has proved to be a useful tool in solving research problems in a challenging situation as one can find in customary and informal tenure situations (Whittal, 2008; Mingers & Gill, 1997). Four reasons were stated why multimethodology are being used

by researchers to solve the real-world problem (Mingers & Brocklesby, 1997). Firstly, real-world issues are highly complex and multidimensional. Different real-world matters required different methodology in addressing them. Hence mixed methods are needed to deal with real-world problems. Secondly, events in real-world situation require processes that involve many phases of a methodology rather than a unique method of handling same.

Combining methodologies is necessary because some methods tend to be more appropriate in some respects than in others, while in some instances they perform similar functions but mixing them can yield better results (Mingers & Brocklesby, 1997). Thirdly, many researchers are already using philosophical and methodological parts of mixed methodology for solving real-world problems. Finally, the view of a postmodernist supports pluralism in methods (Mingers & Brocklesby, 1997). Examples of mixed methods in cadastral system research are discussed in section 4.2.1.

4.2.3 SINGLE CASE STUDY

A single case study aims to provide a rich picture of the phenomenon. The case study allows for a better understanding of the phenomenon. It employs the use of natural generalisation (Whittal, 2008; Denzin & Lincoln, 1998). This type of research strategy is used to study an intrinsic, unique, unusual case, revelatory, or extreme case (Yin, 2009; Denzin & Lincoln, 1998). The strategy is good at developing a new theory and improving on existing ones. This research is unique because pro-poor land tolls is not yet applied in the case study area. The study is also intrinsic because the primary aim is to study land tenure security in its natural context.

Intrinsic Single Case Study: Understanding some abstract construct of the universal phenomenon is the primary focus (Denzin & Lincoln, 1998; Stake, 1995) but it examines the area of interest to the researcher (Denzin & Lincoln, 1998). Examples of such studies include Whittal, (2008).

Unique Single Case Study: A unique single case study is made up of the culture, history, physical environment, and the complexity of the situation about the social, economic and political structures (Yin, 2009; Denzin & Lincoln, 1998).

Extreme or Critical Single Case Study: In this type of research strategy, the study examines the situation under a rare or extreme circumstance (Denzin & Lincoln, 1998). The study of Barry (1999), which explores cadastral system under the political change in South Africa, is an extreme single case study.

4.3 RESEARCH METHODOLOGY

This section gives an analysis of how the research was carried out. The pre-fieldwork activities: data collection schedule, and data collection methods. The methods employed both primary and secondary data collection tools to generate data. The primary data collection included: administering of structured questionnaires, interviews, use of handheld Global Positioning System receiver (GPS) to collect spatial data, and mobile application (Topographic mapper). During the field stage, a collection of evidence was based on multiple primary sources, questionnaires, archival records and observations. The secondary source of data included: reports, journals articles, published books and Google Earth real-time online image data repository.

In ensuring rigour is maintained during the data collection stage the multiple sources of evidence was used to collect empirical data for this study (see section 4.3.1). Questionnaires were used to obtain information from the people, to understand the legal holding of land in customary land tenure. It was also used to collect data about tenure security from the case study area. The questionnaires were in two forms: the Land Use Act and the STDM questionnaires. The questionnaire is adjudged the best instrument used to collect a small amount of data from a large population group (Denzin & Lincoln, 1998).

Interviews were conducted with the key informants only. The interviews were conducted with three groups of people in the study area namely the community head, the head of formal institutions and the land rights holders. The NCLRM analysis is mainly informed by the interviews of these three categories of people. Questionnaires, interviews and documentation evidence were obtained over the period of seven months (October 2017-April 2018).

4.3.1 SOURCES OF EVIDENCE IN CASE STUDY RESEARCH.

Multiple data sources characterise the case study strategy. Each data source contributes substantially to the view of the researcher about the case under study. To allow a chain of

evidence to be maintained, a case study database is created (Yin, 2009; Baxter & Jack, 2008). This database enables the researcher to manage data sources and can quickly retrieve information from it in the future.

During data analysis, information collected from the various sources are brought together instead of handling them separately. A rigorous case study can be achieved when the results are triangulated, which in turn strengthens the validity and provides a more comprehensive interpretation of the case. This makes research findings to be more reliable (Yin, 2009; Baxter & Jack, 2008; Denzin & Lincoln, 1998). The next sub-sections discuss the different types of sources of data used in this research.

4.3.1.1 Questionnaires

The questionnaire can be defined as an instrument used to obtain or collect data from a large group of people who cannot be easily accessed by face-to-face interview sessions (Denzin & Lincoln, 1998). This type of instrument is beneficial as it can be sent out before an interview session, which allows the needed information to be collected prior to the interview session. (Denzin & Lincoln, 1998).

Questionnaires are useful when obtaining data from a large group of people who are not situated in the same geographical location. Although surveys are a helpful tool, it must be carefully structured, to allow respondents to have a good understanding of the questions. A poorly structured questionnaire will imply that the researcher gets back poor information (Denzin and Lincoln, 1998).

The structured questionnaire is used to interview two groups of people, namely the key informants to the Land Use Act and the land rights holders in Itaji-Ekiti. The questionnaire serves as the best means of collecting data from these target groups because they respond to questions already structured on paper for them to answer. The questions asked are the same to all the target group.

The questionnaires used to collect data are in two types: the LUA questionnaires and the STDM questionnaires. The LUA questionnaires collect data about collective ownership of land, abolishment of customary ownership, land availability, vesting of ownership of land, the composition of LUAC and LAAC. The questionnaire also includes questions on the powers of

the Governor, granting of a certificate of occupancy, implementation of the LUA, curbing of land speculators, security of title, and compensation provision. The questionnaires comprise of twenty-nine (29) structured questions. The questions were structured such that the participant can answer questions on a five-point Likert-type scale. Responses to each question differ. The reactions range from 'strongly agree' to 'disagree strongly' and yes or no responses.

To determine the sample of the study the number of departments and institutions concerned were enumerated. The departments include Surveying and Geo-informatics, Estate Management Department of Federal Polytechnic, Ado-Ekiti (FPA); Ministry of Land, Housing and Urban Development; the office of the surveyor general Ekiti-State; professional land Surveyors (NIS); and professional estate, surveyors. Only the academic staff, students, and professional dealing directly with land matters were among the group used in the survey. The professional estate surveyors deal with property evaluation and property management. The students of Federal University of Technology, Akure (FUTA) contributed to the study because they were on a visit to FPA. The focus of the research was to collect data from the groups that use the LUA for land administration purposes. The students were included because they learn the provisions of the LUA, hence the need to collect data about their views. The professionals in the land industry relate with land rights holders and are very acquainted with the provisions of LUA. The civil servants used the LUA as a basis for land administration. Other stakeholders are excluded from the study because they are not in any of these categories stated who could help achieve the stated objectives of the research.

In total, a sum of two hundred and fifty-six questionnaires was administered to the population of academic staffs, students, and professionals dealing directly with the land. This represents the sample for the study. The administered questionnaire excludes the management staff of the respective department, just because the questions asked requires people who are conversant with the LUA. Included as a cover was a letter elucidating the purpose of the research and a privacy statement.

The questionnaires were administered on different dates at the various departments because the location of the departments was at a distance to each other. This questionnaire was administered by the researcher and collected back on a different date. Two hundred and fifty-two (252) representing 98% were filled and returned. This implies that four (4) questionnaires

representing 2% were not returned. The returned questionnaires formed the composition of the questionnaires used for the analysis and are regarded as appropriate to be used for the study.

The second questionnaire is based on the STDM, which was used to collect data from the land rights holders on tenure security. It gathers information about the land use type, ownership of title, duration of residency, ownership of property, ownership type, transferability of land, the dispute on land, kind of dispute, duration of dispute, dispute resolution and land values. The questionnaire contains thirteen (13) questions which are well-structured and brief enough for a land rights holder to be able to respond to within a short period. The Likert-type scale was not used for this questionnaire because of the nature of the questions being asked.

The STDM questionnaires were administered on a house-to-house basis. People in the field of surveying with requisite expertise were used during this stage. The entire community was divided into sections. The field assistants were split into two groups with each group having a leader. Training of field assistants was carried out, to allow them to know the purpose of the research and how to carry out the research work. The community where the study was carried out was informed ahead of time by the community head. A sensitisation programme was organised in conjunction with the community for the research and all that is expected from them. The application of the STDM was a participatory one. The community was involved in all the stages of the fieldwork. The lands department in both the local government and the state government was adequately informed.

Using satellite imagery for cadastral surveying is not a new practice (Lemmen et al., 2009; Tuladhar 2005; Ondulo and Kalande 2006). Satellite imagery was acquired through Google Earth (CES/Airbus, 2017); this was used for the base map. The resolution of the imagery is spatial 25cm, spectral 3 bands, RGB and acquired in 2017. The STDM requires a base map of the study area to be produced before enumeration takes place. The base map serves as a guide during the administration of the STDM questionnaires. During the administration of STDM questionnaire, a handheld Global Positioning System and a mobile application (Topographic mapper) was used to collect spatial data. The Mobile application was used to acquire spatial data about farmland.

4.3.1.2 Documentation

Documentation in case study can be of varied forms which include books, journals, memorandums, newspaper, letters, agendas, administrative documents, and reports (Yin, 2009; Denzin & Lincoln, 1998). The records in the case study are difficult to be accessed and retrieved but are very useful. The records are not very accurate, and they report bias (Yin, 2009).

Information about maps and charts relevant to the case study was sought from the ministry of lands and housing. An archive map of the case study area on which judgement was given in 1929 was verified from the office of the surveyor general of Ekiti State. A judgement document of 1929 was also shown to me by the community head.

The ministry of land, housing and urban development were visited to collect information about the number of statutory rights of occupancy granted for the last three years (3). Three principles of data collection were strictly adhered to in the course of data acquisition. Yin, (2009) lists these as getting data from multiple sources of evidence, forming a case study database, and keeping a chain of evidence. The primary source of strength to case study enquiries is getting information from multiple sources. The information obtained from these sources collaborates with each other. This allows for data triangulation and maintaining rigour in research.

4.3.1.3 Interviews

Interviews are one of the primary sources of data in case study research. Interviews can be described as a process of collecting information by asking a question in a pre-planned form (Denzin & Lincoln, 1998). Using interviews as a source of evidence in case study research is very useful as this may allow the interviewer to follow a particular issue that will lead to a more focused and positive proposal. This makes some interviewee's response to lead to extra questions (Denzin & Lincoln, 1998). This form of interviewing allows the interviewee to give their personal views on issues about the case (Neuman, 2000). Three types of interviews exist namely: structured, unstructured, and semi-structured interviews. The interview types provide quality results which are structured in a manner that it encompasses a broader view of different research objectives.

Interviews as a form of case study evidence are biased because of defects in questions and response. It is also inaccurate as a result of poor recalling of information (Yin, 2009). During

qualitative research, the interviewer can be distracted from the purpose of the interview (Neuman, 2000). Interviewing is affected by some prominent features of an interviewer such as class, ethnicity, race, and gender. While interviewing with key informants are different as it reflects life histories (Denzin & Lincoln, 1998).

As a method of collecting case study data, interviews were conducted with key informants. The interview is a preferred method of collecting data in this case study because real information about tenure can be obtained from this method. A structured interview question was directed to the key informants as this allows for consistency in the questions being asked. This method of asking questions allows the key informants to elaborate well on the questions being asked. The interviewer was able to get an understanding of the responses of the key informants as more relevant information was obtained. The use of the structured interview questions allows the interviewer to explore the interviewee's social and personal experience of land tenure in the case study.

The interview was conducted after the STDM enumeration exercise. This was to collaborate on the views obtained from the STDM questionnaires. Three different structured interview questions were designed for the three groups of key informants. The interview has a cover letter which stated the purpose of the research and a privacy statement. The stated information in the cover letter allows the key informants to respond to the interview questions. The question designed focuses on how land is allocated, causes of boundary disputes in customary land tenure, access to land rights, and women's land access. The questions further ask about proof of ownership of land, land availability, control of the land transaction, control of land use, securing title to land in the customary land, how land is being transferred and value derived from land. Included in the interview questions were three tables put forward by Whittal (2014) on objects of tenure, land tenure types and associated rights and concepts of land and its value to humanity.

During the fieldwork, the interview was granted to the community head. This was a structured interview to be specific and not lose focus on the research questions. The interview was issued to land rights holder during the house-to-house enumeration as well. The snowball sampling method was used for the residents. This was a significant source of information for the research work (land rights holder). Three different sets of interview questions were used to interview

the head of the formal institution, land rights holders and the community head. Two principles were followed: (i) following a specific line of enquiry as it relates to the research questions, and (ii) asking questions in an unbiased way. Three heads of the formal institution were interviewed. In total, three (3) community head, three (3) heads of formal institutions and ten (10) land rights holders were interviewed.

Interview sections were electronically recorded after taking permission from the principal informants. The recording helps the researcher to focus on what is being said having to worry about taking notes, and it improves the precision of the data collected. After this, the recorded interview was stored and the data kept. The information obtained from key informants in this case study was kept confidential. This was done to prevent the identity of the key informants anonymous. Figure 4-1 **Error! Reference source not found.** showed the interview section with land right holders in Itaji-Ekiti.



Figure 4-1: Interviews sections with land rights holders in Itaji-Ekiti

4.3.1.4 Direct Observation

Direct observation covers the event in real time (reality) (Yin, 2009). The method is useful for identifying bottlenecks and inspecting details already noted. The nature of direct observation is discreet which does not require direct contact with participants. The technique is helpful in determining problem situations (Yin 2003) in which an observer can take note as they observe.

Limitations in direct observation as case study evidence is that it is time-consuming, reflective, and costly (Yin, 2009).

This source of evidence is in two types: direct and participant observation (Yin, 2009). The researcher's presence is required in both observation types. This is for the researcher to be involved in the actual processes and equally to note each of the phases of the functions executed in the system (Yin, 2009). In this research, the researcher acts as both the direct observer and the participant. This section describes a brief account of the researcher's role which may have a bearing on the research process.

The researcher was an employee of the Federal Polytechnic, Ado-Ekiti, Ekiti State, Nigeria from 2013 to date. The researcher works as a senior technologist. This position gained the researcher experience in the field of cadastral systems. The researcher is also a professional land surveyor registered by the Surveyor Council of Nigeria (SURCON). The researcher had practised as a cadastral surveyor for ten years.

Initially, the researcher worked as a senior survey assistant in Oye local government between 2010-2012, which is the local government headquarter of the case study town. During this period the researcher was responsible for all the fieldworks in the survey department. This makes the researcher to be experienced and exposed to the cultural and social life of the people.

Finally, the researcher is an indigene of the case study town. This allows the researcher to have full views of the situation of land tenure in the case study town and its environs. With the preceding, the researcher has enough experience and knowledge of the tenure issues in the case study area. The researcher had personally witnessed how people were displaced on their land in the case study area during a land dispute that affects mainly farmers. This experience personally influenced the researcher to carry out this study.

The reasons discussed above on experience and contacts of the researcher may have a direct effect on the research process as well as the findings, but the bias of the researcher is aimed at assisting the entire research process (Whittal, 2008).

4.3.1.5 Participant-Observation

Participant-observation as a mode of observation in a case study allows an investigator to assume a variety of roles as compared to being a passive observer. This role of the investigator

allows for participation in the case being studied. The observer can view reality from someone else's viewpoint. Using participant-observation allows access to groups or events that are not accessible to a study. This mode of collecting case study event is biased as the observer can manipulate events. Another constraint of using participant-observation is validity and consistency on the part of the observer (Yin, 2009). For these reasons, participant-observation was not used as a data collection method in this research.

4.3.1.6 Physical Artifacts

A physical artefact as a source of case study evidence provides insight into cultural features and technical operations. It includes a tool or instrument, work of art or some other physical evidence (Yin, 2009). The main weakness of this type of proof lies in selectivity and availability (ibid). This source of evidence includes physical or cultural artefacts, technological device, tools or instrument etc. (Yin, 2009). This sources of evidence in this case study include the survey equipment used, the computers, hardware and software used in the cadastral system. This case study makes use of a handheld Global Positioning System, a mobile application (mobile topographer), hardware and software.

4.3.2 ANALYSING CASE STUDY EVIDENCE

In case study research, data collection and analysis are simultaneously carried out. During the research process, each informs the other. (Neuman, 2000; Yin, 2003). Analysing at every stage of data collection improves the understanding of the case under study and provides additional knowledge about data still required (Yin, 2003).

4.3.3 TRIANGULATION IN CASE STUDY RESEARCH

Triangulation in case study research involves the use of multiple sources of evidence, which means the use of various bases of data, multiple informants, and numerous methods. This allows divergent views on the same subject matter which allows a broader understanding of the phenomenon under study (Yin, 2003; Yin, 2009; Patton, 2002). Triangulation in case study research is useful, as it helps to investigate data overload and provides checks and balances on the salience of first impression (Biggerstaff, 2012).

4.3.4 GENERALISATION IN CASE STUDY RESEARCH

Yin (2003) stated three ways in which results in a case study could be generalised: naturalistic, statistical and analytical generalisation. Case study research should be conducted to have an in-depth understanding of the case at hand, because damage may occur when the researcher is committed to generalising the result to build a more significant theory. In doing this, the primary focus of the research is ignored. In case study research, researchers may decide the amount of information needed to understand a situation since it is not required to follow everything about the situation. The three types of generalisation are applied in this research and discussed briefly below.

Statistical generalisation in case study research makes use of empirical data collected from a population under study and conclusions are drawn based on the results obtained. This method of generalisation is commonly used when doing surveys (Yin, 2009). The statistical generalisation is however not widely used in case studies. A more significant error in conducting case studies is to accept statistical generalisation as a method of generalising the results of a case study (Yin, 2009).

Naturalistic generalisation's primary focus is to generalise the result to a more general theory. In a research study, the narrative style of writing enables other researchers to examine the study from using a different viewpoint. The naturalistic method is then employed to analyse the results. (Yin, 2003). A detailed case study narrative is used in naturalistic generalisation which allows the researcher to have an in-depth understanding of the case. On studying the narrative case study, the researcher knows if the conclusions are generalizable to other cases if the circumstances are similar (Yin, 2009; Yin, 2003).

Analytical generalisation allows researchers to develop and generalise theories in which existing hypotheses are tested using two or more cases. (Yin, 2009). This type of generalisation can be used in both single case and multiple case studies. The idea of generalising case study was supported by Denzin & Lincoln (2000).

The three types of generalisation identified as a naturalistic, analytical and statistical generalisation by Yin (2009) is used as a form of generalisation in this research. In naturalistic generalisation, a detailed case study is used which allows the researcher to have an in-depth understanding of the case (Yin, 2009). In this study, a comprehensive review of this case study

research is made which showed that the case study falls within the old western region of Nigeria now the south-western part of Nigeria. This region consists of six states namely Ekiti, Ondo, Oyo, Lagos, Osun and Ogun. These states are only separated by state boundary demarcation dividing them into different states. The cultural values of the people are the same and this obtained from the famous 'Yoruba' culture.

For example, Ekiti and Ondo state are the same states before state creation. They were both together as the old Ondo state. Oyo and Osun state were together as the former Oyo state before state creation which separated the duo into two states. Therefore, culturally speaking the western states are the same. Hence the use of pro-poor land tools to measure tenure security in this case study can be generalised to south-western Nigeria.

The analytical generalisation is also applicable in this research because land tenure system in Itaji-Ekiti is evaluated using pro-poor land tools. The analysis of the tenure situation also involved the use of a model. The result from the model provides an understanding of the tenure of Itaji-Ekiti. In generalising using this model, other states within the region had been considered. Findings had shown that land tenure within the region is the same.

In chapter 6 & 7 a detailed narrative of the case study situation will be presented. This will allow future researchers to use the same case study procedure and apply an analytical generalisation to analyse their findings and generalise to other regions of Nigeria.

The statistical generalisation is also applicable to this case study. The findings from the descriptive statistical analysis of the survey questionnaires of the LUA obtained from the various departments are also used as a statistical generalisation in this case. A more significant error is being incurred when using statistical generalisation as a single method of generalisation in the case study (Yin, 2009). However, he stated that statistical generalisation could be employed when empirical data is collected from a population under study (ibid).

4.3.5 VALIDITY IN CASE STUDY RESEARCH

In research, validity is used to ensure the quality of data, the results and interpretation. It also shows the result from the participants is reliable indicators of the event being measured. The criteria drawn from the source is external to the researcher and participant (Creswell, 2011).

Validity is one of the tests to judge the results of a case study research (Yin, 2009). Three different types of validity exist. These are construct, internal, and external validity (ibid).

Construct Validity

In case study research, construct validity involves three measures as indicated by Yin (ibid). These measures are the use of multiple sources of evidence during data collection stage, the establishment of a chain of evidence during data collection stage, and the drafting of a case study report which is to be reviewed by key informants. For example, three respondent types were used during the interview stage (community head, land rights holders and government officials) to allow for cross-examining of different views on the land tenure situation in Itaji-Ekiti. The LUA questionnaires were administered to different groups in the land industry. This is to obtain different views on the legal holding of land in customary land tenure system. Construct validity is strengthened by these measures observed in this research.

Internal Validity

This type of validity has to do with explanatory case study research (Yin, 2009). In case study research, internal validity can be ensured by pattern matching, explanation building, addressing competing explanations, and using logic models (ibid). The coding of data in the system was carried out by the researcher and another independent observer. This was cross-checked to strengthen the internal validity of the results. The validation of STDM data after the whole exercise also strengthened the internal validity of the result.

External Validity

This type of validity shows whether the findings of a case study research are generalizable beyond the immediate case study area. External validity has been the primary obstacle in conducting a case study (Yin, 2009). To ensure external validity in case study research, researchers must use theory in single case studies. The use of replication logic in multiple case studies is also encouraged.

4.3.6 BIAS IN CASE STUDY RESEARCH

Bias affects the internal validity of research, and it is the deviance from the fact (Leponesa, 2014). In all observational study, bias exists. Three types of bias are selection bias, information bias, and confounding bias (Grimes & Schulz, 2002). When researchers failed to compare the groups under investigation, selection bias occurs. Incorrect determination of products and exposure leads to information bias. Confounding bias happens when the interaction between an exposure and outcome is affected by a third variable called confounding variable. The result may cause an error in the conclusion of a study but if the confounding variable is known this error can be eliminated (Kanchanaraksa, 2008).

Selection and information bias are applicable to this research. Selection bias was ensured by carefully considering all groups that contributed to the study. The researcher ensured information bias by having in-depth knowledge of the land tenure situation in the case study area. In case study research, bias can be avoided by using the correct research tools. It can also be minimised if the researcher can be trained in the specific application of suitable research tools and techniques, methods, and theories (Neuman, 2000).

However, cultural bias was supported by Whittal, (2008) and Neuman, (2000). This was put as researchers' cultural setting affecting research finding. They believed that bias could be caused by the researcher's ontology, epistemology, and methodology because every researcher assumes that his/her own views, theories, principles, tenets, and ideas generally relate to the social world (Neuman, 2000; Whittal, 2008). The researchers' values, beliefs, life experiences and the way the world is viewed affect the way researchers choose methodologies when conducting research (Whittal, 2008).

4.4 CASE STUDY REPORT

In this research, the reporting is in three phases: The Land Use Act reporting (chapter 6), the modelling of tenure using pro-poor land tools and recording of land rights using STDM (chapter 7). The information obtained from the key informant's interviews, survey questionnaires, direct and participant observation, documentation and archival records are annexed to build the entire case study report which gives an in-depth understanding of the case.

The researcher's work experience and affiliation with the case study may be considered to have a stance on the research process and reporting. This is because of the researcher's experience

in the cadastral system under conditions of complexity. The case study evidence is presented in a manner that the social and natural aspects of the case study are included. When converting case study data into a case study narrative and analysis, information having a direct bearing on the study's research questions were disclosed. This process can be somehow subjective. Therefore, the entire case is not reported and analysed because this is accommodated by the methodologies applied in this research.

4.4.1 ANALYSING THE CASE STUDY RESULTS

The STDM questionnaires were used to analyse land rights holders' perception of their tenure. The field data acquired were processed by digitising and linking attribute data into the computer system. Validity was ensured by allowing community members to validate the data collected. The conceptual framework for guiding cadastral systems development in customary land rights context (Hull and Whittal, 2017) is used to assess the Nigerian Land Use Act of 1978 in its success, sustainability and significance (*ibid*) for land rights-holders in South-western Nigeria. Success means achieving the required goals of development. Sustainability relates to the endurance of the intervention. The need of the communities brings about the goals, and these must be significant for them. Positive impacts result from significant LAS for the land rights holders in a way that their needs are addressed (*ibid*). The framework comprises four levels of detail: there are five evaluation areas, 13 aspects, 32 elements, and 87 indicators. This research will use four evaluation areas and 26 elements in its evaluation because of the scope of the research. See Table 4-1 for the selected elements used.

Digitizing

The imagery used was digitized parcel by parcel to be able to assign attribute data to each of the parcels digitised. The QGIS software was used for this analysis. On-screen digitising was carried out using the cursor to trace over the parcel on the image forming a polygon shape. It was carried out carefully to avoid overlapping of boundaries.

Linking of the attribute.

After a complete digitising was done, the attribute data collected on the field was entered into the Microsoft Excel worksheet. This was linked with the digitised parcel in QGIS software.

The database created in Microsoft Excel worksheet was exported to QGIS environment with the necessary file extension.

Questionnaires

The descriptive statistical approaches were used to analyse the data collected. These include simple tables, percentages, frequencies, bar chart and pie chart. The descriptive statistics are used when two or more variables’ relationship is to be determined (Leedy and Ormrod, 2016). Yin (2009, p. 126) explained that data analysis “consists of examining, categorising, tabulating, testing, or otherwise recombining evidence, to draw empirically based conclusions.”

SPSS, Microsoft Excel and NVIVO

SPSS statistical packages were employed to carry out the analysis of data. The statistical packages were used to analyse the quantitative aspect of the research (questionnaires). In support of the statistical method for analysis, a simple time series analytical technique was used for analysis. Simple time series analysis as discussed in Yin (2009) is to be relevant when a significant amount of data is available and are relevant (Kratochwill, 1978). Microsoft Excel was used for the simple descriptive statistical approach such as simple tables, percentages, frequencies, bar chart and pie chart. NVIVO was employed to analyse a qualitative aspect of the research. The qualitative element includes the structured interviews and the semi-structured interviews.

Table 4-1: Abridged conceptual framework showing selected areas and elements used (extracted from Hull and Whittal, 2017, p. 6-14)

Areas	Elements
Underlying theory	Attitude towards human and land rights, Justification for development, Conceptual end state, and Measures of Success
Change Drivers	Deficiencies, pressures, technological advances, new theories and new policy

Change process	Gap analysis, good leadership, building on Existing practice, Time to completion, Implementing change, historical Background, current context, effective Sustainable engagement, handling equity and resolving disputes.
LAS context	Existing land rights, class and gender, Productivity and livelihood, changing Land rights type, improving tenure security Land recording/registration mechanism, LTIS and good land governance

4.4.2 LIMITATIONS OF DATA COLLECTED

For every research work to be successful, useful data collected is of primary importance. Limitations are inevitable in obtaining a good data in which this research work is not an exception. Firstly, all respondents were unable to be reached at once because most respondents to the STDM questionnaires are farmers. This was overcome by making several visits to the study area. Secondly, the Land Use Act questionnaires were administered at different locations within the state which resulted in administering on a different date and collection of same on another time. Thirdly, most of land rights holders in the disputed area declined the interview session but were available for the STDM enumeration exercises.

4.5 SUMMARY

This chapter discussed the research methods employed in achieving the objectives of this research. The methods used for data collection is presented (quantitative and qualitative methods). The used of mixed methods in research is justified. It provides an in-depth understanding of the system and strengthens rigour in research with the aid of triangulation. The role of case study research design has been outlined in the study.

The case study described makes use of multiple sources of evidence, and the results are analysed (see chapters 6 & 7). The research study involves the use of a single case study to analyse the tenure security in Itaji-Ekiti. The next chapter discusses The Nigerian Land Use Act of 1978.

CHAPTER FIVE

5 The Nigerian Land Use Act 1978

This chapter reviews previous literature on the Land Use Act 1978, starting by giving a background to the Act and discussing the objectives of its enactment. The impact of the Act on customary land tenure and security of title is presented. The need for a review and areas which are of concern presented. The framework used for the review is based on the 3S framework described in section 4.4.1. This chapter answer research questions 2.1, 2.2, 2.3, 2.4, and 2.5.

5.1 BACKGROUND TO THE LAND USE ACT 1978

During the pre- Land Use Act 1978, the Nigerian land tenure system was divided between the Northern and Southern regions. In the Northern region, land tenure was based on the land tenure law of 1962. This land tenure law was the product of a series of enactments during the colonial rule. These legislations had been explained in section 1.2. The land tenure law of 1962 was only operating in the Northern region while the Southern part operates the communal ownership of land (Abugu, 2012). Under the land tenure law of 1962, there was a uniform title document in the form of customary and statutory rights of occupancy, registration system and alienation of land is by leases, sub-leases or assignment. There was uniformity in all aspect of land administration under this law (*ibid.*)

Long before the promulgation of the Land Use Act of 1978, agitations arose from different quarters for the need of a uniform land tenure system in the country. It was observed in the third national development plan (1975-1980) that land tenure is the primary constraint to building an ‘egalitarian society.’ Both the ‘Anti-Inflation Task Force’ and ‘Rent Panel’ made a concrete suggestion on a need to promulgate a Land Use Decree (now Act) to have a uniform land tenure system in the country (Myers, 1990; Abugu, 2012). The land was identified as the significant bottlenecks to development in the country (Olawoye, 1981). This led to the setting up of a Land Use Panel in 1977 to investigate the land tenure system in Nigeria. According to Oshio, (1990), the terms of reference for the Land Use Panel are summarised thus:

- (i) To carry out an extensive study of Nigeria land tenure and land use.
- (ii) To examine the effects of the promulgation of uniform land policy in Nigeria.

- (iii) To examine how land use can be controlled.
- (iv) To discuss how land can be available for government and the entire Nigerian population in both urban and rural areas.

The panel worked assiduously and recommended the promulgation of the Land Use Decree (now Act) and specially recommended “the introduction of compulsory title registration in urban areas, the establishment of a deeds registry applicable throughout the country, and the abolition of customary forms of tenancy” (Myers, 1990, p. 237-38). In Udo, (1985, p.79) “the majority report was against the nationalization of land, but all were in support of reform in land tenure system.” In February 1978, the Federal Government promulgated the Land Use Decree, which was a replica of the land tenure law of 1962 nationalizing all land in Nigeria and placing it under the control of the state governors (Olawoye, 1981; Omotola, 1982; Myers, 1990; Abugu, 2012; Ojigi, 2012). This means that the government did not follow the majority report that was against the nationalization of land. The objectives of the Land Use Act are discussed (see Abugu, 2012; Atilola, 2010; Oshio, 1990). Per USAID, (ND), the objectives of LUA are summarized thus:

- (i) Make land readily available at an affordable rate for all Nigerians only.
- (ii) To curb land speculators especially as it relates to communal land.
- (iii) To reorganize and streamline the management and ownership of land.
- (iv) To make land available for developmental purposes.
- (v) To improve tenure security by unifying the land tenure system in Nigeria.

Considering the literature reviewed and the primary objectives of the enactment of the LUA, it is observed that a *human rights-based* approach was not followed. This land policy was enacted by the military regime, nationalized all land and placed it under the control of the Governors of the respective states. Relating to Tanner, (2002, p. 21) “a human rights-based approach” was considered in enacting the 1995 Land Policy in which existing local land rights were analysed. Although the process of enactment involves the setting up of a panel a “broad consultation process involving a wide range of role players with interest in land” (Hull and Whittal, 2018, p. 108) was not considered. This reflects a lack of *human rights-based* approach (see Table 5-1). The LUA is based on *formalisation* theory; this is so because the Act is a replica of the

colonial laws which was reflected in land tenure law of 1962. “The effort to replace the customary system made land less accessible to people” (USAID, p. 4). Hence *justification for development* is lacking (see Table 5-1). With the introduction of the Nigerian land reform programme in 2009, it was observed that the provisions of LUA are a significant constraint on its success (Mabogunje, 2010). Hence the goals of the LUA emanating from the underlying theory determines the *conceptual end state*.

The nationalization of land in Nigeria resulted in two schools of thoughts, namely: nationalization and private property rights schools of thought (Otubu, 2015; Otubu, 2014). Nationalization school of thought was influenced by the report of the government white paper, report and recommendation of the Land Use Panel in 1978. The nationalization school of thought based their argument on the use of the word ‘vest’ and trust in section (1) of the Act (Nwabueze, 2009). Many authors supported the nationalization school of thought (Uchendu, 1979; Umezulike, 1989; Mabogunje, 2010; Aluko, and Amidu, 2006). A court judgement on land matters was also given following this school of thought. For example, the case between *Nkwocha v. Governor of Anambra State*, Eso JSC said: “(T)he tenor of that Act as a single piece of legislation is the nationalization of all lands in the country by transferring ownership to the state leaving the private individuals with an interest in land which is a mere right of occupancy” (Eso, 1984).

Omotola, (1985) and Smith, (2007) dominated the private property rights school of thought. This school of thought said that the act could not have nationalized land, because the evidence supporting private property rights are spelt out in various sections of the Act. Omotola, (1985) said that with the provisions of the Act, citizens’ rights to enjoy and use land are recognized. He further stressed that the alienation of an interest in land is hindered. Transactions in the land can only relate to land under section (36) of the Act. The Land Use Act also recognized existing rights through the transitional provision in the Act. This is to be enjoyed as a right of occupancy (Omotola, 1985). The provisions of section (1) of the Act should be read with other sections of the Act before full meaning can be given to section (1) (ibid).

5.2 LAND USE ACT AND ITS EFFECT ON CUSTOMARY LAND TENURE SYSTEM

The preamble of the Act states that:

“Subject to the provisions of this Act, all land comprised in the territory of each state in the Federation are hereby vested in the Governor of that state, and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of the Act” (Land Use Act, 1978).

This section of the act had created confusion and controversy among researchers and literary writers. Many believe this section eliminated customary ownership of land while others believed that it merely unified land tenure in Nigeria (Omotola, 1982; Olawoye, 1981; Rasak, 2011). The use of the word ‘vest’ in this section connotes the meaning of ‘vesting ownership’ of all land in the Governor of the State. All previous owners of land are hence divested of their ownership. These owners include communities, families and individuals.

In customary law, the general principles of ownership of land are family ownership (Elias, 1971). Two characteristic features of customary land tenure are communal ownership and the unique position of the Obas (community head in Yoruba culture), Obis (community head in Ibo culture), Chiefs (street heads), and heads of the families (Omotola, 1982). The general rule about traditional land ownership is that the head of the communities or heads of the family holds land in trust for people. The position of the head of communities is so reverend that they resist any attempt by any external forces. With the preamble to the Act, these two characteristics of customary law had been eluded. By this section, all land had been under the trustee of the Governor of the respective state. This governor had stepped into the shoes of the community leaders (Obas, Obis, Chiefs, and head of the family). The consent of the Governor must be provided before alienation of any land; this is similar to the customary law rule whereby the consent of community leaders is sought before land can be alienated (Omotola, 1982; Olawoye 1981).

Looking into some sections of the Act references were made to customary land tenure. Section (34) and (35) of the Land Use Act converted former absolute ownership into rights of occupancy which can be through the granting of statutory rights or customary rights. This is

one sense refers to the existence of customary rights under the Act. Section 29(3), referring to compensation payment upon revocation of the right of occupancy by the Governor state that:

“If the holder or the occupier entitled to compensation under this section is a community, the Military Governor (now civilian) may direct that any compensation payable to it shall be paid.

- (a) To the community; or
- (b) To the chief or leader of the community to be disposed of by him for the advantage of the community in agreement with the applicable customary law; or
- (c) Into some fund specified by the Military Governor for the purpose of being utilized or applied for the benefit of the community” (Land Use Act, 1978).

This section recognized that land can still be held as a community, thus recognizing customary tenure. An occupier is defined in Section (50) as *“any person lawfully occupying land under customary law and a person using or occupying land in accordance with customary law.”* With this definition, a person is to use land in accordance with the customary law of the land in use. It will be difficult to achieve this, considering the provisions of the Act. Section 6(9) empowers the Local Government to grant customary rights of occupancy, section (21) states that no transfer of such right can be done without the consent of the Local Government. Section 36(5) under transitional provisions on land not in urban areas clearly states that *“No land to which this section refers shall be sub-divided or laid out in plots, and no such land shall be reassigned to any person by the person in whom the land was vested as aforesaid”* (Land Use Act, 1978). These provisions of the Acts clearly indicate that customary rights cannot be enjoyed under customary law. The position of customary leaders in consent and alienation is eroded.

Rasak, (2011) while looking into appraisal, problems and prospects of the Land Use Act discussed that customary rights on land are protected in a limited form through rights of occupancy. With this background to the Land Use Act, customary rights are not adequately recognized. Customary tenancy is another area where the Act failed to juxtapose what happens to the position of a customary tenant after the promulgation of the Land Use Act. Section (34) and (36) specified that the land to be continually held by the person in possession before the commencement of the Act. In customary law, both the customary tenant and the landlord have a vested interest in the land. For example, Ayede-Ekiti is a tenant to Itaji-Ekiti before the

commencement of the Act. The Act specified that the land should be held by the person in whom it was vested before the commencement of the Act. The question the Act failed to clarify is who is entitled to rights of occupancy on the land.

One of the greatest challenges of the 1978 LUA is the confusion in ownership rights in customary land. Various sections tend to contradict each other as shown in the preceding paragraphs. This mars the *change process* of the 1962 land tenure law to the 1978 LUA. This indicated a *gap analysis* of customary land use rights under the LUA (see Table 5-1). Existing customary land rights were not protected as *legitimate*, all the LUA aims to achieve is to covert freehold to leasehold. There is a need to protect customary land rights based on customary norms. The LUA recognises statutory and customary land rights only according to the provisions of the LUA, but in reality, non-adherence to provisions of the Act is observed (see section 5.2). Hence the *current context* is deficient (see Table 5-1).

Community participation is important in land policy formulation because this brings all the needed participants together. This is when the interest of all can be promoted. The LUA lacks in this regard. It has been a military enactment till date. Hence the outcome has no significance for land rights holders, thus less sustainability. *Effective and sustainable engagement* is absent (see Table 5-1).

5.3 The Need for a Review

After looking at the effects of Land Use Act on customary land tenure system, this section takes a holistic view of why the act needs a review. Omuojine (2000) said the Act is an excellent document which aimed to unify land policy in Nigeria. He further stated that the problem with the Act is an implementation problem, which needed to be specified at the end of the document. He finally said the Land Use Act is a ‘confused piece of legislation’ in terms of management, execution, and practicability. Collaborating with the view of Omuojine, Abugu (2012) described the problem with the Act to be problems inherent in the Act and man-made problems. He further described the man-made problem as a problem of implementation.

5.3.1 Problems Inherent in the Act

Abugu, (2012) suggests that the Land Use Act contains the seeds of self-destruction which impede its implementation and the realization of any credible land reform objectives. Some of

these problems are identified as lack of implementation guidelines, entrenchment of the Act in the constitution, inalienability of land in rural areas, vesting of land for use and collective benefits of Nigerians only, compensation provisions, land for grazing purposes not covered by deemed customary rights of occupancy, and the Age of the Act.

5.3.1.1 Lack of Implementation Guidelines

The Act did not specify any implementation guideline except for the power vested in the National Council of States and the Governor (section 46) to make regulations. This resulted in each state and the local government running the administration of the Act in different ways. A commission should have been established to be a check on the National Council of States, State Governors, and the Local Government. This would have forestalled the abuse of power by the Governors and the Local Government.

The National Technical Development Forum on Land Administration stated that (N.D)

“Even though the Land Use Act sought to harmonize the laws and to ease the application, it has not been able to achieve this purpose successfully. The application of the Act today is not uniform because it did not provide guidelines for its implementation. There have therefore existed a lot of misinterpretations of its provision. Different implementing government agencies apply the law as it best suits their peculiar circumstances.”

One of the misinterpretations is the misuse of the power of the Governor to revoke land vested in the Federal government. This is common among the states ruled by the opposition party.

The enactment of the 1978 LUA failed to incorporate the implementation guidelines. This is a challenge which limits the provisions of the LUA. There is a need for an intervention in this regard. This is not a unique challenge for Nigeria: see for example the experience of Mozambique (Tanner, 2002).

5.3.1.2 Entrenchment of the Act in the Constitution

The military government made the Act the part of the constitution of the Federal Republic of Nigeria after its promulgation. It was made section 274(5) of the 1979 Constitution, and this was retained as section 315 (5) of the 1999 Constitution. This entrenchment of the Act in the constitution made its amendment very difficult. The entrenchment of the act in the constitution sought to protect the Act from being amended at will.

5.3.1.3 Inalienability of Land in Rural Areas

Section 36(5) states that all land subject of a deemed customary rights of occupancy shall not be divided into plots or transferred to any person by the person in whom the land was vested. The implication of this is that all land previously held under native law and custom in rural areas in Nigeria cannot be alienated. The economic and capital value are put on hold; this implies that they cannot be used to secure loans, nor can a holder sublet his interest therein. This means that landholding is more prevalent in rural areas than land use. The rural poor are unable to convert their ‘dead capital’ into economic capital which may aid development (De Soto, 2000).

5.3.1.4 Vesting of All Land For The Use And Common Benefit of Nigerians Only.

Section 1 of the Act vested all land in the Governor of a state for the benefit of all Nigerians only. This explicitly excludes non-Nigerians from acquiring land within Nigeria for developmental purposes. This act of non-inclusion of non-Nigerians in land acquisition is very retrogressive, particularly in a country claiming rebranding to attract Direct Foreign Investment (DFI). The amendment in land law and administration by The United Arab Emirates (UAE) turned the country into a major tourist trade destination. The review of UAE land law in 2002 granted the rights to acquire land for developmental and investment purposes (Abugu, 2012).

5.3.1.5 Compensation provision

Compensation arises from compulsory acquisition of private or public properties in the overriding public interest. Sections 28 and 29 discuss in detailed the conditions on compulsory acquisition and compensation payment. The provisions of these sections are stated in Nuhu, (2008), Ibiyemi, (2014), and Otubu, (2014). Section 28 empowers the governor to revoke rights of occupancy; section 29 requires the same Governor to pay compensation on the revocation of rights to land. The question to be answered is whether the due process is followed in the compulsory acquisition and is adequate compensation paid. The latter refers to compensation to be paid on un-exhausted improvements on land, which means compensations is not paid on land without improvement (see Otubu, 2014). Otubu (*ibid*) notes that land had no value before the LUA other than the improvements on the land.

Section 47 of the Act disallows the jurisdiction of any court in Nigeria from enquiring into any question in respect of the powers of the Governor pertaining to the vesting of all land in the

state and the granting of statutory occupancy. The same applies to the local government. The issue of compensation payable under the Act could not be heard in any court in Nigeria because of its provisions in the Act. This negates the provision of the Nigerian constitution. Several authors clamour for the review of these section among whom is (Nuhu, 2008; Otubu, 2012, 2014; Ibiyemi, 2014).

5.3.1.6 Compensation payment outside of court's jurisdiction

Section 47 of the Act disallows the jurisdiction of any court in Nigeria from enquiring into any question in respect of the powers of the Governor pertaining to the vesting of all land in the state and the granting of statutory occupancy. The same applies to the local government. The issue of compensation payable under the Act could not be heard in any court in Nigeria because of its provisions in the Act. This negates the provision of the Nigeria constitution.

5.3.1.7 Land for grazing purposes not covered by deemed customary rights of occupancy.

The local government is empowered by section 6 to grant customary rights of occupancy for residential, agricultural and grazing purposes. Section 36 stipulates that land may only be held via grants deemed customary rights of occupancy for prior owners of land for agricultural purposes in the rural area alone. These grants do not include the land for grazing purposes. This implied that those with land for grazing purposes before the commencement of the Act are not entitled to deemed customary rights of occupancy. The effect of this is that local government can reallocate land for grazing to another person because the rights of the previous owner are not preserved by the law.

5.3.1.8 The age of the act

The Act was promulgated in February 1978, which makes it forty years old. In a nation like Nigeria where everything had experienced change from military to democracy, it is expected that the Act is reviewed in its entirety. This is because the goals and objectives of Nigeria on land administration forty years ago cannot be the same in this 21st century. The preamble to the Act clearly shows that it is only aimed at securing land rights for the people of the country. The preamble stated thus:

“...whereas it is in the public interest that the rights of all Nigerians be asserted and preserved by law, and whereas it is also in the public interest that the rights of all Nigerians to use and enjoy land in Nigeria and the natural fruits thereof in sufficient quantity to enable them to

provide for sustenance of themselves and the families should be assured, protected and preserved” (Land Use Act, 1978, p. 1).

From the preamble to the Act, it only aimed at making land readily available, and no effort in the act showed that land reform was an objective of the Act.

5.3.2 Problems of Implementation

In the view of Abugu (2012) the implementation problem of the Land Use Act is linked to abuse of power by the Governor, public service and bureaucracy, lack of political will, and the Local Government authorities.

5.3.2.1 Abuse of Power by the Governor

Section (1) of the act vests all land in the territory of a state in the Governor of the state holding it in trust for the benefit and good of all Nigerians. This is undoubtedly an enormous power conferred on the Governor (Olawoye, 1981; Abugu, 2012). Commenting on this, Olawoye (1981) said: “the Act proceeded on the assumption that the Governor is a good man” (see also Umezurike, 1979). Relating to section (5) of the Act the Governor is empowered to grant statutory rights of occupancy over urban and non-urban lands to any person for a defined term.

Further reacting to section (28), which grants the Governor the power of revocation of any form for overriding public interest, Umezurike, (1989) and Abugu, (2012) argued that the Land Use Act specified how a right of occupancy should be revoked. The Governor had been using this political instrument called ‘revocation’ at will to satisfy their political interest, not following the procedure laid down in section (44) of the Land Use Act.

5.3.2.2 Public Service and Bureaucracy

Land reform and land administration in Nigeria require a competent, incorruptible and well-motivated bureaucracy and public service to achieve the desired results. In achieving a desire for land reform, the prevailing situations must be dealt with. The public service that will be the agent of the reform must not be like the ‘proverbial dog that eats the bones tied to its neck’ De Soto (2000, p.60-61), referring to how the security of title and effective transactions on all lands ensures the capital value of land, gave this assertion:

“One important reason why the Western formal property system works like a network is that all the property records (titles, deeds, securities and contracts that define the economically

significant aspects of assets) are continually followed and protected as they travel through time and space. Their first stop is the public agencies that are the stewards of an advanced nation's representations. Public record-keepers administer the files that contain all the economically useful description of assets, whether land, building, chattels, ships, industries, mines or aeroplanes. The agencies also ensure that assets are adequately and accurately represented in appropriate formats that can be updated and easily accessed.”

This cannot be spoken of in the context of Nigerian land registries and ministries. Corruption and bribery are the norms. Civil servants entrusted to be stewards become agents with fraudulent practices. Transaction on land is common among public servants who are to be the custodians of land for the benefit of ordinary Nigerians. In the words of Umezulike (N.D, p. 106), Nigerian civil servants became “essentially landed class or closely associated with the landed aristocracy.” This attitude of the public servant is detrimental to the success of any meaningful land reform and good land administration in Nigeria.

5.3.2.3 Lack of Political Will

Land reform programme success depends on robust land legislation, which is an essential ingredient of land administration. The basis of the existence of man is on the land. Its impact on people is a matter of life and death. Any government considering land reform must first have a strong political will to withstand all opposition and obstacles to its implementation. Oppositions from the landed gentry and the elite are the major obstacles to land reform. This is why Umezulike (1989, p.106) said: “Land reform is usually a hard pill to swallow especially by the elites.” Forty years ago the Act was promulgated, yet the government at three tiers (Federal, State, and Local Government) has not demonstrated enough political will towards the implementation of the Act.

Political will as an indicator may be lacking because the 1978 LUA is not a direct legislative enactment, it was inherited from the military government.

5.3.2.4 The local government authorities

Section 5(1) of the Act empowers the Governor to grant statutory rights of Occupancy and Section 6 empowers the Local Government to grant customary rights of occupancy in respect of land in the rural areas. Section 9 further empowers the governor to issue certificates of occupancy in evidence of the rights of occupancy. This gives the Governor enough power to

issue certificates of occupancy whether statutory or customary (express or deemed). Section 9(b) further states that any person in occupation of land under a customary right could apply to the Governor for a certificate of occupancy. The norm in Nigeria is that the Local Government issues Customary Certificates of Occupancy which is against the provisions of the Land Use Act.

The success of the LUA is contested; the measure of success is based on the literature reviewed in this chapter. The reasons discussed in the foregoing paragraphs are attributed to why the LUA has failed to achieve its stated objectives (see section 5.1). The alignment with *goals* of enactment can only bring about the *success* required. USAID (ND) stated that the LUA failed to achieve any of its objectives. Hence its existence is not *sustainable*. *Sustainability* can be ascertained based on the achievement recorded so far. Interpretation, implementation, and enforcement are lacking in the LUA (Boudreaux, 2005). These deficiencies hinder *success*.

Problems of implementation and problems inherent in the LUA are identified. Hence a *gap exists* between the current state and the desired end state. Political will is lacking in the implementation of the LUA. Certificates of occupancy (statutory or customary) are revoked using political will; all these may be attributed to lack of *good leadership*. The LUA was enacted 40 years ago; this can be attributed to enough time for *realisation of goals*. Although the *end state* takes time (Hull & Whittal 2017), this 40 year is *sufficient time* to achieve the stated objectives. *Time to completion* is absent (see Table 5-1). Social norms and values are not incorporated in the LUA, the history of enactment (see section 1.2) were based on land tenure law of 1962, customary laws were not considered. Hence *historical background* is lacking.

According to Otubu (2014) compensation is to be paid on un-exhausted improvements on land, which means compensations is not paid on land without improvement. Otubu (*ibid*) notes that land had no value before the LUA other than the improvements on the land (see section 5.3.1.5). From a *human rights perspective*, every land rights holder should be entitled to compensation *without discrimination* (see Arko-Adjei, 2011). *Handling equity* is deficient as regards to LUA (see Table 5-1). “Ensuring equity means acknowledging” all ‘stakeholders’ needs (Hull and Whittal, 2017, p. 11). Disputes emanating from inadequate compensation payment are not heard in any court in Nigeria because of the provisions in the Act. LUAC is the only committee

allowed to entertain such disputes. This negates the provision of the Nigeria constitution. Hence the mechanisms of *resolving disputes* are not *appropriate* and *acceptable* to all stakeholders (Zevenbergen et al. 2013).

5.4 Concerned Areas of the Act

The previous section discussed the man-made problems and the problems inherent in the Act. This section investigates areas of the Act that need a review in line with the current global campaign for pro-poor land tools. To achieve the desired land reform agenda of any government, robust land legislation that considers the poor in the rural areas is required. The following are areas of concern:

- The Act is to be removed entirely from the constitution of the Federal Republic of Nigeria. It should be an independent land law on its own to ensure flexibility in its implementation.
- Section 1 of the Act vests all land in the Governor of a State for the use and benefit of all Nigerians. The land shall be held in trust and managed according to the Act. This section should seek to establish a commission that supervises the governor and the local government in the discharge of their responsibility. Land should not be vested in the Governor. Land should not be for Nigerians alone but for everyone who is in need for investment purposes.
- Section 2 of the Act established land advisory bodies (LUAC & LAAC) and their compositions. The Governor should not appoint members of these advisory bodies. The commission to be established should be saddled with this responsibility. This is when a positive result can be achieved. The composition of the advisory bodies is inadequate. The composition of the LUAC excludes professional land surveyors. This is a great error that needs immediate amendment. Two essential professionals deal with land matters namely: professional land surveyor and a professional estate surveyor. The estate surveyor was mentioned while the land surveyor who determines the location of the land is excluded. LAAC members should consist of the traditional authorities if customary norms are still recognized by the Act or in the alternative they are made the head of such committees.

- Section 7 of the Act puts a restriction on the age of the person who can acquire land in Nigeria. The Act specified anyone under the age of 21 should not be granted statutory rights of occupancy. An 18-year-old can vote to elect a Governor, but the same Governor will not grant Statutory Rights of Occupancy to him. In this 21st century, this needs not to be in our land law any longer. At 18 now people graduate from the University and even get married.
- Section 28 stated the revocation of Rights of Occupancy. This section needs to be reviewed in its entirety. The Governor needs to be supervised by a Commission who makes sure that revocation rights were based on overriding public interest and not political interest. Example of such is the current National Grazing Reserve Bill 2016, which sought to acquire land indiscriminately for the interest of a particular group of people for their personal business (Nigerian law today, 2017).
- Section 29 stated the compensation payable on the revocation of Rights of Occupancy. The section specified that compensation should be payable on unexhausted improvements. This section should include compensation for loss of land revoked on overriding public interest. The review of compensation should be included in accordance with the inflation trend in the country.
- Section 30 stipulates the statutory body to meet when there is a dispute arising from compensation payment. The LUAC is set up by the Governor, and the compensation payment is made by the Governor. In determining the dispute arising from compensation payment, a neutral body such as the court should be allowed to consider such cases.
- Section 36 specified the transitional provisions of land in rural areas. This section indicated that all occupiers or holders of land before the commencement of the Act and using it for agricultural purposes should be entitled to deemed Customary Rights of Occupancy. This section excludes land for grazing purposes before the commencement of the Act. The section needs to include land for grazing purposes before the commencement of the Act.
- Section 46 empowers the National Council of States to make regulations pertaining to carrying the Act into effect. This power should be transferred to a land commission.
- Section 47 excludes the court from hearing any case concerning the amount of adequacy of any compensation paid. This should entirely be removed as the courts are not

accessible to the poor and the vulnerable because of the high cost. Courts also take a long time to reach decisions and implement them. So, in addition to courts, there should be alternative, locally available dispute resolution mechanisms.

- New sections are required to recognize the use of modern technology in the acquisition of data for land titling purposes.

A land policy that *builds on existing* practice and includes customary norms and values for accessing land, allocating land rights, and resolving disputes (Williamson et al. 2010) has the likelihood to be a *success* and *sustainable*. Hence building on existing practice is missing. The LUA laws are contradicting and not well conveyed; this affects land administration. The *drivers* of change for the enactment of the 1978 LUA was mainly to unify the land tenure system in Nigeria. This was aimed to have a direct impact on land use, land value and land development. Four decades of its operations have caused many distortions in LAS in Nigeria. These distortions caused tenure security for the urban and rural poor. *Land market* has been mainly informal which is not affordable.

5.5 NIGERIA'S LAND REFORM AGENDA

In Prosterman, & Hanstad (2000) while discussing land reform in the 21st century, the potential benefits of land reform were summarized thus:

- Better environmental stewardship, reduced urbanization, and improved access to credit.
- The Improvement in Economic activity.
- Provision of a platform to partake in the political process. This encourages citizens to be part of the electoral process of selecting their leaders.
- The Reduction of rural-urban migration.
- Provision of land for sustainable farming activities, thereby reducing poverty among the rural poor.

There appears to be no succinct definition of the term 'land reform' (Batty, 2005; Borras, 2006; Arinola, 2007; Adams, & Howell, 2001). For this research, land reform is defined as the "totality of legal, institutional, administrative and policy measures to redistribute land, control the type and efficiency of land use, secure easy access of land to the government and ensure the security of title and transactions on land" (Abugu, 2012, p.186). In Arinola, (2007), three

elements of land reform were enunciated as legislation, identification of landholding, cadastral survey and preparation of tenancy document and land documentation.

In the South African context, land reform consists of three elements: land restitution, land redistribution and land tenure reform (Kepe & Hall, 2016). In the Nigerian context, land tenure reform is essential to recognise customary and informal tenure by proving alternative approaches to recording and registering rights. The need for land reform in Nigeria became expedient because of the fallout of the Land Use Act of 1978. Since the inception of the Act over four decades ago, land management in Nigeria had faced a series of problems. Rightly observed in Uchendo (1979) and Mabogunje (2002) the following were indicated as the problems caused by the Land Use Act:

- The Act is the abolition of ownership right over land of Nigerians, especially in the southern part of the country. The nationalisation of land is inconsistent with democratic practices and the operations of a free market economic system.
- The failure of many state governments to set up a LUAC in many states of the federation over the years. This has hindered the provision of land for developmental purposes.
- The failure of governors to grant consent for land assignment or mortgaging. This has hindered the development of an efficient land market and housing finance institutions in Nigeria.
- The use of consent provision by the governors to generate revenue for their respective states. Imposing exorbitant charges for granting such consent again obstructs the development of an efficient land market and housing finance institutions in Nigeria.
- In the case of one Lagos State, the effort of the governor to declare all land in his state as urban land gave rise to considerable absurdities in the operation of the land market.
- The problems associated with obtaining Statutory Certificates of Occupancy have resulted in many transactions in land in the informal market and land documents falsely dated before March 28, 1978, the effective date for the Land Use Decree.
- The provisions of the LUA disallowed individual family to develop private layout. This has resulted in the emergence of a chaotic, clumsy and disjointed system of physical planning in Nigeria.

- The enormous power bestowed on the governors and the local governments to withdraw any right of occupancy for overriding public interest is used indiscriminately and helps to underscore the fragility of the rights conferred by the Certificate.

To the above, the following are added (USAID, ND; Abugu, 2012):

- The certificate of occupancy issued (both statutory and customary) has proved to be insufficient to ensure the security of title to landholders.
- The Land Use Act failed to recognize grazing land under the deemed customary rights of occupancy, which is currently causing a problem in Nigeria. The Fulani herdsmen have no access to grazing land for their cattle, which resulted in them destroying farmlands to get feeds for their cattle (Nigeria law today, 2017).
- The two statutory committees under the Act (LUAC & LAAC) created more problems than solutions. The governor uses the committee as a political instrument against their statutory role of not being partisan.
- The non-explicit explanation of who is entitled to a certificate of occupancy between the customary landlord and customary tenant on landholding before the commencement of the Act.

Due to the problems created by the enactment of the Land Use Act, the Nigerian government was desirous to reform the land tenure system in Nigeria. On 2nd of April, 2009, the Nigerian government under President Musa Yar' Adua inaugurated an eight-person Presidential Technical Committee on Land Reform with seven main terms of reference (Mabogunje, 2010, p. 11):

- Providing technical assistance to state and local governments.
- To create a nationwide land cadastre; to determine individuals' "possessory land use" rights by adopting best practices and appropriate technologies.
- To identify locations and registration of title holdings.
- To ensure that boundaries of land and title holdings are demarcated in such a way that communities, hamlets, villages, village areas, towns, etc. are recognizable.
- To encourage and assist state and local governments in providing an alternative mechanism for land ownership conflict resolution apart from the formal mechanism.
- To make recommendations for establishing the national depository for land title holdings and records in all states.

- to make recommendations for establishing a mechanism for land assessment in both urban and rural areas in all parts of the federation; and
- to make any other recommendations which provide practical, simplified, sustainable and successful land administration in Nigeria. (Mabogunje, 2010, p. 11).

“Land reform for a country the size of Nigeria is bound to be a long and tortuous venture touching virtually all parts of the country. As such, it is a task beyond the scope of a Committee and requires the setting up of a Commission which could guide and coordinate the process across the length and breadth of the country. This had been the primary reason why land reform in Nigeria had never been a reality” (Mabogunje, 2010, p. 23).

The adoption of *new technology* to demarcate boundaries is lacking. Traditional survey method of boundary demarcation is only recognised. *Political and legislative* change is lacking. Analysing the LUA as it relates to LAS context, the protection of existing land rights is not justified. *Recognition* is only by formal land registration system. Lessons can be learned from the Mozambique 1997 land law which recognised and protected existing land rights (Hull and Whittal, 2018) by integrating customary rights and institutions in their legislation (Tanner, 2002). Uncertainty exists in customary land tenure system; this is a sign of bad governance in LAS. This is the sign that *good leadership* is absent (see Table 5-1).

Table 5-1: Summary of conceptual framework showing selected elements used in evaluation

Areas	Elements	Absent
Underlying theory	Attitude towards human and land rights	✓
	Justification for development	✓
	Conceptual end state	✓
	Measures of Success	✓
Change Drivers	Deficiencies	
	Pressures	
	Technological Advances	✓
	New theories	
	New policy	✓
Change process	Gap analysis	✓
	Good leadership	✓
	Building on existing practice	✓

	Implementing change	✓
	Historical background	✓
	Effective sustainable engagement	✓
	handling equity resolving disputes	✓
LAS context	Existing land rights	✓
	class and gender	
	Changing land rights type	
	Improving tenure security	✓
	Land recording/registration mechanism	
	LTIS and good land governance	✓

5.6 Summary

This chapter gives a background to Land Use Acts of 1978. It summarises why the Land Use Act was enacted, and its effect on customary land tenure system was stressed. The need for a review is explained, looking at the problems of implementation and the problems inherent in the Act. Areas of concern which must be amended to have a desirable land reform and the current effort on Nigerian land reform agenda were discussed.

According to Omuojine (2000) and Abugu (2012) in section 5.3, the consensus appears to imply that success has not been achieved since the enactment of the LUA. The LUA was enacted by the military government and entrenched in the Nigerian constitution. The process of enactment of the LUA is not “significant for land rights holders” (Hull and Whittal, 2017, p. 12). The outcome so far shows that the LUA cannot be sustainable.

CHAPTER SIX

6 Analysis, Interpretation and Presentation of Results

6.1 INTRODUCTION

This chapter focuses on the analysis of questionnaires based on the Land Use Act of 1978 (Appendix A). The narrative description of the Land Use Act was provided in chapter 4 of this thesis. The effects of Land Use Act on customary land tenure is described using a descriptive statistic. The description is facilitated through a single case study strategy. Firstly, the characteristics of the population that contributed to the study are presented. The survey questionnaire description, analysis, presentation and interpretation of findings are then presented. This chapter answers research questions 2.1, 2.2, 2.3, 2.4 and 2.5 (2.2 and 2.4 are answered together under section 6.5.3).

6.2 CHARACTERISTICS OF RESPONDENTS

The respondents to the questionnaires include professionals dealing directly with land matters. These professionals include professional land surveyors and professional estate surveyors. These two categories of professionals were drawn from various government establishments. The population of the study also includes students of Surveying and Geoinformatics of Federal Polytechnic, Ado-Ekiti and Federal University of Technology, Akure. The professional Estate Surveyors are saddled with the responsibility of property maintenance and evaluation. The duty of a professional surveyor is numerous, but in this context, a professional land surveyor is saddled with the responsibility of boundary demarcation. The professionals in the land industry relate with land rights holder and are very acquainted with the provisions of LUA. The civil servants used the LUA as a basis for land administration. Other stakeholders are excluded from the study because they are not in any of these categories stated who could help achieve the stated objectives of the research.

In all the departments visited management staff were not included because many of them are not aware of the existence of the Land Use Act at all. Hence the difficulty for them to respond to these questions. The total population of the study is seven hundred and seventy-five (775) as illustrated in Table 6-1 below.

Table 6-1: Population of Sample Group

S/N	GROUP	GROUP SIZE
1.	Professional Land Surveyors	105
2.	Professional Estate Surveyors	150
3.	The staff of Surveying & Geo-informatics Dept. (Federal Polytechnic Ado-Ekiti).	25
4.	The staff of Estate Management Dept. (Federal Polytechnic Ado-Ekiti).	20
5.	The staff of Office of Surveyor General, Ekiti State.	30
6.	The staff of the Ministry of Land & Housing & Urban Development	20
7.	16 Local Government headquarters (20 each)	320
8.	Student of Surveying & Geo-informatics Dept. (Federal Polytechnic Ado-Ekiti).	30
9.	Student of Surveying & Geo-informatics Dept. (Federal University of Technology, Akure).	50
	The total population of the study	775

6.3 DETERMINATION OF SAMPLE SIZE

The sample size was derived using:

$$\frac{N}{[1+N e^2]} = n$$

Where n = sample size

N= population under study, and

e = margin of error (0.10, 0.05 or 0.01). (Yamane, 1967)

Using e=0,05 and N=775, n is 264. The percentage sample size is thus

$$\frac{264}{775} * 100 = 34.06\%$$

The percentage sample size was therefore applied to the population size of each group of the population under study (Table 6-1). This is shown in Table 6-2 below.

Table 6-2: Percentage Composition of each Sample Group

S/N	GROUP	GROUP SIZE	PERCENTAGE	SAMPLE SIZE
1.	Professional Land Surveyors	105	34	36
2.	Professional Estate Surveyors	150	34	51
3.	The staff of Surveying & Geo-informatics Dept. (Federal Polytechnic Ado-Ekiti).	25	34	09
4.	Staff of Estate Management Dept. (Federal Polytechnic Ado-Ekiti).	20	34	07
5.	The staff of Office of Surveyor General, Ekiti State.	30	34	10
6.	The staff of the Ministry of Land, Housing & Urban Development	20	34	07
7.	16 Local Government headquarters (20 each)	320	34	109
8.	Student of Surveying & Geo-informatics Dept. (Federal Polytechnic Ado-Ekiti).	30	34	10
9.	Student of Surveying & Geo-informatics Dept. (Federal University of Technology, Akure).	50	34	17
	Total population of study	775		256

From table 6-2, each group contributed 34% to form the entire sample size of two hundred and fifty-six (256).

6.4 QUESTIONNAIRES

6.4.1 SURVEY QUESTIONNAIRES DESCRIPTION

The questionnaires were based on various sections of the Land Use Act. The data variables depicting these sections of the Act are illustrated (see Appendix A). The questionnaire is divided into two parts. Section A indicates personal information. Section B looks at the effects of the Land Use Act on customary land tenure system. Section A consists of five personal questions while section B consists of twenty-four questions drawn from various sections of the Act. Different questions with different responses ranging from five Likert-type scales to three Likert-type scales. The indicators used are “strongly agree, strongly disagree, and Yes, No and not sure.”

6.4.2 SURVEY QUESTIONNAIRES REPORTING

The questionnaire was allocated to all the staff and students of all the relevant departments (see section 6.1). Table 6-3 showed the total number of questionnaires returned for each department.

Table 6-3: Questionnaires count for all Departments

Departments	Questionnaire count	Percentage %
Professional Land Surveyors	33	13
Professional Estate Surveyors	49	19
The staff of Surveying & Geoinformatics Dept. (Federal Polytechnic Ado-Ekiti).	9	4
The staff of Estate Management Dept. (Federal Polytechnic Ado-Ekiti).	7	2
The staff of Office of Surveyor General, Ekiti State	10	4
The staff of the Ministry of Land, Housing & Urban Development	7	2
16 Local Government headquarters (20 each)	102	40
Student of Surveying & Geoinformatics Dept.	10	4

(Federal Polytechnic Ado-Ekiti).		
Student of Surveying & Geoinformatics Dept. (Federal University of Technology, Akure).	25	10
Total	252	98

6.4.3 ANALYSIS OF QUESTIONNAIRES

The questionnaires returned were checked and ascertained to be filled correctly. After this, the questions in the questionnaire were coded in the variable view of IBM SPSS. The second step was then to enter data into the data view of the SPSS. This was achieved by using the questionnaires identification number which was a serial number. Thereafter, the descriptive statistical analysis and correlation coefficient was used to analyse data from all departments together. The mean, mode and standard deviation of each of the questions asked were then calculated and analysed.

The respondents were asked to choose from the options based on the relevant scale of measurement available for each question. The measured scale type used is stated thus:

Table 6-4: Measured Scale (5 Likert scales)

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
Very good	Good	Neither poor nor good	Poor	Very Poor
5	4	3	2	1

The interpretation of the measurement scale of the questionnaires showed that if the mean and mode values of the dimension are more or equal to 3.5, then one can say the level of agreement with the statements is high. When the mean and mode value of the agreements is between the range of 2.5 and 3.49, then the level of agreements with the statements is medium. Finally, when the mean and mode is equal to or less than 2.49, then the level of agreement with the statements is low. The analysis of the results for the mean, mode and standard deviation of the respondents to the questions is shown in Table 6-5.

Table 6-6 shows the analysis of the result for the questions having yes, no and not sure responses. Other questions which are not analysed based on mean values are presented in section 6.56.5.4.

Table 6-5: Mean, Mode & Standard Deviation of the Study Questionnaires (5-point Scale)

Variable	Mean	Mode	Std. Dev	Mean category	Mode category
To what extent do you know the land Use Act 1978 and its Objectives	3.33	4	0.846	Medium	High
In your own opinion has the Land Use Act abolish customary ownership of land in Nigeria	3.22	4	1.428	medium	High
In your own opinion, has the Governor been able to control and manage the land as stipulated in the Act?	3.30	5	1.610	Medium	High
Do you agree that ownership of land should not be vested in Government?	3.20	4	1.449	Medium	High
Did you agree that non-granting of Certificate of Occupancy to people below the age of 21 is age biased?	3.90	5	1.337	High	High
To what extent will you say politics in Nigeria affects the implementation of the Land Use Act?	4.08	4	0.852	High	High
Do you agree that the power given to the Governor by the Land Use Act is unnecessary	3.68	4	1.319	High	High
How will you rate the security of title to land since the promulgation of the Act of 1978	2.44	2	1.221	Low	Low
Do you agree that compensation provisions in the Act need to be reviewed?	4.21	4	0.975	High	High
How can you rate the implementation of the Act?	2.88	4	1.466	Low	High
In determining dispute arising from compensation payable, do you agree that the Act negates rule of fair hearing	3.92	4	1.228	High	High

Table 6-6: Responses to the Questionnaire having Yes, No and Not sure responses

Variables	Yes	No	Not sure	Total

According to the objectives of the Act, is land readily available at an affordable rate?	61	151	40	252
In your own opinion, is the composition of the Land Use and Allocation Committee all right?	89	144	19	252
In your own opinion, is the composition of the Land Allocation and Advisory Committee all right?	90	139	23	252
Do you agree that some portion of the Act negates our Presidential System of Government?	189	60	3	252
Has the Land Use Act made land available for the citizenry	87	165	-	252
Do you agree that the Land Use Act created a vacuum of ownership in customary ownership?	182	66	4	252
Has the Land Use Act been able to curb land Speculators?	95	157	-	252

6.4.4 RESULTS AND DISCUSSIONS OF LAND USE ACT QUESTIONNAIRES

Table 6-5 showed the distribution of the mean and the modal values of responses to the Land Use Act questionnaires. The highest mean is 4.21 which relates to whether the compensation provisions in the Act need a review, and the lowest mean is 2.44 which relates to the security of title. All other responses range between high and low responses with four variables with low, five variables with medium and six variables with high occurrences. The modal values show the highest occurrences in the responses. This response could be termed as a satisfactory response.

6.4.5 ANALYSIS OF PERSONAL DATA

Table 6-7: Respondents Age Distribution

		Frequency	Per cent	Cumulative Percent
Valid	20-29YRS	106	42.1	42.1
	30-49YRS	105	41.7	83.7
	50-69YRS	34	13.5	97.2
	70YRS ABOVE	7	2.8	100.0
	Total	252	100.0	

From Table 6-7 the age distribution of the respondents to the questionnaire are shown. The above analysis showed that these age groups (20-29 & 30-49) have the highest percentage which contributed to the study. Figure 6-1 showed that one hundred and seventy-one (171) respondents representing 67.9% are from Ekiti State. All other six states that form the South-western part of Nigeria are part of the state that contributed to the study.

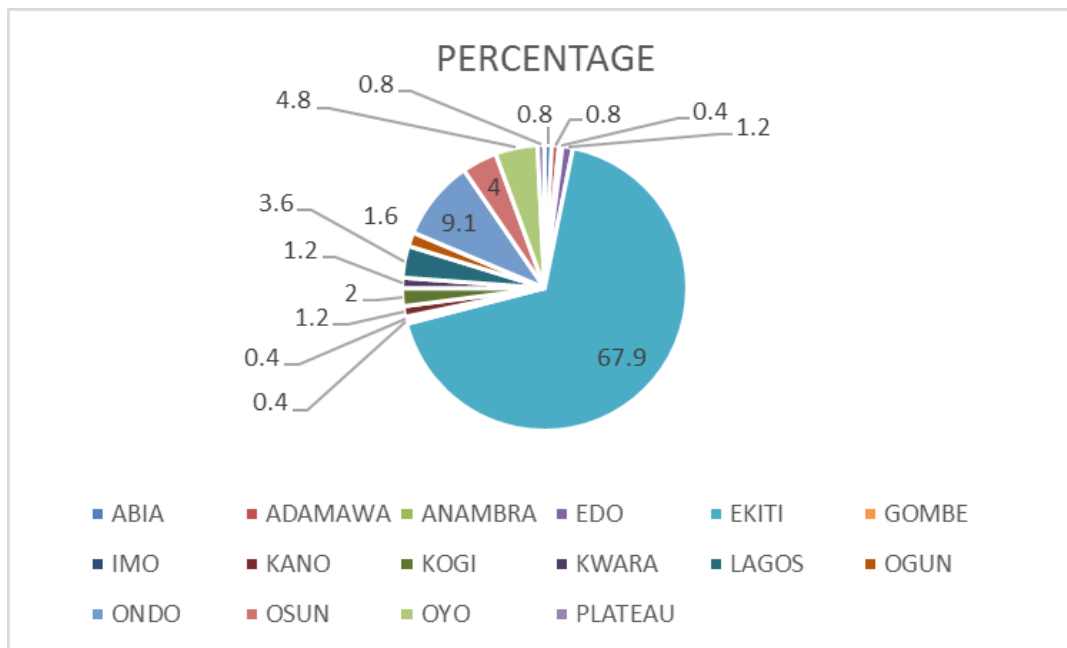


Figure 6-1: Distribution of State of Origin of Respondents

6.5 INVESTIGATING THE IMPACT OF LAND USE ACT ON CUSTOMARY LAND TENURE SYSTEM

In this section, the effects of the operations of the LUA of 1978 on customary land tenure system in south-western Nigeria are investigated. Each research question (see section 1.4.2) is

explored through the questionnaire (See Appendix A). The research questions are repeated as the sub-headings in this section.

6.5.1 HOW HAS THE OBJECTIVES OF LAND USE ACT BEEN ACHIEVED?

This section investigates how the objectives of the Act had been achieved. To analyse this, questions that are relevant (see Appendix A) are analysed. The responses to each of the questions are therefore analysed thus:

Table 6-8: Responses to respondents' perception of the availability of land at an affordable rate

According to the objectives of the Act, is land readily available at an affordable rate?				
		Frequency	Per cent	Cumulative Percent
Valid	Not sure	40	15.9	15.9
	No	151	59.9	75.8
	Yes	61	24.2	100.0
	Total	252	100.0	

Table 6-8 showed sixty-one (61) respondents representing 24.2% agreed that land is readily available at an affordable rate, while one hundred and fifty-one respondents representing 59.9% showed that land is not readily available at an affordable rate. Forty respondents representing 15.9% were not sure. The overall perception is that land is not affordable. Using the conceptual framework an element of deficiency as a response to change drivers is identified to be weak.

Table 6-9: Responses to respondents' perception of management of land by the Governor

In your own opinion, has the Governor been able to control and manage the land as stipulated in the Act?				
		Frequency	Per cent	Cumulative Percent
Valid	Neither agree nor disagree	2	.8	.8
	Strongly disagree	60	23.8	24.6
	Disagree	38	15.1	39.7
	Agree	71	28.2	67.9
	Strongly agree	81	32.1	100.0
	Total	252	100.0	

Table 6-9 shows two schools of thought, with the respondents who agree that the governor is able to control and manage land as stipulated by the Act dominating the school of thought. The

mean and modal values are 3.30 and 5 respectively (see Table 6-5). This showed that the particular direction of agreement with the statement is medium with strongly agree the highest with a modal value of 5 (see Table 6-4). The second school of thought which disagree forms a reasonable part, which makes it a fair response and not a satisfactory response. Good leadership as an element of the change process is uncertain.

Table 6-10: Responses to respondents perception of land speculators

Has the Land Use Act been able to curb land Speculators?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	95	37.7	37.7	37.7
	No	157	62.3	62.3	100.0
	Total	252	100.0	100.0	

Table 6-10 indicated that ninety-five (95) respondents representing 37.7% agreed that land speculators had been curbed under the Land Use Act. One hundred and fifty-seven respondents representing 62.3% disagree that land speculators had been curbed under the operation of the Land Use Act. This shows the perception that with the promulgation of the Land Use Act, land speculators are still operating in land transactions. An element of LAS context (good land governance) is lacking.

Table 6-11: Responses to respondents' perception of availability of land

Has the Land Use Act made land available for the citizenry				
		Frequency	Per cent	Cumulative Percent
Valid	No	165	65.5	65.5
	Yes	87	34.5	100.0
	Total	252	100.0	

Table 6-11 showed that eighty-seven (87) respondents representing 34,5% accept that the Land Use Act operations made land available for the citizenry, while one hundred and sixty-five (165) respondents representing 65,5% disagreed that the Act made land available for the citizenry. This showed that the disagreement with the statement is high. An important change driver of the LUA is to make land readily available, this *deficiency* is identified.

6.5.2 WHAT AREAS OF THE ACT SUPPORT CUSTOMARY LAND TENURE?

Table 6-12: Responses to the meaning of customary ownership

		Frequency	Per cent	Cumulative Percent
Valid	Communal ownership	51	20.2	20.2
	Family ownership	30	11.9	32.1
	Ownership where the head of the family has supreme power	31	12.3	44.4
	All of the above	140	55.6	100.0
	Total	252	100.0	

This question is necessary to ascertain if the respondents know what customary ownership of land is. The responses (see table 6-12) showed the general perception of the people to be that customary ownership comprises a combination of communal ownership, family ownership and ownership where the head of the family had supreme power.

Table 6-13: Analysis of the extent by which respondents know the Land Use Act and its Objectives

		Frequency	<u>Per cent</u>	Cumulative Percent
Valid	No idea	3	1.2	1.2
	Not too well	53	21.0	22.2
	Moderate	54	21.4	43.7
	Very well	142	56.3	100.0
	Total	252	100.0	

From Table 6-13, the respondents' perception of the level of their understanding of the Land Use Act is high. Hence, based on their views, the impact of Land Use Act on customary land tenure system is analysed. The modal value which is 4 showed that most of the people feel they know the Land Use Act very well. The responses are satisfactory, and the evaluation of the Land Use Act is based on their views.

Table 6-84: Opinion on Abolishment of Customary Ownership

In your own opinion has the Land Use Act abolish customary ownership of land in Nigeria				
		Frequency	Per cent	Cumulative Percent
Valid	Neither agree nor disagree	1	.4	.4
	Strongly disagree	54	21.4	21.8
	Disagree	35	13.9	35.7
	Agree	125	49.6	85.3

	Strongly agree	37	14.7	100.0
	Total	252	100.0	

The results in Table 6-84 above indicated two schools of thoughts. The respondents who agree that the Act had abolished customary ownership dominated the school of thought. The mean and modal values as depicted in Table 6-5 are 3.22 and 4 respectively. The modal value 4 indicates that the highest responses agree with the statement. The dimension of agreement to the statement is medium as a substantial part of the sample group disagrees with the statement.

Table 6-95: Responses to respondents perception of ownership in customary land tenure system

Do you agree that the Land Use Act created a vacuum of ownership in customary ownership?				
		Frequency	Per cent	Cumulative Percent
Valid	Not sure	4	1.6	1.6
	No	66	26.2	27.8
	Yes	182	72.2	100.0
	Total	252	100.0	

Table 6-95 shows that ownership of customary land is not clearly defined by the existence of the Land Use Act. The percentage agreement is 72,2%. Using the elements of underlying theory, human and land rights in customary areas are not ascertained.

Table 6-106: Respondents responses to the security of title since the promulgation of the Act

How will you rate the ease of securing title to land since the promulgation of the Act of 1978				
		Frequency	Per cent	Cumulative Percent
Valid	Neither easy nor difficult	3	1.2	1.2
	Very difficult	42	16.7	17.9
	Difficult	145	57.5	75.4
	Easier	36	14.3	89.7
	Very easy	26	10.3	100.0
	Total	252	100.0	

Table 6-10 shows that it is difficult to secure title to customary land since the promulgation of the Land Use Act of 1978. This is based on the age group of 20-49 which forms the most significant group who contributed to the study which is either a public servant or professional surveyors who have one time or the other been involved in obtaining title to customary land. The mean and modal values are 2.44 and 2 respectively (see Table 6-5) which showed that the

response is not determinable and modal value indicates that majority of the respondents believe that obtaining title to customary land is difficult. See section 6.4.3. Using the elements of LAS context, land registration is based on formal land registration system. This is against the need of urban and rural poor.

6.5.3 WHAT AREAS NEED REVIEW AND WHAT PROBLEMS ARE CREATED BY THE ENACTMENT OF THE LUA?

This section analysed the areas of the Act that needs a review. To analyse this, the questions in the questionnaire (see Appendix A) relevant to this is analysed.

Table 6-117: Opinion of respondents on vesting of land in Government

Do you agree that ownership of land should not be vested in Government?				
		Frequency	Per cent	Cumulative Percent
Valid	Neither agree nor disagree	3	1.2	1.2
	Strongly disagree	42	16.7	17.9
	Disagree	63	25.0	42.9
	Agree	90	35.7	78.6
	Strongly agree	54	21.4	100.0
	Total	252	100.0	

Table 6-17 shows that 56% of respondents agree while 42% disagree. The mean and modal values of the respondents are 3.20 and 4 respectively (see Table 6-5). This level of response is at a medium level. The response is a fair one and not a satisfactory one.

Table 6-128: Responses of Respondents perception of the composition of LUAC

In your own opinion, is the composition of the Land Use and Allocation Committee all right?				
		Frequency	Per cent	Cumulative Percent
Valid	Not sure	19	7.5	7.5
	No	144	57.1	64.7
	Yes	89	35.3	100.0
	Total	252	100.0	

Table 6-18 shows that eight-nine (89) respondents representing 35.3% agreed that the composition of the Land Use and Allocation Committee is all right, while one hundred and forty-four (57%) disagree that the composition is adequate. Nineteen (19) respondents

representing 7.5% were not sure if the composition of the committee is all right. The level of disagreement with the statement is high with a substantial part saying yes which makes it a fair response. However, the people’s opinions are that the composition is inadequate, hence a need for a review.

Table 6-139: Responses of respondents’ perception on the composition LAAC

In your own opinion, is the composition of the Land Allocation and Advisory Committee all right?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Not sure	23	9.1	9.1	9.1
	No	139	55.2	55.2	64.3
	Yes	90	35.7	35.7	100.0
	Total	252	100.0	100.0	

Table 6-19 showed that ninety (90) respondents representing 35,7% agreed that the composition of the Land Allocation and Advisory Committee is okay, one hundred and thirty-nine respondents (139) representing 55,2% disagreed that the composition is adequate. Twenty-three (23) were not too sure if the composition is adequate. This level of disagreement with the statement is high. The respondents are of the opinion that the composition is inadequate. The inadequacy in the two committees (LUAC & LAAC) is identified as deficiency incorporated in the LUA. Therefore a review is needed.

Table 6-20: Respondents opinion on Non-granting of a certificate of occupancy to people under the age of 21

Did you agree that non-granting of Certificate of Occupancy to people below the age of 21 is age biased?					
		Frequency	Per cent	Cumulative Percent	
Valid	Neither agree nor disagree	1	.4	.4	
	Strongly disagree	22	8.7	9.1	
	Disagree	35	13.9	23.0	
	Agree	82	32.5	55.6	
	Strongly agree	112	44.4	100.0	
	Total	252	100.0		

The direction of the agreement with the statement is high. Hence the responses are satisfactory. The above analysis showed that the people are of the opinion that non- granting of a certificate of occupancy to people under the age of 21 is age biased.

Table 6-214: Respondents opinion on the power given to the Governor by the LUA

Do you agree that the power given to the Governor by the Land Use Act is unnecessary?				
		Frequency	Per cent	Cumulative Percent
Valid	Neither agree nor disagree	2	.8	.8
	Strongly disagree	22	8.7	9.5
	Disagree	46	18.3	27.8
	Agree	103	40.9	68.7
	Strongly agree	79	31.3	100.0
	Total	252	100.0	

Table 6-21 shows that the respondents believe that the power given to the Governor is unnecessary. The mean and modal values are 3.68 and 4. This showed that the agreement with the statement is high.

Table 6-22: Respondents Perception of the LUA rules negating the presidential system of government.

Do you agree that some portion of the Act negates our Presidential System of Government?				
		Frequency	Per cent	Cumulative Percent
Valid	Not sure	3	1.2	1.2
	No	60	23.8	25.0
	Yes	189	75.0	100.0
	Total	252	100.0	

Table 6-22 showed that the respondents are strongly of the opinion that some portion of the Act negates the presidential system.

Table 6-23: Respondents view that compensation provision in LUA needs a review

Do you agree that compensation provisions in the Act need to be reviewed?				
		Frequency	Per cent	Cumulative Percent
Valid	Neither agree nor disagree	2	.8	.8
	Strongly disagree	11	4.4	5.2
	Disagree	10	4.0	9.1
	Agree	120	47.6	56.7
	Strongly agree	109	43.3	100.0
	Total	252	100.0	

Table 6-23 showed that the respondents are strongly of the opinion that the compensation provision in the Act needs a review.

Table 6-15: Responses of Respondents that dispute arising from compensation payable negates rule of fair hearing

In determining dispute arising from compensation payable, do you agree that the Act negates rule of fair hearing				
		Frequency	Per cent	Cumulative Percent
Valid	Neither agree nor disagree	2	.8	.8
	Strongly disagree	23	9.1	9.9
	Disagree	20	7.9	17.9
	Agree	116	46.0	63.9
	Strongly agree	91	36.1	100.0
	Total	252	100.0	

Table 6-24 showed confirms that the Act negates rule of a fair hearing in determining disputes arising from compensation payable.

Table 6-2516: Showing responses to solution proffer by respondents

In proffering a solution to the problem created by the enactment of the Land Use Act, which of the following will you prefer as a solution				
		Frequency	Per cent	Cumulative Percent
Valid	Review/ Amendment of the Land Use Act	151	59.9	59.9
	Removal of the Act from the Nigerian Constitution	22	8.7	68.7
	Total repealing of the Land Use Act	28	11.1	79.8
	All of the above	51	20.2	100.0
	Total	252	100.0	

Most respondents believed that a review/amendment is necessary.

The areas examined showed that land rights are not recognised and protected. Achieving a pro-poor land policy requires existing land rights to be recognised and protected. This is when *significant* land tenure will be delivered to land rights-holder.

6.5.4 HAS THE LAND USE ACT IMPROVED SECURITY OF TITLE TO LAND?

The research question investigates if the Act helps to improved security of title since its promulgation. To analyse this, questions relevant to this in the questionnaire (see Appendix A) are analysed thus:

Table 6-26: Analysis of how politics affect the implementation of the LUA

To what extent would you say the politics in Nigeria affects the implementation of the Land Use Act?				
		Frequency	Per cent	Cumulative Percent
Valid	Neither high extent nor low extent	1	.4	.4
	very low extent	10	4.0	4.4
	Low extent	7	2.8	7.1
	High Extent	169	67.1	74.2
	Very high extent	65	25.8	100.0
	Total	252	100.0	

Table 6-26 showed that most respondents believed that politics affects the implementation of the Act.

Table 6-2717: Responses to respondents' perception of the implementation of the LUA

How can you rate the implementation of the Act?				
		Frequency	Per cent	Cumulative Percent
Valid	Very Poor	66	26.2	26.2
	Poor	58	23.0	49.2
	Good	97	38.5	87.7
	Very good	31	12.3	100.0
	Total	252	100.0	

The mean and modal values of responses are 2.88 and 4 respectively (see Table 6-5). The mean values showed that the agreement with the statement is at a medium level. Hence the response is fair but not satisfactory. Two schools of thought emerged from this analysis. One school of thought believed that the implementation of the act is good while the second school of thought believed that the implementation of the act is poor. Two elements of the LAS context: *Good governance* and *good land governance* are missing, this is because politics affects the implementation of the LUA. Security of title cannot be improved if plots are not *uniquely identified*. If a land policy will be sustainable and the outcome will be significant for land rights-holders, *active participation* of community members in the process of enactment is of high importance.

6.6 KEY INFORMANTS QUESTIONNAIRE REPORTING

The analysis in previous sections shows some forms of medium responses which made the researcher unable to draw a conclusion and inferences. This made the researcher to do a follow

up by administering survey questionnaires to key informants to get clarity on the questions asked. The researcher wants to identify where the responses issue may be within the groups. The survey questionnaire used was the same. The survey instrument (questionnaire) was administered to ten key informants who comprises of professionals and public servants. The key informants' ages range between 20-59 respectively with all being male. Four out of ten are professionals while six are public servants. Six out of ten are from Ekiti State while one is from Kogi State and three others from Oyo State.

The procedure for analysis is discussed earlier (see section 6.4.3) and the same methods and techniques are employed. The mean values are used for scale on five (see Table 6-4) for interpretation of scale used. The same interpretation is used for key informant's responses. The mean values are shown in Table 6-2818. The minimum and maximum mean values on a scale of 5 are 2.60 and 4.60 respectively.

On a Likert scale 5, the key informants' responses for the variables showed eight variables which the particular direction of agreement with the statement is high while three variables had a medium response. Seven out of ten key informants agreed that the Act should be reviewed and amended, two informants agreed that the Act is removed from the constitution while one key informant says all of the above will be applicable.

The responses of the key informants gave an in-depth understanding of the previous analysis where responses were not satisfactory. In all, the responses of the key informants help to draw conclusions and inferences on the stated objectives.

Table 6-2818: Mean Values of Key Informants responses (scale 5)

Variable			
	Valid	Mean	Interpretation
To what extent do you know the land Use Act 1978 and its Objectives	10	3.60	High
In your own opinion has the Land Use Act abolish customary ownership of land in Nigeria	10	2.70	Medium
In your own opinion, has the Governor been able to control and manage the land as stipulated in the Act?	10	2.80	Medium
Do you agree that ownership of land should not be vested in Government?	10	3.50	High

Did you agree that non- granting of Certificate of Occupancy to people below the age of 21 is age biased?	10	3.50	High
To what extent would you say the politics in Nigeria affects the implementation of the Land Use Act?	10	4.30	High
Do you agree that the power given to the Governor by the Land Use Act is unnecessary?	10	3.60	High
How will you rate the security of title since the promulgation of the Land Use Act?	10	3.50	High
Do you agree that compensation provisions in the Act need to be reviewed?	10	4.60	High
How can you rate the implementation of the Act?	10	2.60	Medium
In determining dispute arising from compensation payable, do you agree that the Act negates rule of fair hearing	10	3.80	High

Table 6-19: Key Informants responses (Yes, No & Not sure)

Variable	Valid	Yes	No	Not too sure
According to the objectives of the Act, is land readily available at an affordable rate?	10	3	6	1
In your own opinion, is the composition of the Land Use and Allocation Committee all right?	10	2	6	2
In your own opinion, is the composition of the Land Allocation and Advisory Committee all right?	10	3	4	3
Do you agree that some portion of the Act negates our Presidential System of Government?	10	6	-	4
Has the Land Use Act been able to curb land Speculators?	10	2	7	1
Do you agree that the Land Use Act created a vacuum of ownership in customary ownership?	10	7	2	1
Has the Land Use Act made land available for the citizenry	10	2	6	2

Table 6.31 shows that:

- Out of ten key informants, six believe land is not readily available at an affordable rate. Three are of the opinion that land is readily available at an affordable rate while one is not sure if the land is available at an affordable rate.
- Six key informants say the composition of the Land Use and Allocation Committee is inadequate while two key informants say the composition of LUAC is adequate. Two key informants are not too sure if the composition of LUAC is adequate.
- Four key informants say the composition of Land Allocation and Advisory committee is not all right. Three respondents say the composition of LAAC is all right while three respondents are not too sure.
- Six out of ten key informants agree that the Act negates our presidential system of government. Four key informants are not too sure if the Act negates our presidential system of government.
- Seven key informants believe that the Act failed to curb land speculators. Two key informants are agreed that the Act had curbed land speculators while one key informant is not too sure if the Act had actually curb land speculators.
- Seven key informants believe that the Act created a vacuum of ownership in customary land ownership. Two key informants say the Act never created a vacuum of ownership in customary ownership while one key informant is not too sure if the Act created a vacuum of ownership.
- Six key informants say the Act had failed to make land available for the citizens. Two key informants are of the opinion that the Act made land available for the citizens while two key informants are not too sure.

6.7 Summary

The chapter evaluated the effectiveness of the Land Use Act from a different perspective. It is shown from the three groups used for the investigation that the Land Use Act is both effective and non-effective. The responses showed that the Land Use Act had not met the needs of the people. The people are not satisfied with the implementation of the Act. The need for a review of the Act is identified. Critical areas of the Act that should ensure tenure security had been analysed and found deficient.

CHAPTER SEVEN

7 Application of Pro-Poor Land Tools.

7.1 INTRODUCTION

The chapter discusses land rights and tenure in Itaji-Ekiti. It explains aspects of objects, subjects, land values and land transaction in Itaji-Ekiti. This will be accomplished by analysing the questionnaires based on the Social Tenure Domain Model and interview questions granted to the community head, land rights holders, and the head of the formal institution. It addresses objective 3 applying selected land tools to the chosen case study area with the following research questions:

- 3.1 What pro-poor land tools have been developed for securing tenure in customary contexts?
- 3.2 What criteria can be used to choose suitable tools for the study area?
- 3.3 How can the tools be used to strengthen customary tenure security?
- 3.4 What can be learnt from the application of the land tools?

Two models are used to model tenure relationship in the study area (Itaji-Ekiti). The first is the Social Tenure Domain Model which is a plugin to QGIS. The QGIS is used for the entire analysis of this tenure relationships. The Social Tenure Domain Model makes use of attribute data, vector data and raster data. The attribute data were collected using the STDM questionnaire, the raster data were collected by using the Google Earth Pro imagery, and the Vector data are the output from a digitized parcel on the imagery. The second is the New Continuum of Land Rights Model (Whittal, 2014) which is based on measuring tenure security on both horizontal and vertical axes. Chapter four extensively discuss the methodology of how data was collected towards the attainment of research questions and objective. This chapter analyses the result obtained from the data collected.

7.2 CHARACTERISTICS OF RESPONDENTS

Interviews were conducted on five streets in Itaji-Ekiti. The street names are Atiba, Ikua, Imose, Idofin, and Ipetu. Interviews were conducted using purposive sampling methods for key informants and snowball sampling methods for land rights holders in Itaji-Ekiti. Two residents

were interviewed in each of the street, three community leaders, and three heads of the formal institution were also interviewed. The three community heads include the Oba and two chiefs. The three heads of the institution are the Deputy Surveyor General of Ekiti State, The Director of Survey, Ekiti Housing Corporation, and the Head of Survey department, Oye Local Government. In total Ten (10) land rights holders, three (3) community heads, and three (3) heads of formal institutions were interviewed.

The age range of land rights holders interviewed was 35-55 years of age. Ten (10) land rights holders were questioned, nine males and one female. The community head (Oba) interviewed was 74 years of age. The other chiefs interviewed were 45 and 50 years respectively. All the community heads interviewed were male. The heads of the formal institutions interviewed were all male. They are between the age of 40 and 55 years. All the three categories of people interviewed have stayed long on their land. The land rights holders have lived more than 20 years on the land. The community head (Oba) have used over 50 years living in the community, while the other chiefs have used more than 20 years on the land. The head of the formal institution interviewed has different years of work experience in the locality.

In Itaji-Ekiti, the predominant work of the people is farming. 40% of the land rights holders are employed by the government while others do their legitimate farm business. The community head is a professional in the built industry which makes him more receptive to the research work. The other two chiefs are farmers who worked within the community.

7.3 INTERVIEW QUESTIONS DESCRIPTION & REPORTING

The interview questions are in three parts the interview question for the community head, land rights holders, and the head of the formal institution (see Appendix C). The interview question is typed in an established format with each section with a different question for the key informants. The four tables of land tenure by Whittal (2014) were used as additional sources of information. The tables analyse the objects of land, the land tenure types, land rights types with the measure of security, land values held by land rights holders, the subjects of rights and the method of transfer of rights. The interview question includes a cover letter which stated the purpose of the research and a privacy statement. The questions are designed in a manner to investigate the tenure situation in Itaji-Ekiti.

The community head interview questions comprise fourteen (14) primary questions with sub-questions. The interview time took an average of one (1) hour. The land right holders' interview questions include twenty-one questions. The formal institution interview questions consist of eleven questions with sub-questions. The approximate time for the interview is 30 minutes. Interview sessions were recorded. Written notes were also used to obtain additional information from the interviewee to add detailed to the recorded interviews (see section 4.3.1.3). An essential aspect of the qualitative and quantitative data reporting that is worth mentioning is the misconception of what the land values are as depicted in the land value table. The researcher had to explain in detail what the land value is to the land right holders, community head and key informants.

7.4 DATA PROCESSING, ANALYSIS AND PRESENTATION

Section 4.3 discusses the data acquisition. This section explains how the data obtained is processed and analysed. After this, the results presented in subsequent sections. The STDM questionnaires were entered into the Microsoft Excel spreadsheet during the data acquisition. This was later exported to Statistical Package for Social Sciences (SPSS) for Windows. The interview questions (Appendix C) were transcribed into the necessary standard format. The interview data were coded using a spreadsheet which allows for the extraction of information needed. The results were later represented in bar charts for a better understanding of the results.

7.5 NEW CONTINUUM OF LAND RIGHTS MODEL

7.5.1 MEASURES ALONG HORIZONTAL AXIS

To model land rights using the new Continuum of Land Rights Model, horizontal and vertical axis measures have to be analysed. This section presents the horizontal axis measures. The horizontal axis measures include perceptions of land value, land tenure types/land rights, subjects of land tenure and tenure transaction in Itaji-Ekiti

7.5.1.1 Perceptions of land value during interview section.

Views of Land values from the land rights holders showed high acceptance of land value as a community while deity, nature and natural resources were held as values of land but not widely held as a community. The community head stands out from the view of their subjects by chosen physical space and nature as their mode of land values. Capital and community were held in

the form of land values by the head of the formal institution. The distribution of land values by the interviewees is depicted in Figure 7-1.

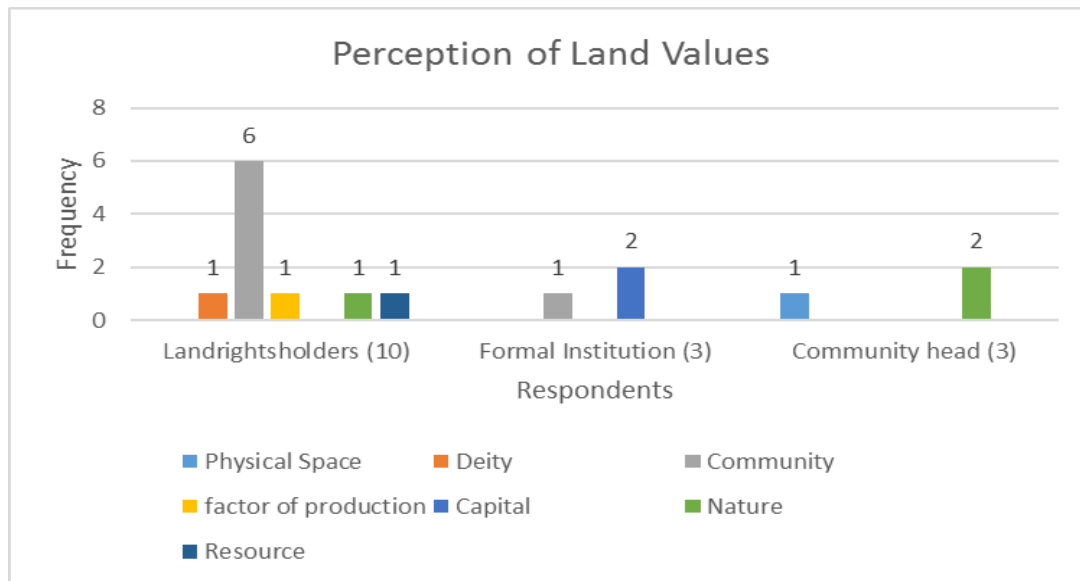


Figure 7-1: Perception of land values by the interviewees

7.5.1.2 Land tenure/land right types held in Itaji-Ekiti

Land rights/land tenure held in Itaji-Ekiti are shown in Figure 7-2. Majority of the land right holders recognised their form of land tenure as customary/Neo customary and traditional/indigenous form of tenure. Formal occupation of land is also seen as a form of tenure by the land rights holder. This is because when land is purchased, and a survey is done, it is termed to be a formal occupation because the government has granted the request to occupy by the survey that was carried out. Only a few people saw physical occupation as a form of land rights or land tenure because you cannot occupy what you do not own.

The community head also has strong support in the customary and traditional form of land tenure as the form of land tenure of the people. They believe that the two types of land tenure are the means of accessing land in Itaji-Ekiti. The community head also concluded in a formal occupation with only one notion for informal occupation. The head of formal institution also recognises the customary and traditional form of land tenure in this case study area. Formal occupation of land as a form of land tenure is identified by the head of formal institutions interviewed. The head of formal institution does not recognise informal occupation as a form of land tenure.

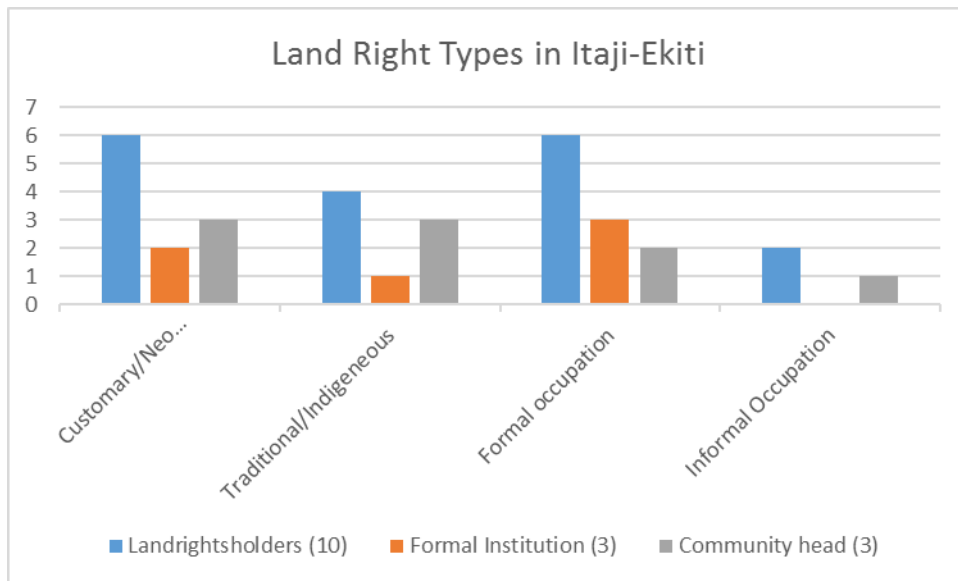


Figure 7-2: Land Tenure/Land Right Types held in Itaji-Ekiti

7.5.2 SUBJECTS OF LAND TENURE IN ITAJI-EKITI

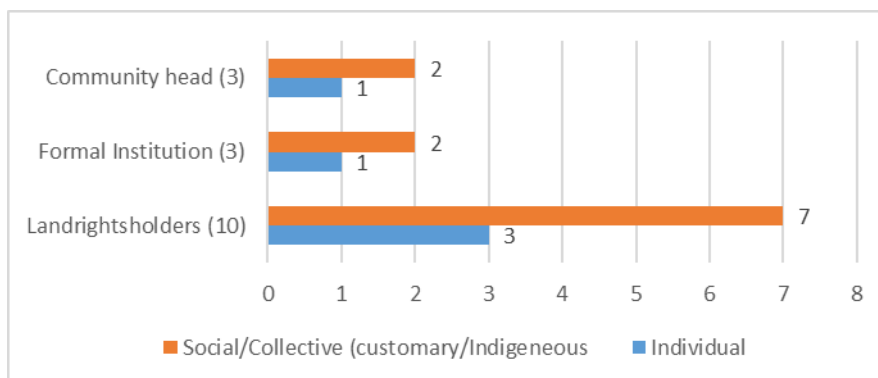


Figure 7-3: Subjects of Land Tenure/Land Rights

Land tenure and land rights in Itaji -Ekiti is discussed in section 7.5.1.2, this is summarised in this section as collective/social tenure or individual tenue. The primary form of landholding in Itaji-Ekiti is a common form of land tenure while individual holding of land as a form of formal occupation exists. Majority of residents in Itaji-Ekiti hold land in the way of collective tenure while title holders are termed to own land by formal occupation. The responses of the three respondent's groups are represented in Figure 7-3.

7.5.3 GENERAL TENURE TRANSACTIONS IN ITAJI-EKITI

Six out of the ten land rights holders interviewed acquired their land through inheritance while two acquired through purchase and another two through a gift. The three heads of formal institutions interviewed acquired their land through purchase. Two out of three community heads interviewed acquired their land through inheritance while one community head acquired through purchase (see Figure 7-4).

Community heads and land rights holders showed that inheritance is the mode of land access. Land rights holders believe that inheritance is through the male lineage. The first son held the land in trust for all other male members of the family. In some cases, the first male child shares the land between the male children. The situation differs from family to family, but the bottom line is that inheritance is through the male lineage. All land rights holders agree that women have no land rights. The community leaders also stand out to support the land rights holder that inheritance is through the first males of the family and women have no land rights. The community head was quoted as saying ‘land inheritance is gender biased’. Therefore, culturally, women have no land rights except in a situation where there is no male child in the entire lineage.

The head of formal institution supports that inheritance is through the male lineage and there is no access to land for women. Women only have access to land when she has the economic power to acquire one. The belief of the land rights holders is that they can sell their land without involving the government. All land rights holders believe they have stayed long on this land; hence it can be transferred or sold at will. The only instance where a government agency can be involved is when the sale agreement wants to be formalised. The buyer then requests for an affidavit of transfer of ownership which must be done by a government agency.

The land rights holder believes they can sell their land without informing the customary leader; this aspect put a little doubt if they have confidence in their customary leaders. Customary leaders interviewed, also support the land rights holder view that they can sell without informing customary leaders. When a dispute arises from such a sale, the sale will be null and void. All head of formal institution interviewed all have the same notion that landowners can sell their land once is not a government acquired area.

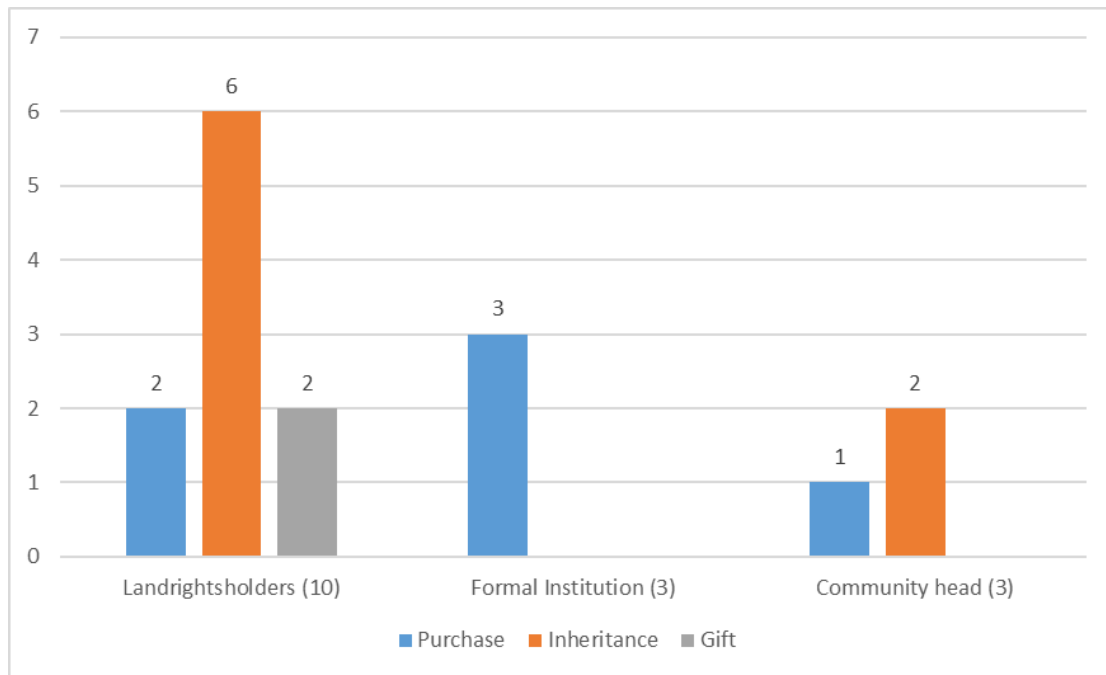


Figure 7-4: Land Transaction in Itaji-Ekiti

7.5.4 VERTICAL AXIS MEASURES OF LAND TENURE

This section analysis three primary measures of land tenure security in Itaji-Ekiti. Legitimacy, legality and certainty were analysed in the next section based on the interview conducted in Itaji-Ekiti.

7.5.4.1 Measures of legality in Itaji-Ekiti

The land tenure types as discussed in section 7.5.1.2 shows a form of legality by most of the resident of Itaji-Ekiti. The current land legislation (Land Use Act of 1978) recognises the type of tenure held by most of the residents of Itaji-Ekiti. Although most of the residents interviewed are not aware that any such land law exists. One out of three community heads is aware of the existence of the Land Use Act. All heads of the formal institution are aware that the Land Use Act exists. This law can be referred to as law on paper but not applicable to ensure tenure security, easy title registration and land accessibility.

Many interview questions were directed at legal protection on land, possession of legal document on land, rights on land, the presence of land allocation and advisory committee, and illegal occupation. The evidence received shows a medium level of legality, as many claimed inheritance as the mode of their land access which is enough land document for them. Many of

the residents don't have title documents. They believe that title document is not the guarantee for them to be secured on their land. The community head says that there is no land allocation and advisory committee in existence in this Local government as stipulated by the Land Use Act. Although the community has a land use allocation committee that is responsible for land management.

The elite and educated are the groups who own title document to land. The other groups are the one who holds land by purchase; they equally have title to land. Figure 7-5 shows the number of the people who own title to land during the STDM enumeration exercises.

The assessment of the Land Use Act (chapter 6) reveals that land rights holders cannot be secured on their land. Specifically, the implementation procedures are deficient. Hence tenure security of the rural poor is not ensured. The committee saddled with the responsibility of land administration in the local government is not in existence, and the composition is inadequate for the rural poor to enjoy land according to customary law. All sections of the Act which should ensure tenure security for the rural poor are deficient, hence conflict strife in customary land tenure system.

The areas to the Land Use Act found deficient due to the analysis in chapter 6 should be reviewed to ensure that the rural poor is secured on their land. This is primarily the role of good governance in land administration.

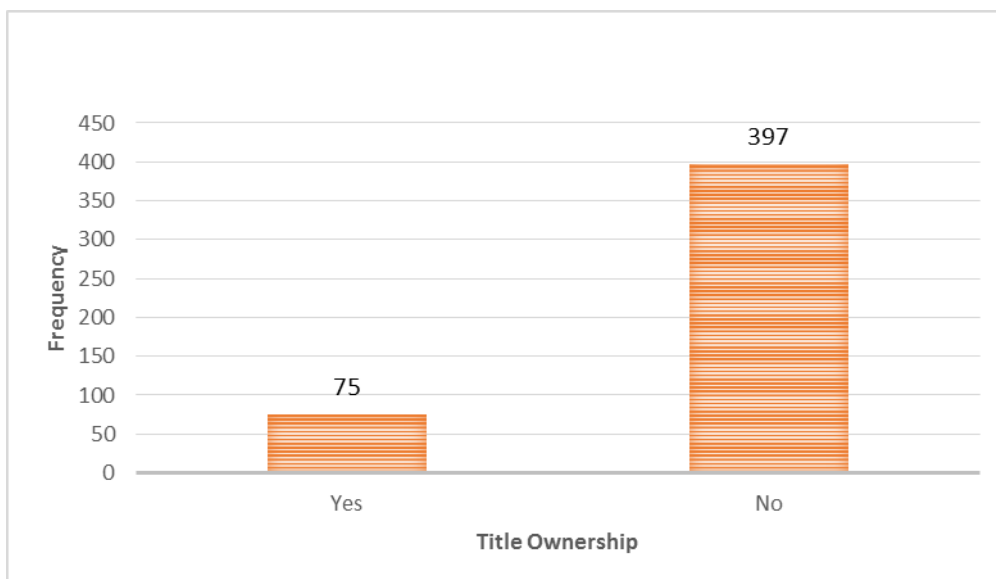


Figure 7-5: Titleholders in Itaji-Ekiti (n=472 for STDM enumeration)

7.5.4.2 Measures of legitimacy in Itaji-Ekiti

Many of the interview questions were directed to inquire about legitimacy. For example, evidence for land rights, boundary demarcation, boundary monumentation, control of land transactions, how the title is secured in the customary land, land transfer and how land is managed. Evidence documented shows a medium level of legitimacy. One out of three community heads interviewed has legal documents (survey plan) showing the boundary demarcated. The two other community heads rely on natural features such as stream, river, tree, hills, rocks etc. Three out of ten land rights holders have legal documents depicting their boundary while others rely on natural features.

Various types of boundary markers were found in Itaji-Ekiti. The 15% who owns title to land have their boundary demarcated by a surveyor. Government beacons are placed at every corner. A sample of boundary beacon used is shown in Figure 7-6. This form of formal land tenure is well recognised in Itaji-Ekiti. Other land rights holders erect different types of beacons ranging from corner beacons and names are written on it while some use ordinary beacons to show the extent of their land. Many of the residents rely on natural features to demarcate their boundary.

Evidence of land transaction showed that it is not controlled because individual sell their land when they wish to do so. Except for the situation whereby the buyer wants the community head to be aware of the purchase, this is because if a dispute arises in the future, he can approach the community for intervention.



Figure 7-6: Boundary Monumentation using Property Beacons with (SURCON) Pillar Numbers

7.5.4.3 Measures of certainty in Itaji-Ekiti

To measure certainty, some portion of the interview question asked about bribery/corruption, conflict and natural disaster, land use control, and the use of power. In accessing land, all the three community heads interviewed agree that there is some form of royalty paid when land is needed. One of them referred it to 'informal payments' such as given kola nuts and palm wine. This act might favour one side over the other side when allocating land. All three heads of formal institutions interviewed agreed that some forms of bribery/corruption exist. The land rights holders are not sure if such exist because they had not had the experience.

Itaji-Ekiti experienced dispute on land in the past century and with the most recent one in 2017. Three community heads interviewed agreed that there is a dispute between families and dispute between communities while there is hardly dispute within the town. The dispute is common on farmlands. Three heads of formal institutions interviewed agree with the community heads and said there is a dispute between communities. Land rights holders interviewed were sure of a dispute between communities as it affects their community but not aware of the dispute over family land. This is always the situation because the dispute between communities is handled by the formal institution while the community head first manages the dispute between family lands. The formal institutions are only involved when the community head could not resolve such conflict.

There is no documentary evidence which showed an abuse of power by either the community head or head of the formal institution. Although, there is some split on whether there is a collaboration between the customary leaders and the head of the formal institution. Four out of ten land rights holders interviewed agreed that there is a collaboration between the government and customary leaders. Six disagreed that there is no collaboration between the duos. The three community heads interviewed said that the relationship with government exists partially.

When evaluating 'certainty', trust is essential (Whittal and Rhikotso, 2016). The land rights holders interviewed believed in their customary leaders. Many of the land rights holders interviewed said government officials are corrupt. All the three customary leaders interviewed said government officials are corrupt.

7.6 LAND RIGHTS CONTINUUM IN ITAJI-EKITI

The land rights continuum model in Itaji-Ekiti was developed by interpreting the qualitative and quantitative data analysed above into the continuum of land rights model by Whittal, (2014). The land rights types identified in Itaji-Ekiti were indicated along the horizontal axis. The legitimacy, legality and certainty of these land rights types were interpreted on the model. The resulting model is shown in Figure 7-7.

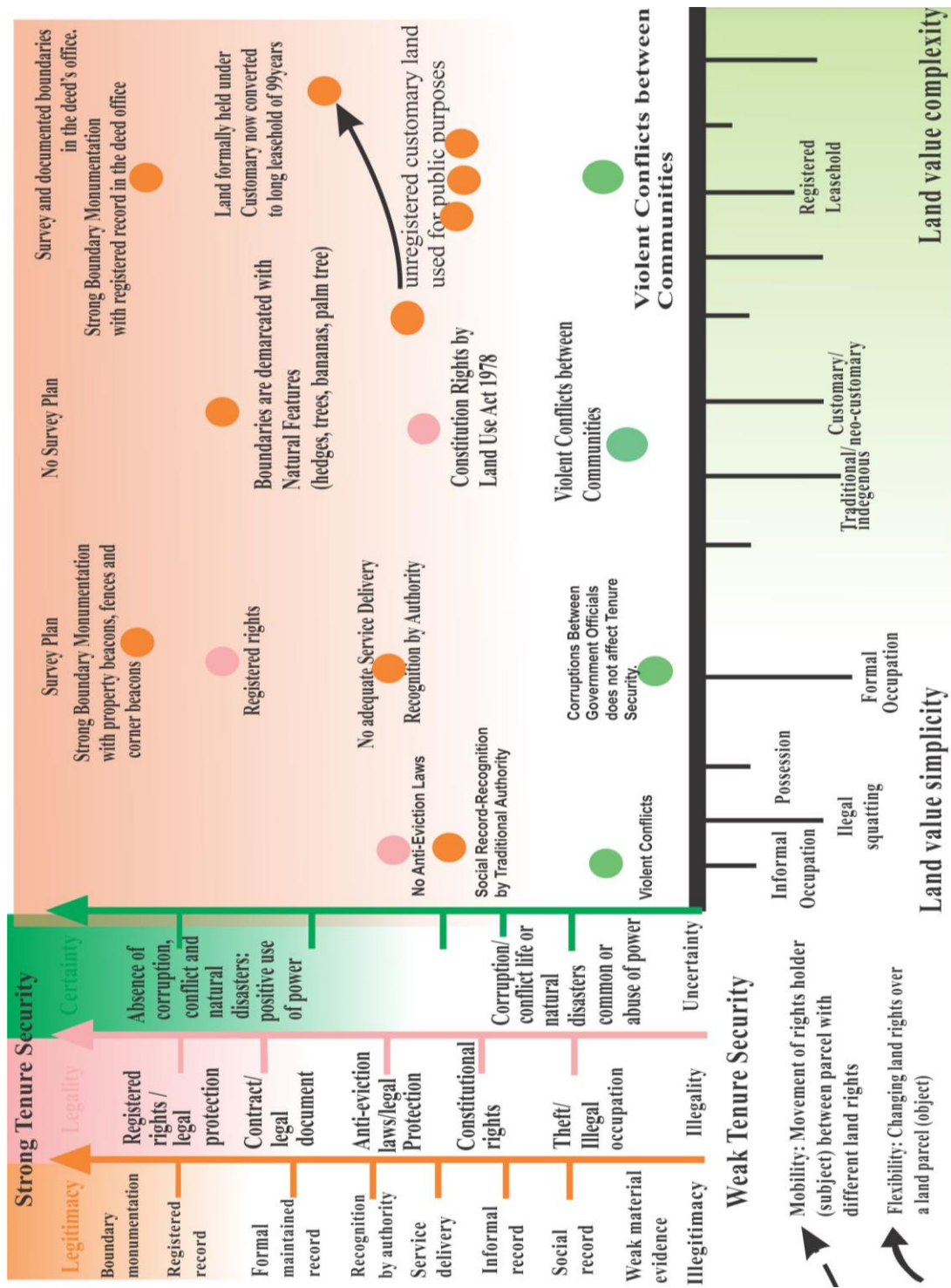


Figure 7-7: Continuum of Land Rights Model in Itaji-Ekiti

7.6.1 LAND RIGHTS TYPES IDENTIFIED IN ITAJI-EKITI (HORIZONTAL AXIS)

Many land right types exist in Itaji-Ekiti; ownership of land is vested in the state government. Land administration is done by the customary leaders (Obas & Chiefs). The land rights holders claimed ownership over rights in land. The land policy guiding land administration says ownership of land belongs to the state. In Itaji-Ekiti, the land rights of informal occupation, formal occupation, traditional/indigenous and customary/neo-customary, and registered leasehold are identified. These land rights are held by different subjects but refer to the same land object. All land parcels consist of elements of traditional and customary land. This is indicated when formal occupation with registered survey plan in the surveyor general's office indicated that land is acquired through purchase.

Existing land rights in Itaji-Ekiti are grouped into four. Three columns of orange, pink and green spots are used to indicate the indicators of legitimacy, legality and certainty. At the bottom of the vertical axis are illegitimacy, illegality and uncertainty. The first column relates to the "informal occupation" as shown on the horizontal axis in Figure 7.7. This land is held mainly by farmers who are non-indigene but are recognised by community head and his institution. Next to it is the "formal occupation" with a survey plan registered in the surveyor general's office. The traditional and customary column is next to it, which has no survey plan. The last group is the registered leasehold to the far right of the column. The group of spots to the right shows there is unregistered customary land used for public purposes (schools, churches, post office, health centre etc.). To the right of the model is an arrow (continuous) indicating the flexibility of land rights type in the case study area (see Figure 7-7).

7.6.2 INDICATORS OF LAND TENURE ALONG THE VERTICAL AXIS TRIPLET

The vertical axis triplet is formed by the land tenure indicators of legitimacy, legality and certainty. These are differentiated by different colours from the lower part of the vertical axis with a light colour to saturated colour at the upper part of the axis which indicate that land tenure strength is weaker at the lower part and stronger at the upper

part. In the body of the graph, elements of the same colour are used to represent each of the land tenure indicators. Three colours of orange, pink and green were used to represent legitimacy, legality and certainty. In “informal occupation” pink was used to represent no anti-eviction laws in the body of the graph while orange is used to represent social record exists with a recognition by traditional authority. This gives some form of legitimacy and legality. The green colour is used to indicate violent conflicts exists which implies uncertainty (see Figure 7-8). The informal occupation is on customary land which are by non-indigenes for family dwelling and farming purposes.

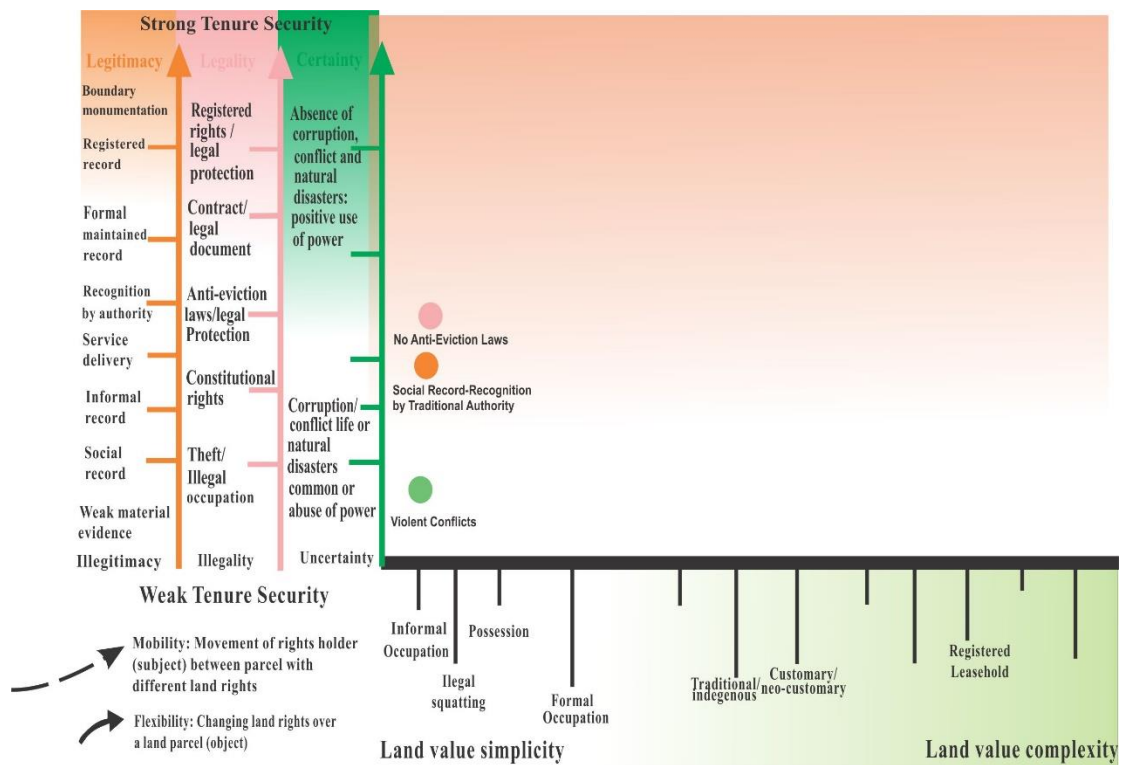


Figure 7-8: Continuum of Land Rights in Itaji-Ekiti showing informal occupation with the triple vertical axes

For “formal occupation” an orange colour was used to represent a strong boundary monumentation which represents strong legitimacy. Pink is used to represent rights are registered which informs legality of land rights holders, and green is used to represent corruptions exists between government officials, which does not affect tenure security. The orange colour represents no adequate service delivery and recognition by authority (see

Figure 7-9). The traditional and customary land rights which have no documented survey plan relies on natural features to demarcate boundary and service delivery are done by customary institutions (represented by orange). Pink is used to represent rights owned by the constitution with the support of the Land Use Act which indicates strong legality. Green represents conflicts between town and families exist. This indicated strong uncertainty for customary land rights holders. Although, conflicts are rare in the town but very common on farmland. The customary land rights are occupied mainly by indigenes for all purposes with no documentation (see Figure 7-10).

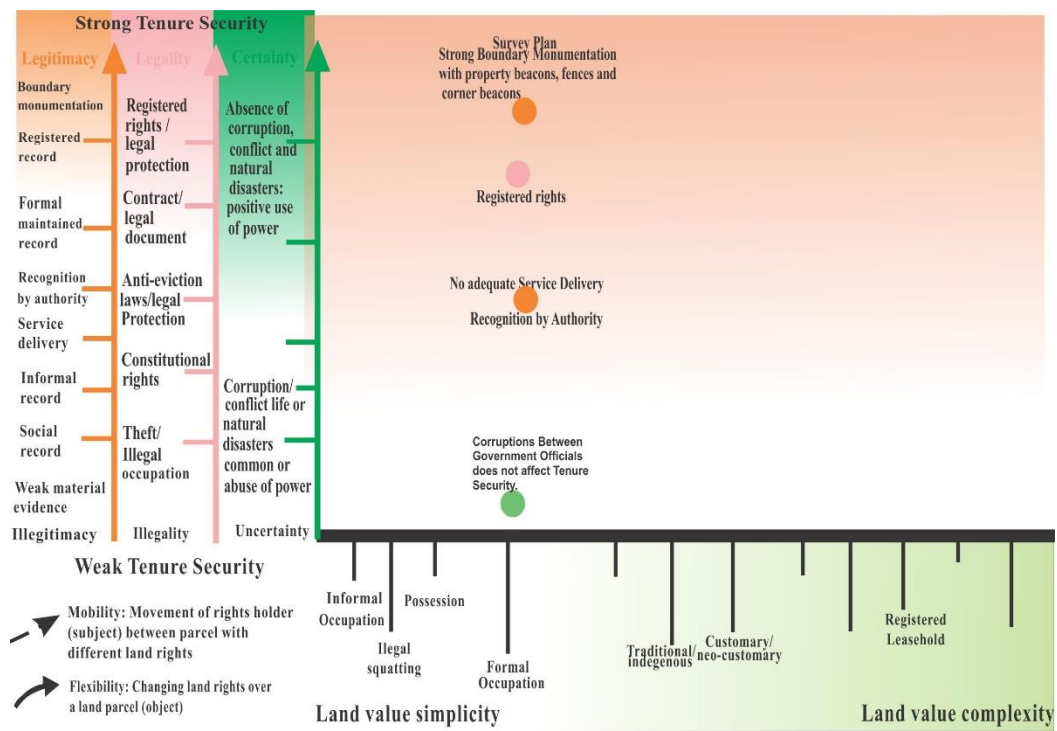


Figure 7-9: Continuum of Land Rights in Itaji-Ekiti showing formal occupation with the triple vertical axes

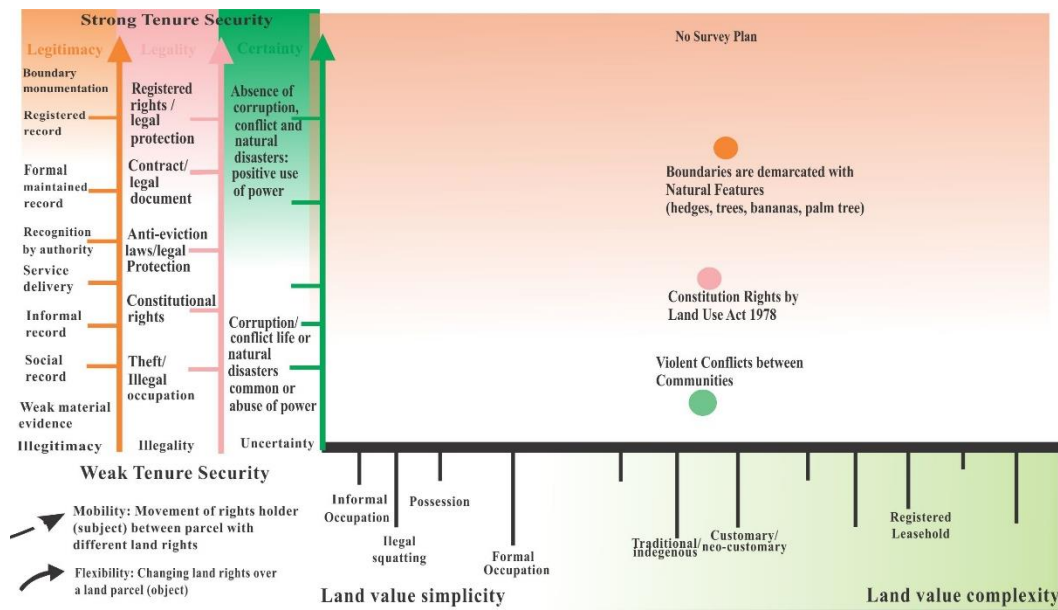


Figure 7-10: Continuum of Land Rights in Itaji-Ekiti showing customary occupation with the triple vertical axes

The last column represents the registered leasehold. These are formerly held customary land but now converted to registered leasehold. It has very strong legitimacy, legality and uncertainty. Uncertainty because violent conflicts can still displace the holder of such lease but can be reclaimed back through court intervention. All aspects of land rights types identified in Itaji-Ekiti is shown on the model. Land rights of people with no documentary evidence were recorded and shown in each column. Strong boundary monumentation exist for formal occupation (property beacons and corner beacons. see Figure 7-11) while informal occupation has weak boundary monumentation. The traditional and customary rely on natural features (streams, rivers, mountains and trees) to demarcate boundaries.

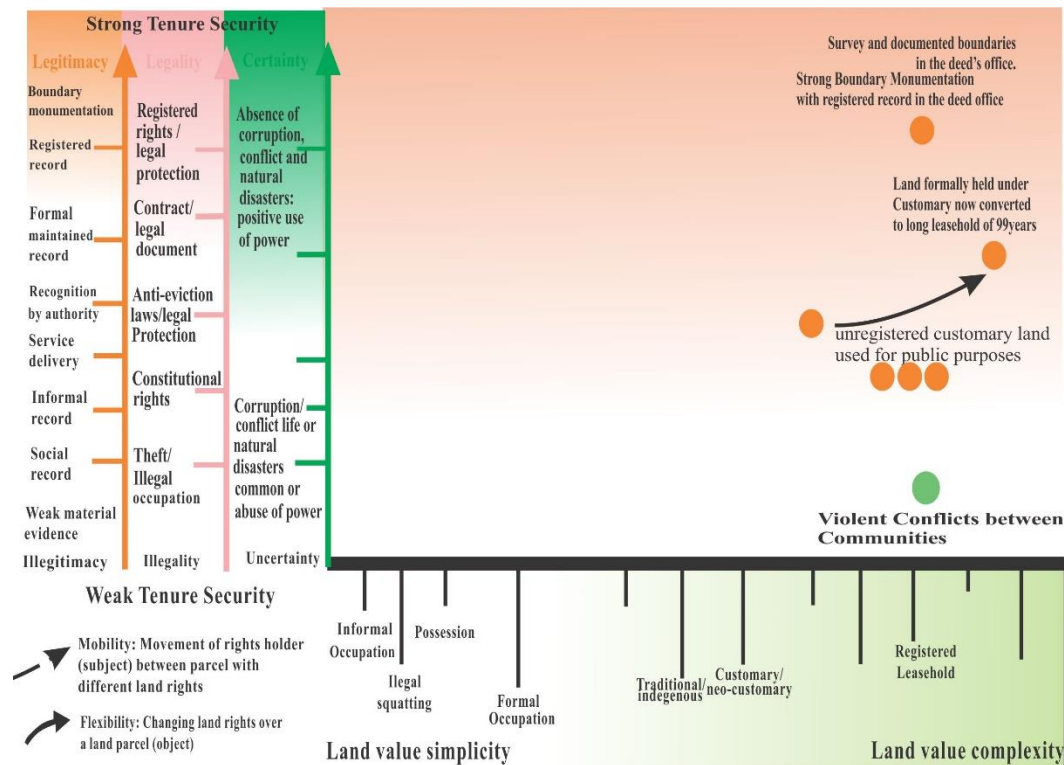


Figure 7-11: Continuum of Land Rights in Itaji-Ekiti showing registered leasehold occupation with the triple vertical axes

7.6.3 FLEXIBILITY AND MOBILITY

Flexibility exists in Itaji-Ekiti while mobility does not. Land rights are changed over a land parcel. Customary or traditional land is upgraded to the formal occupation or long registered leasehold. When a customary land is transferred legally, and the buyer applies for a certificate of occupancy, the land rights type is changed from customary to long-term leasehold. Since land right holders in Itaji-Ekiti do not change location, mobility could not be tested. For non-indigenes who reside outside the town but owns land within the community, the form of their land rights from where they are coming from couldn't be established.

7.6.4 SUMMARY

The section uses the New Continuum of Land Rights Model (NCLRM) to analyse the tenure situation in Itaji-Ekiti. The NCLRM employed legitimacy, legality and certainty to describe tenure of the different land right types identified in Itaji-Ekiti. Four land right types were identified as informal occupation, formal occupation,

customary/traditional and registered leasehold. Out of the three triplets of tenure indicators, the certainty for all the land right types is weak as conflicts can affect any of the land right types. The most affected of this is the informal occupation and customary/ traditional land rights.

The model had proved to be a viable, practical pro-poor land tool in assessing tenure security of the rural poor. The model enables policymakers on land to see how tenure security can be ensured by considering the rural poor in land law enactment. The model also showed that statutory (formal or registered leasehold) is more secure than the informal and customary forms of land occupation.

The use of NCLRM in Itaji-Ekiti is successful by showing that all land rights are affected by conflicts with customary and informal more affected. The model had been able to show different land rights types which are found in real life situation.

7.7 USING SOCIAL TENURE DOMAIN MODEL TO RECORD LAND RIGHTS IN ITAJI-EKITI.

The preceding sections used the New Continuum of Land Rights Model to analyse the tenure situation in Itaji-Ekiti. The specific objective of this section is to apply pro-poor land tools to record land rights in the case study area by using Social Tenure Domain Model. A case study approach is adopted (see section 4.2). Chapter four reported how data were collected towards the actualisation of this section. Data collection will be briefly discussed in this section to provide clarity on the mode of data collection. A typical STDM process was adopted for the recording of land rights in Itaji-Ekiti. This is shown in Figure 7-12 Questionnaires were administered on a house-to-house basis to land rights holders. The demographics of the respondents are shown in tables 7-1 and 7-2.

Table 7-1: Distribution of Ages of respondents to STDM Questionnaires

	Age Group	Frequency
Valid	20-29	9
	30-39	67
	40-49	81
	50-59	157

	60-69	130
	70 and above	28
	Total	472

Table 7-2: Gender of Respondents to STDM Questionnaires

Gender		Frequency
Valid	Male	433
	Female	39
	Total	472

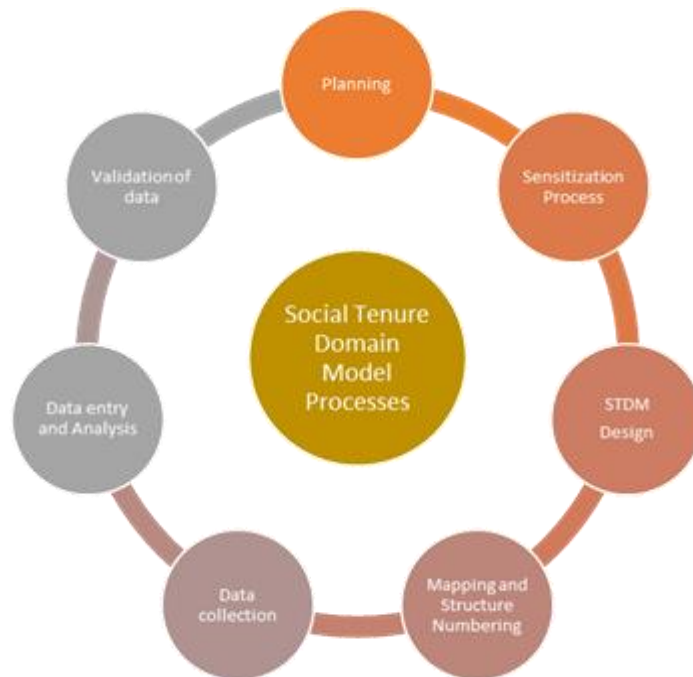


Figure 7-12: STDM Enumeration process in Itaji-Ekiti

7.7.1 STDM ENUMERATION PROCESS

7.7.1.1 PLANNING

Thorough planning was conducted so as to achieve the best result possible. All tools to be used were prepared (i.e. questionnaire, interviews sheet and stationery) and equipment (camera, laptop computer and the base map of the study area from satellite imagery) to be used in the field. (All these items were prepared by the researcher). A series of visits were made to the study area to inform the community through the community head of the intention of the researcher to conduct research on land tenure and land administration.

7.7.1.2 Sensitization process

An awareness programme was carried out to inform the entire community of the purpose of the research. During one of the town meetings, the researcher was invited to brief the community what Social Tenure Domain Model was all about. At this stage, the researcher went with his group members to do the sensitization programme. The community members welcomed the idea of the enumeration exercise, and they hoped it would impact positively on land administration in rural areas. All group members were well trained in data collection and questionnaires administration.

7.7.1.3 STDM design

After, the sensitization exercise and based on an agreement with community members the questionnaire questions were used to design the STDM system to fit the local context of the case study.

7.7.1.4 Mapping and structure numbering

A Google Earth Pro satellite imagery was used for the base map (CES/Airbus, 2017). The resolution of the image is spatial 25cm, spectral 3 bands. The imagery of the study area was captured and printed. Structures were numbered on the images, and this was used to identify structures on the field and the number of imagery transferred to the structures. After this, the individual parcel was digitized on Google Earth Pro and assigned a unique code assigned for each structure (see Figure 7-16 & Figure 7-17).

7.7.1.5 Data collection

As earlier reported in chapter five, the researcher and other team members administered a questionnaire on a house-house basis. The questions were made simple and easy to answer. The questionnaires were administered based on the unique number assigned to structures on the base maps. This number was as well assigned to each questionnaire to allow for easy identification when collating data. Supporting documents such as pictures were collected. During this stage, a handheld Global Positioning System and a Mobile application (topographic mapper) was used. The Topographic mapper was used on farmlands. Ten farmers were selected using snowball sampling methods from Orisumibare Street in Itaji-Ekiti. The ten farmers were paired in threes with the researcher and two team members, each team member following three farmers and the

researcher following four farmers. Their farmlands were mapped within a short while, and the farmers appreciated the fact that it was done within a short time.

7.7.1.6 Data entry and analysis

The completed questionnaires and all supporting documentation obtained were entered into the excel spreadsheet after which it was imported to the STDM attribute database. This enables it to be linked with each parcel in the STDM module of QGIS. Figure 7-13 shows the digitized parcel and the attribute table in the QGIS software in which the STDM plug-in is used for analysis. Record 468 with ID no 277 in blue is one of the two records used to generate the customary certificate of occupancy.

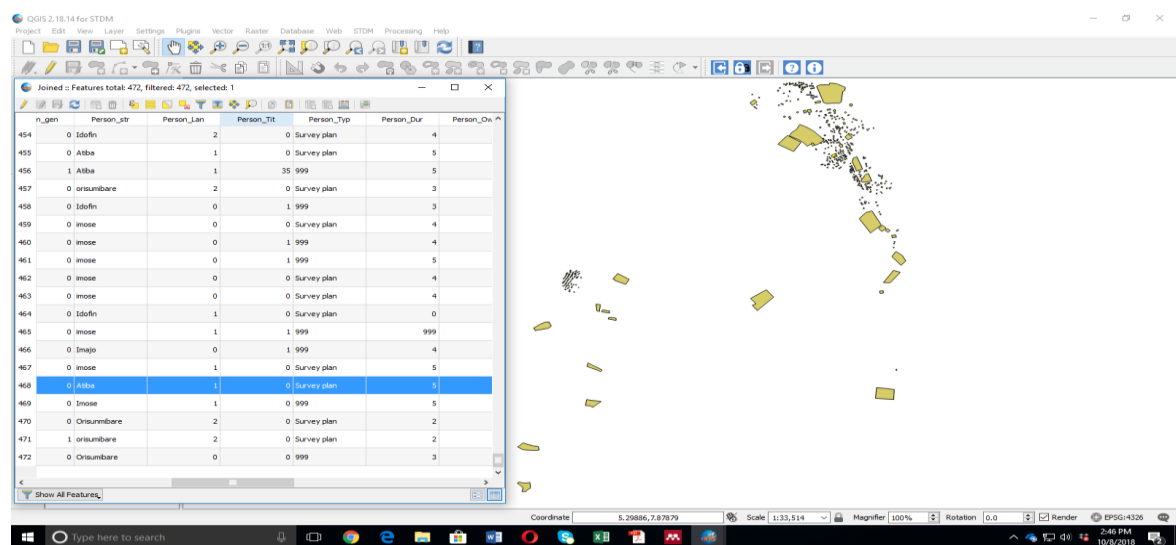


Figure 7-13: STDM Software with Digitized parcel and Attribute table data

7.7.1.7 Validation of data

During the data entry stage (see section 7.7.1.6), it is envisaged that typographical errors may occur, as a result of this, the community members were allowed to validate the data entered into the Microsoft Excel spreadsheet before uploading into the STDM module in QGIS. The entered data in Microsoft Excel spreadsheet was printed out and pasted for corrections to be made. The extract of attribute data as entered into excel spreadsheet is shown in figure 7-14 and 7-15. The community members were happy and are of the opinion that it would be good if the government could recognise this method of customary rights of occupancy. The process is essential as it provides credibility to the result obtained.

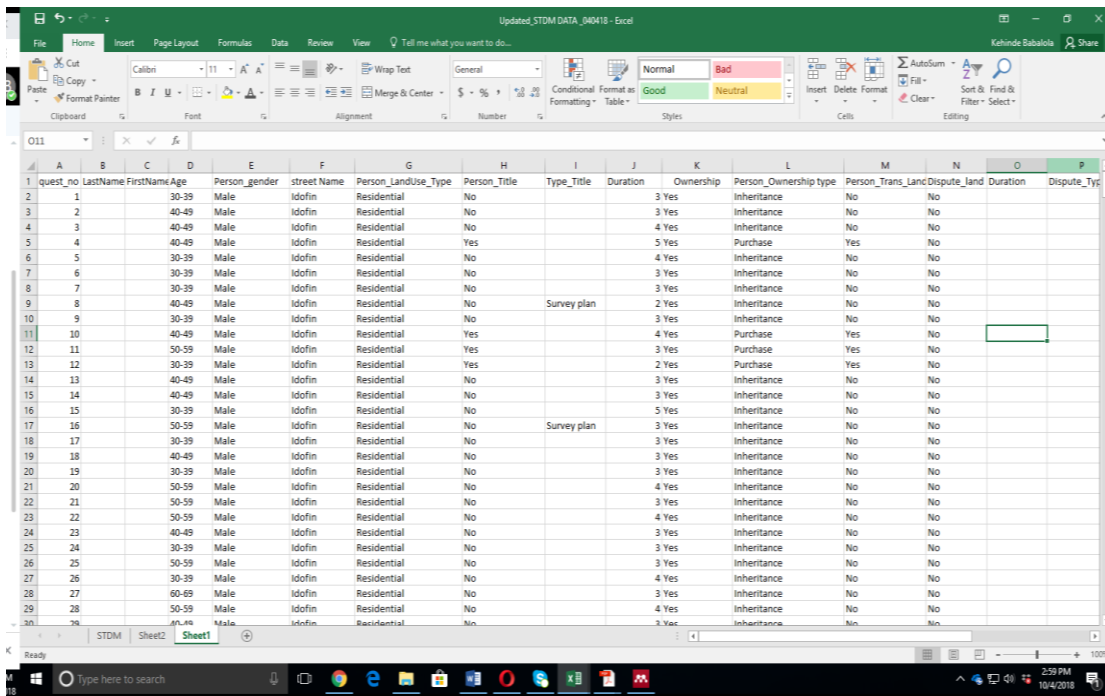


Figure 7-14: Attribute data in Excel Spreadsheet

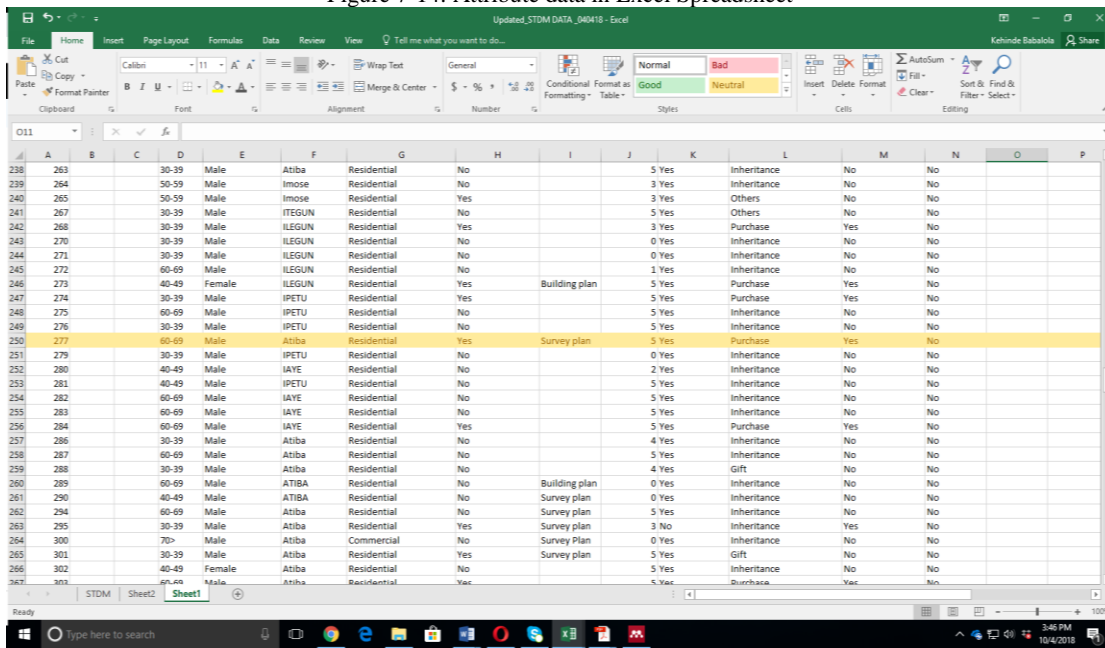


Figure 7-15: Attribute data in Excel Spreadsheet highlighting record with ID 277



Figure 7-16: Digitized Imagery of part of The Study Area

7.7.2 STDM QUESTIONNAIRE DESCRIPTION AND REPORTING.

The STDM questionnaire contains eleven central questions and four sub-questions. The questionnaire asked about respondent information, age, gender, street name, land use type, title ownership, duration of stay on land, property ownership, transferability of land, the existence of disputes and values ascribed to land (see Appendix B). The entire question formed the composition of the STDM questionnaires used in obtaining attribute data. The completed questionnaire was entered into the excel spreadsheet and exported to SPSS. In the SPSS module, the underlying statistical description was carried out to analyse each of the questions, and the results were presented.

7.7.3 DATA ANALYSIS USING QUANTUM GIS

The attribute data entered into the Excel spreadsheet is used as the quantitative data. This enables quantitative analysis (section 7.7.4), the digitized parcel is uploaded into the QGIS (Figure 7-17a). After this is done the prepared excel spreadsheet for the attribute data are then linked to the digitized parcel. This is done with the STDM plugin enabled for spatial analysis. The STDM interface is customized to suit the attribute data collected. The STDM has a configuration wizard which allows a profile to be

configured. It allows supporting document's path to be specified, document output path and documents templates path. Three profiles are embedded in STDM informal settlements, local governments and Rural- Agriculture profiles. Any of the profiles can be selected depending on the context of enumeration. In the case of this study, the informal settlements profile was used.

Supporting documents such as photos are scanned and imported into the system. The supporting documents are linked with the parties' owners and their individual tenure relationships. The STDM plug-in allows for report generation in which a certificate of customary rights is produced. A tool in STDM called 'report builder' generates a report and performs data analysis. Different tenure relationships of individual parcel owners are presented with the report generated. Two land use types were used to generate the certificate of customary ownership in this case. These are residential and agricultural land use type.

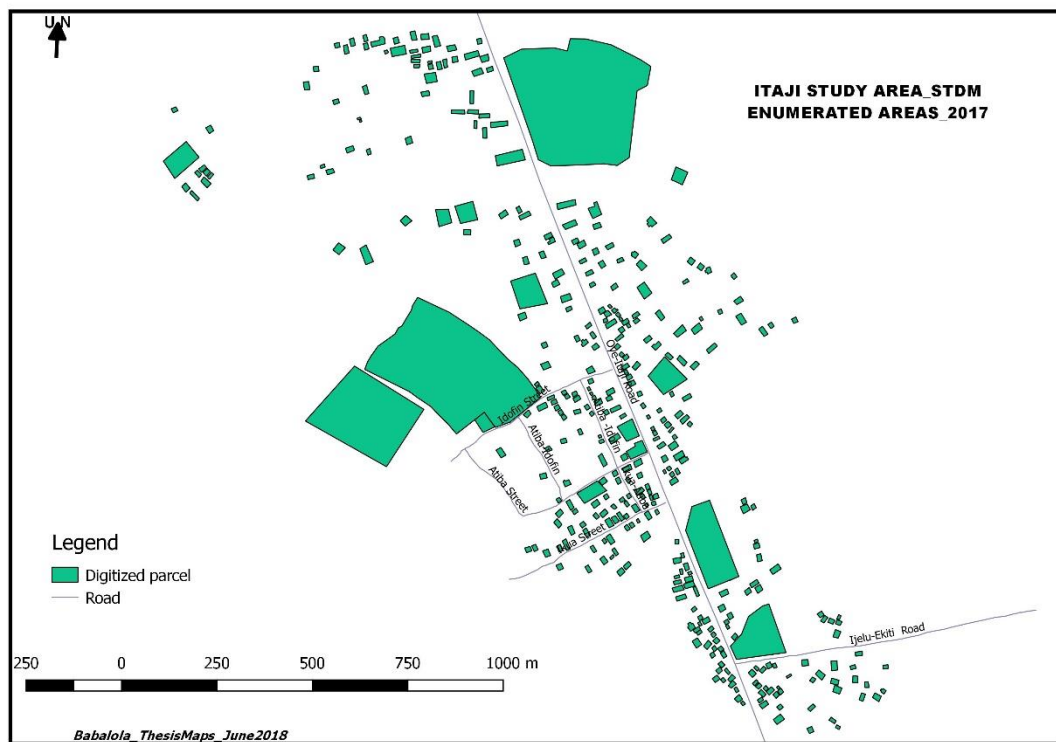


Figure 7-17a: Digitized Land Parcel used for STDM Enumeration

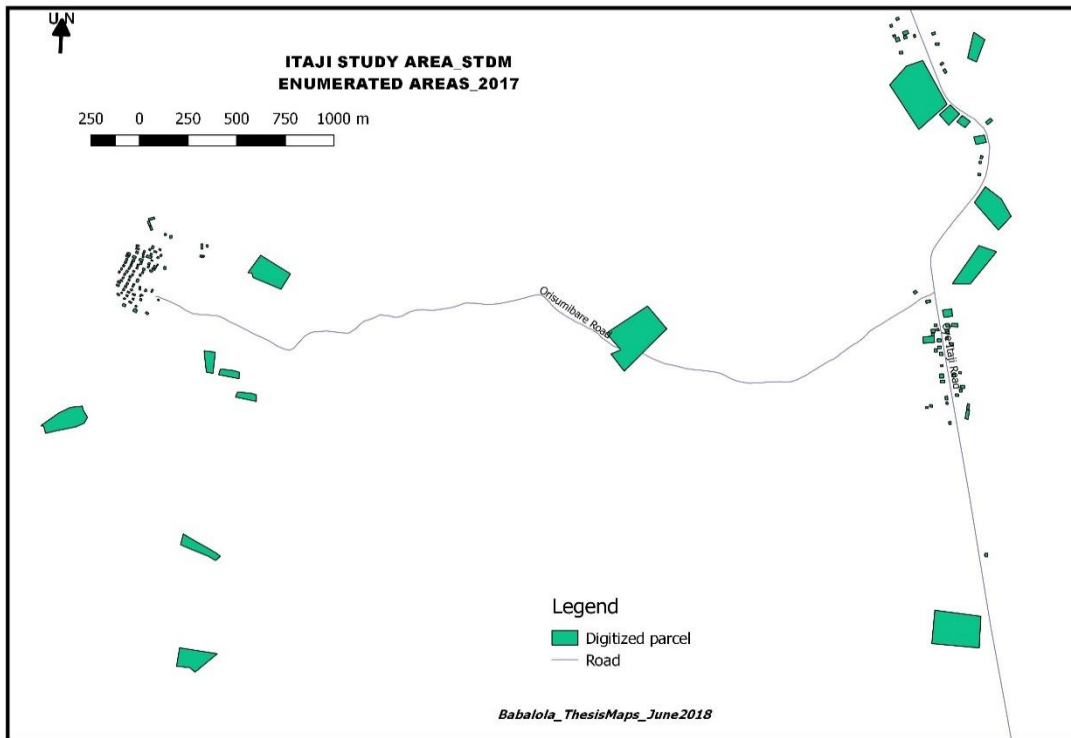


Figure 7-14b: Digitized Land Parcel Used for STDM Enumeration

7.7.4 RESULTS AND DISCUSSIONS

The previous sections discussed the procedure used in recording land rights in Itaji-Ekiti and how the analysis was carried out using Quantum GIS. This section presents the results of the analysis.

7.7.4.1 Land use type in Itaji-Ekiti

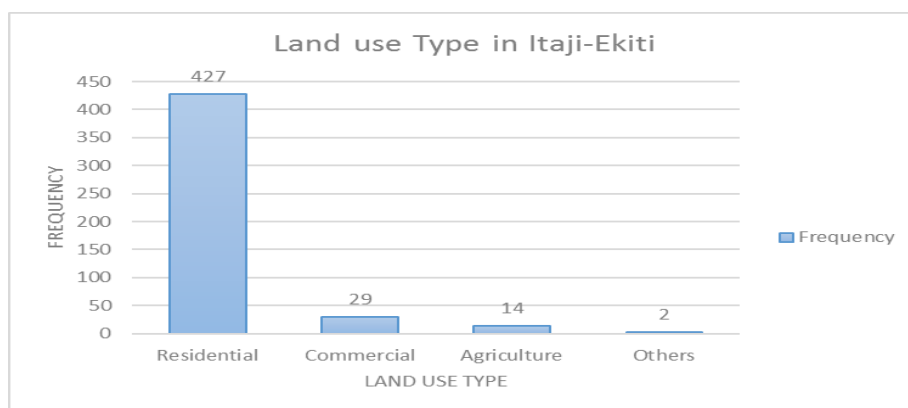


Figure 7-18: Frequency chart of Land Use Type in Itaji-Ekiti

The land use type of residents was one of the questions asked during the enumeration exercise (Appendix B). This is essential for STDM modelling.

During the enumeration exercise, four hundred and twenty-seven residents land use type is residential, twenty-nine land use type is commercial. These are schools, churches, health centres, markets etc. Agricultural land that was enumerated was fourteen. Two were categorised under others these were land use for community festivals. The different locations of the land use type are shown on the map in Figure 7-19a & b.

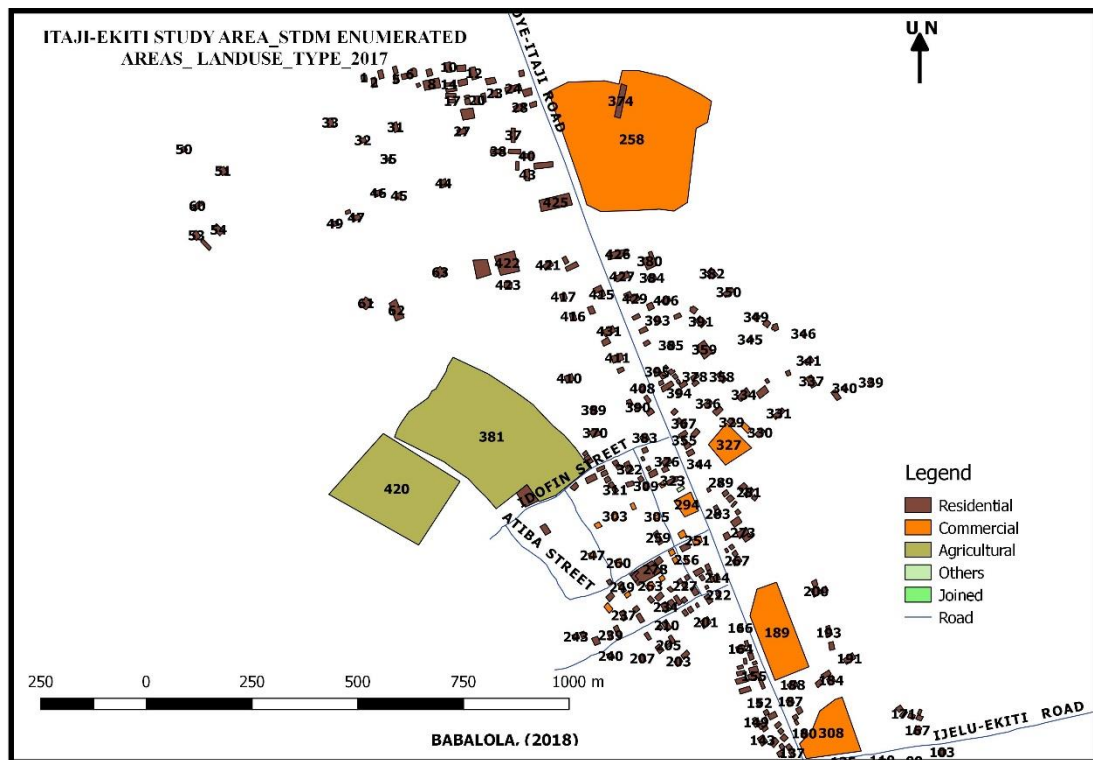


Figure 7-19a: Land Use Type in Itaji-Ekiti

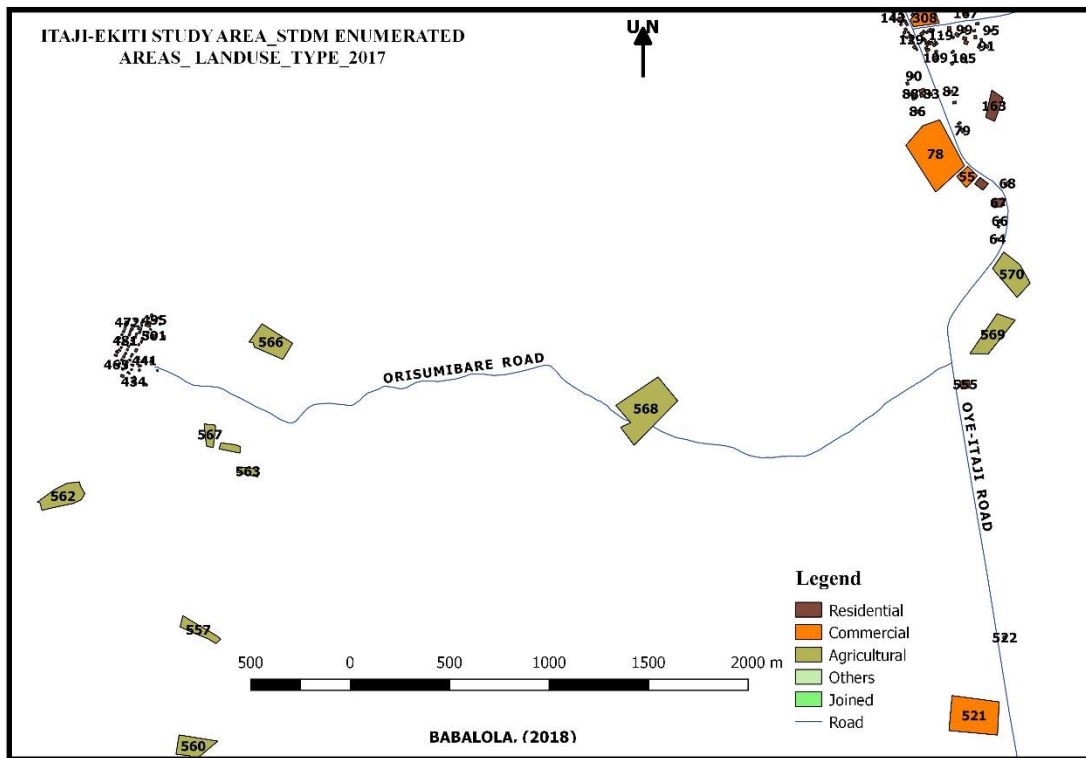


Figure 7-19b: Land Use Type in Itaji-Ekiti

7.7.4.2 Determining title ownership in Itaji-Ekiti in 2017

In respect of title ownership in the Itaji-Ekiti, Figure 7-20 showed that seventy-five residents hold title to land while three hundred and ninety-seven did not have title to land. This quantitative analysis is essential while recording land rights using Social Tenure Domain Model.

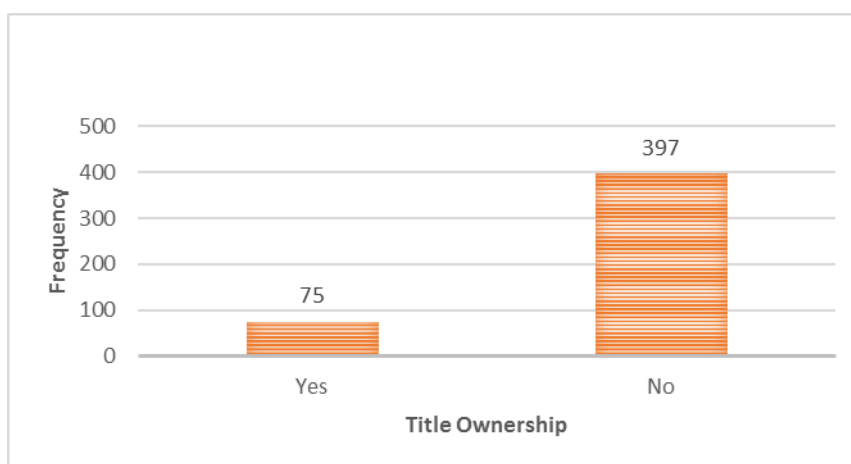


Figure 7-20: Title Ownership

The graphical illustration of the parcel with a title or without a title is shown in Figure 7-21. It is observed that parcel with the title is mainly land use type that is either agricultural or commercial and a few which is residential.

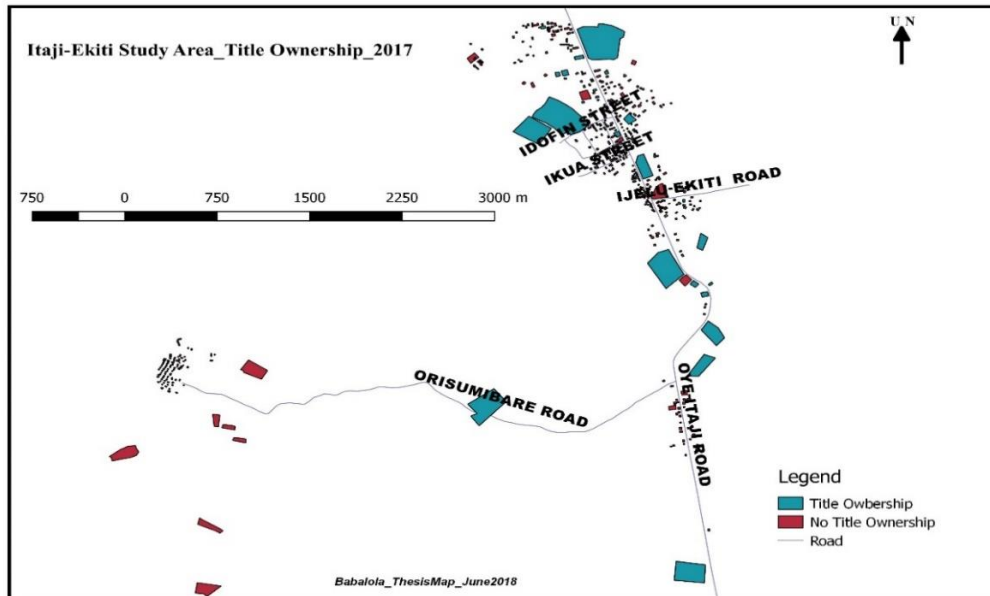


Figure 7-21: Title ownership in Itaji-Ekiti

7.7.4.3 Determining duration of stay on land

The duration of stay of residents was asked during the enumeration exercise. Figure 7-22 presents the quantitative results. Overall, residents had stayed long on their land. This they say is enough evidence for them to be secured on their land.

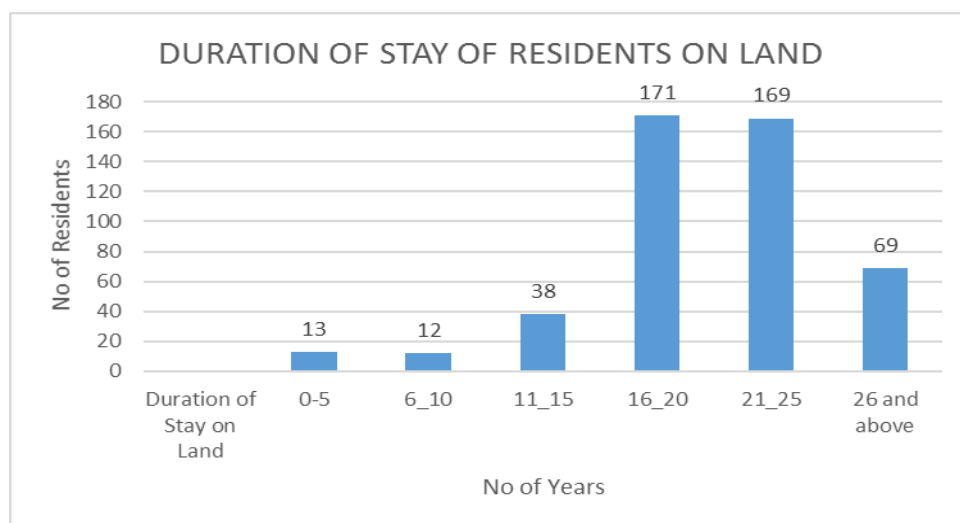


Figure 7-22: Duration of Stay of Residents on their Land

7.7.4.4 Determining how ownership is acquired

Ownership type is essential to determine the type of tenure relationship associated with land rights. In Itaji-Ekiti members of the community hold land through different forms of tenure. During the STDM enumeration, one of the question directed to the land rights holders was how ownership was acquired. The results of this question are shown in Figure 7-23. Fifty-three residents could not ascertain whether their tenure was an inheritance, gift and purchase. Therefore it was categorised under others. A further investigation revealed that most of this people are informal squatters which the people interviewed did not agree that there were informal settlers. The analysis showed that inheritance practice is common in Itaji-Ekiti

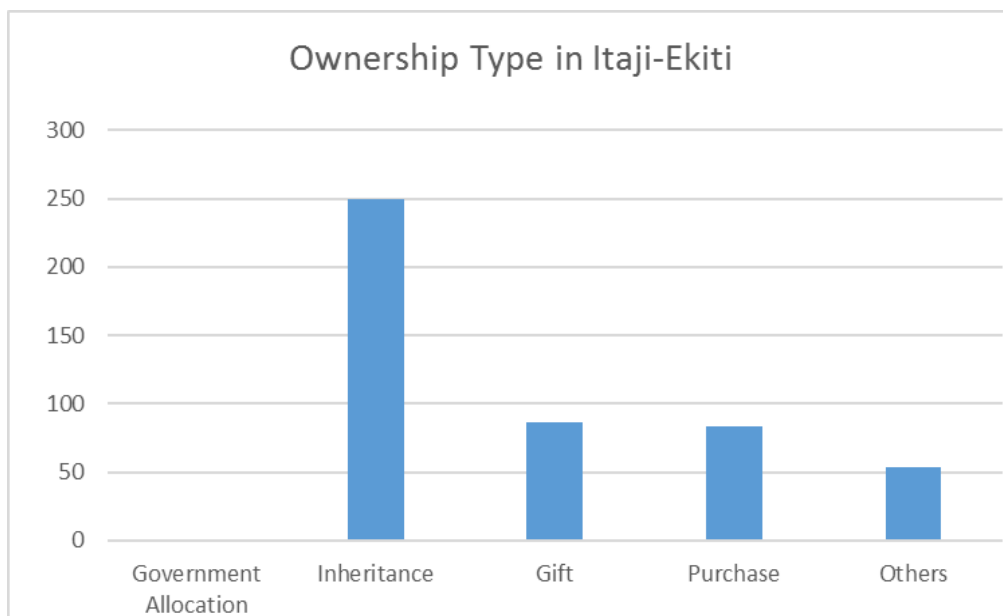


Figure 7-23: Ownership Type in Itaji-Ekiti

7.7.4.5 Determining transferability of land

Residents were asked if their rights in the land could be transferred. This is necessary to determine the extent of land alienation in customary land tenure system. Figure 7-24 showed the responses of the residents. 39,6% agreed that their interest in land could be transferred 60,4% said their interest in land could not be transferred. This showed that alienation of land is not the usual practice, although some residents acquired their land through purchase.

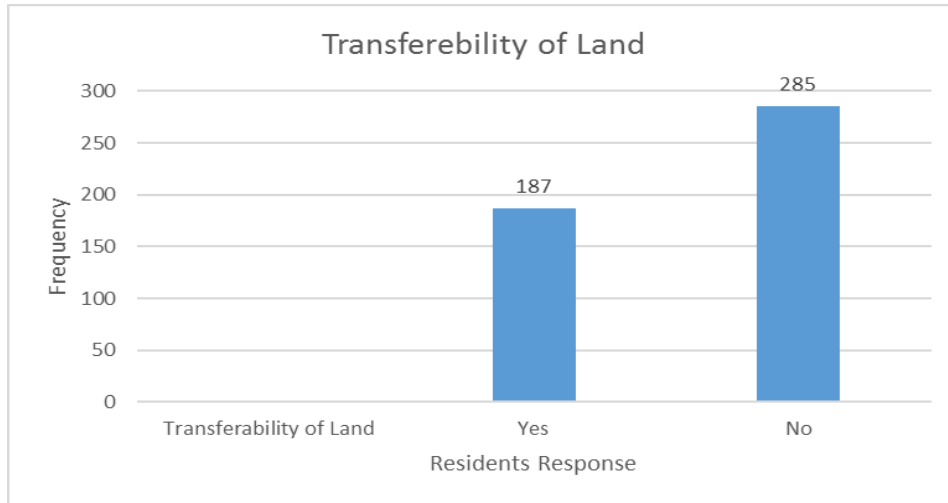


Figure 7-24: transferability of Land in Itaji-Ekiti

7.7.4.6 Determining the extent of dispute on land

The motivation behind this study was the recent land dispute in Itaji-Ekiti in 2017. The residents were asked whether there is a dispute on their land. The response showed that fifteen (15) residents agreed that there is a dispute on their land while four hundred and fifty-seven said no dispute exists on their land (see Figure 7-25). The response showed that dispute on land in the town is rare while the dispute is common on farmland. This was justified while the community head was making his statement on the dispute in Itaji-Ekiti. He said the dispute is common on farmland and family land, and very rare within the town.

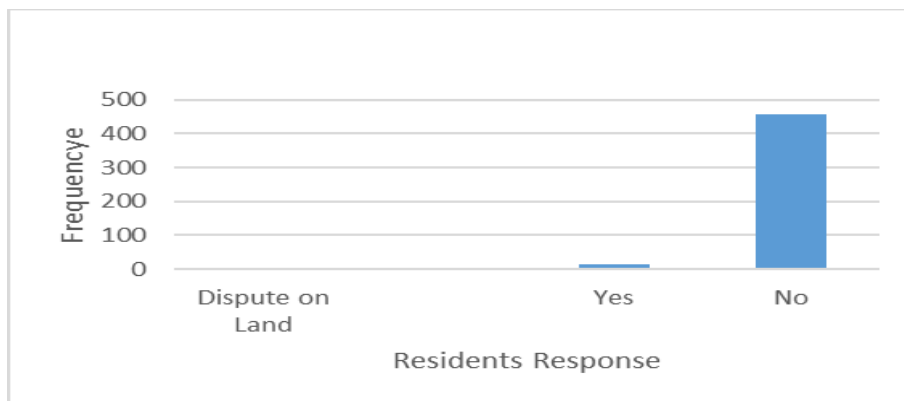


Figure 7-25: Extent of Dispute on land in Itaji-Ekiti

7.7.5 REPORT GENERATION USING STDM

A customary right of occupancy for land rights in Itaji-Ekiti was designed and used for the report generated. Two land parcels in the study area were used as a prototype for this research: one in the agricultural land type and another in the residential land type. The structure number of these parcels are 277 and 420 respectively (see Figure 7-26a & b). The customary right of occupancy was designed to have specific features like the ‘Nigerian coat of Arms’, the pictures of land rights holders, the land parcel and the adjoining parcels, the constituency, the ward, settlement name, street name, structure number, last name, first name and an Identification number. A column for community head signature and a land officer is provided (see Figure 7-27 & Figure 7-28).

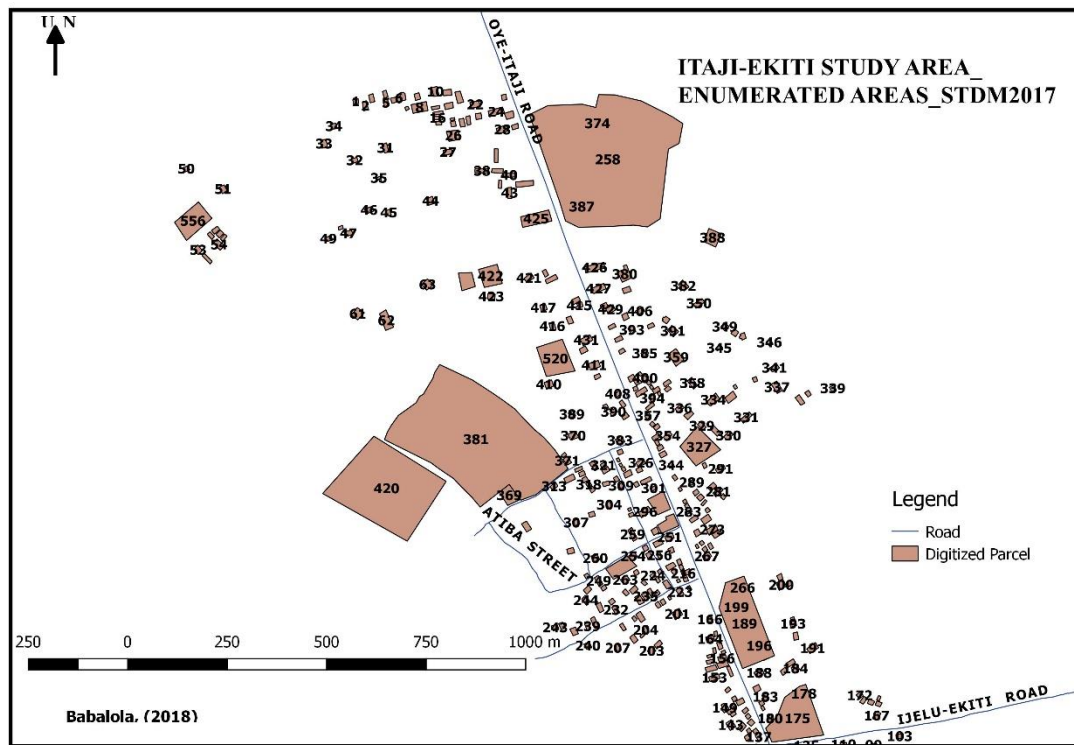


Figure 7-26a: Digitized parcel with structure number in Itaji-Ekiti

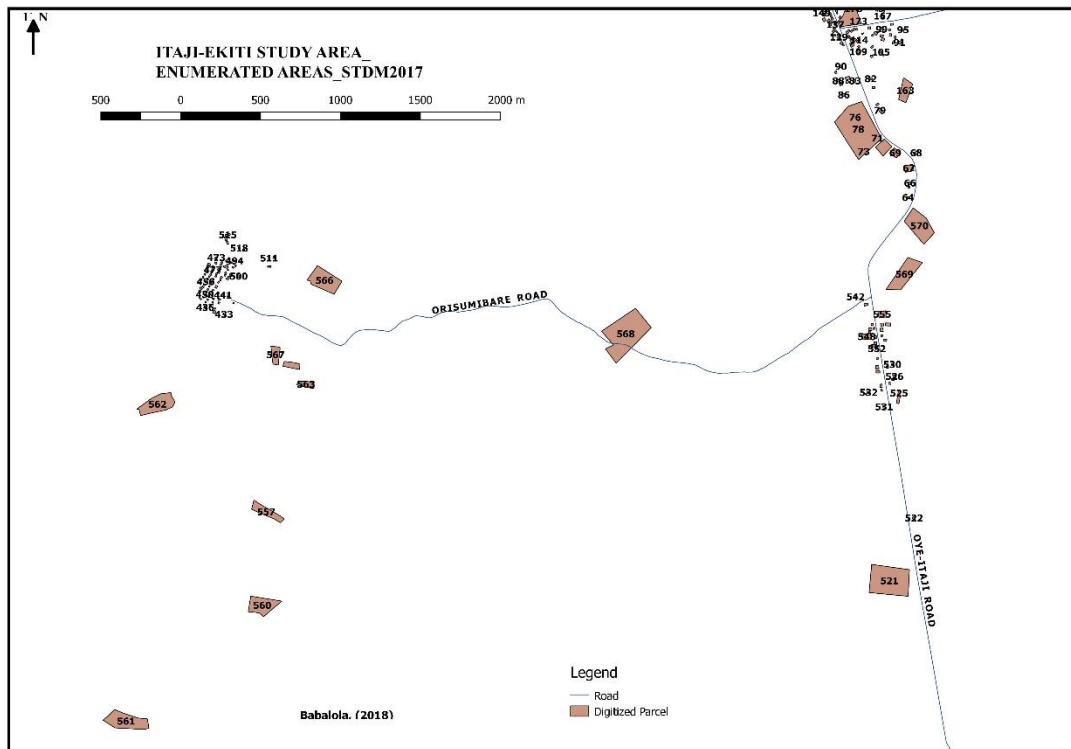


Figure 7-26b: Digitized parcel with a structure no in Itaji-Ekiti



**Federal Republic of Nigeria
CUSTOMARY RIGHTS OF OCCUPANCY**

Constituency: **Oye Federal Constituency 1**
Ward: **10**
Settlement: **Itaji**
Street: **Idofin**
Structured No.: **420**
Occupant Surname: **[Redacted]**
Occupant Other names: **[Redacted]**
ID Number: **IJ/ID/421**

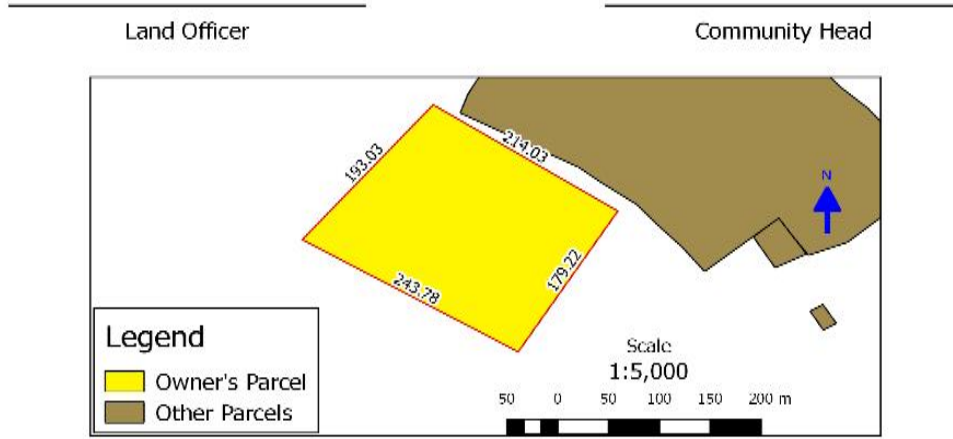
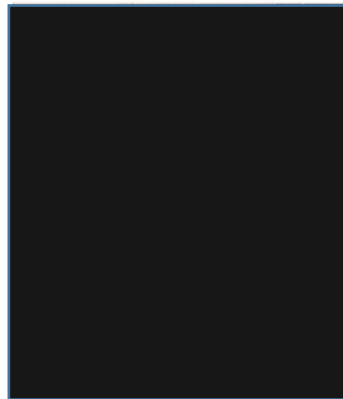


Figure 7-27: Generated Customary Rights of Occupancy (Agricultural land type)



**Federal Republic of Nigeria
CUSTOMARY RIGHTS OF OCCUPANCY**

Constituency: **Oye Federal Consituency 1**
Ward: **10**
Settlement: **Itaji**
Street: **Atiba**
Structured No.: **277**
Occupant Surname: **[REDACTED]**
Occupant Other names: **[REDACTED]**
ID Number: **IJ/AT/004**

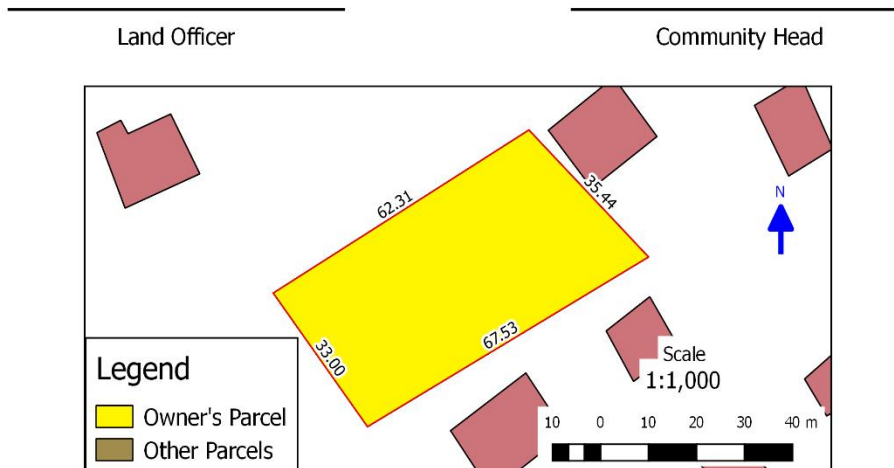
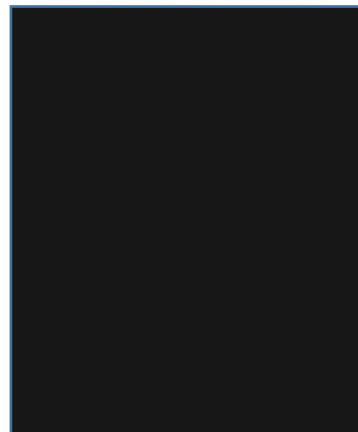


Figure 7-28: Generated Customary Rights of Occupancy (Residential land type)

7.7.6 PERCEPTIONS OF LAND VALUE IN ITAJI-EKITI.

The misconception of what land value in the sense of the New Continuum of land rights was the primary problem encountered during the measures of the horizontal axis variables. It took the author who is a native of the community to explain beforehand to other members of his team what land values in this context mean. This was, in turn, described one after the other during the STDM questionnaire administration. This was also repeated during the interview section directed by the researcher. The analysed data showed that perceptions of land value in Itaji-Ekiti varied because different views were depicted in the interpreted data.

Perceptions of land values as a community, terra firma, deity, and physical space were mostly held by land rights holders as the value for land in Itaji-Ekiti. This was followed by resource, property institution, human right and nature as land values. Capital, commodity, consumption good and environment as land value were held at a shallow level (see figure 7-29).

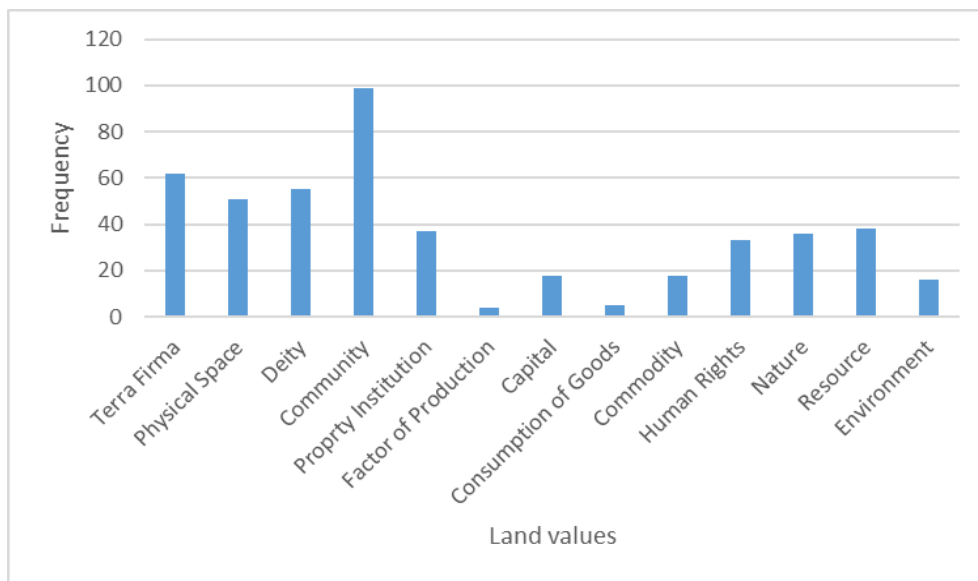


Figure 7-29: Perceptions of land values held by residents in Itaji-Ekiti

7.7.7 Summary

The Social Tenure Domain Model was used to record land rights. It has been tested and found viable as a pro-poor land tool needed to record tenure relationship of the rural poor. The use of the model showed a participatory approach in which the community role is vital for a successful enumeration exercise. The use of the model showed the practical approach to the use of satellite /aerial imagery for recording land rights in customary land tenure system.

The use of pro-poor land tools had proved to be successful in modelling tenure relationship of the rural poor. The pro-poor nature of the model satisfies the requirements of landowners in Itaji-Ekiti. This model is fit for the rural poor of Itaji-Ekiti to have their land documented in a pro-poor land management system.

The model as used in Itaji-Ekiti supports the development of pro-poor land legislation and land policy that considered the rural poor in which different country context can be incorporated when using the model. The availability of the model in an open source software makes it acceptable to the rural poor of Itaji-Ekiti. This will reduce the cost of acquiring the software.

The usage of the software is a great challenge for the rural poor which requires training and retraining for the community members. Satellite imagery is readily available to identify the spatial unit of each landowner.

CHAPTER EIGHT

8 Conclusion and Recommendations

8.1 RESEARCH QUESTIONS REVISITED

The previous chapter analyses the tenure situation using the New Continuum of Land Rights Model and Social Tenure Domain Model. This chapter presents the conclusion and recommendations of this research study. The conclusion is presented with respect to the research questions as discussed in chapter one (section 1.4.2). The research questions and the relevant chapters in which they were addressed is presented in table 8-1.

Table 8-1: Summary of the relevant chapter where the research questions were addressed

Research Questions	Actualizations/Relevant Chapters
1.1 What are the causes of land disputes in customary land tenure system? 1.2 How is land dispute resolved in customary land tenure system? 1.3 How can customary land rights be secured? 1.4 Who are the vulnerable or marginalised group in the study area? 1.5 What proportion of land rights-holders in the study area have insecure land tenure?	Research questions 1.1-1.3 are addressed by relevant literature identified in chapter three Chapter seven analysed tenures situation in the case study area
2.1 How has the objective of Land Use Act been achieved? 2.2 What are the problems created by the enactment of the Land Use Act? 2.3 What areas of the Act support customary land tenure? 2.4 What areas need a review? 2.5 Has the Land Use Act improved the security of title to land?	Chapter five identified literature in respect of the Land Use Act 1978. Attribute data obtained with the aid of a survey questionnaire were analysed in chapter six
3.1 What pro-poor land tools have been developed for securing tenure in customary contexts?	Chapter Two (section 2.9.1 & 2.9.2) discussed the two models used in this

<p>3.2 What criteria can be used to choose suitable tools for the study area?</p> <p>3.3 How can the tools be used to strengthen customary tenure security?</p> <p>3.4 What can be learnt from the application of the land tools?</p>	<p>research. Chapter seven applied the selected tools to a typical case study.</p>
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8.2 CONCLUSION

The research investigates the tenure security in Itaji-Ekiti using pro-poor land tools. The primary conclusions are based on the findings from the research. Given the primary aim of the pro-poor land tools are to aid tenure security, the conclusion will be based on the objectives and their relevant research questions (section 1.4.2 and Table 8-1). The objectives and associated questions form the sub-headings in this section. This section gives a summary of the key findings from the research and gives final conclusions. Based on the conclusions, recommendations are made. The chapter ends with areas for further research.

8.2.1 UNDERSTANDING FACTORS AFFECTING TENURE SECURITY IN CUSTOMARY LAND TENURE SYSTEM IN SOUTH-WESTERN NIGERIA.

8.2.1.1 What are the Causes of land disputes in customary land tenure system?

The research inquiry established that numerous reasons are attributed to the cause of land disputes in customary land tenure system. The following primary reasons are identified as the cause of land dispute in customary land tenure system: political, economic, socio-economic, socio-cultural, demographic, legal/juridical, administrative, technical, ecological and psychological. This was further categorised in section 3.4.1 into institutional shortcomings and institutional change. The institutional changes are political, economic, socio-economic, socio-cultural, demographic and ecological reasons while the institutional shortcomings were identified as legal/juridical, administrative, technical and psychological causes. Bruce, Boudreaux,

& USAID (2013) further revealed that land conflicts are caused by land scarcity, insecurity of tenure, the lure of valuable resources, historical grievances and normative dissonance.

The causes of disputes in the study area were related to political, economic, socio-economic, demographic, legal/judicial, administrative, technical and psychological reasons. Overall, insecurity of tenure and the lure of valuable resources were the major reasons for the land dispute in the study area. This was confirmed during the interview stage when one of the interviewees said “greed” is the major reason why there is land dispute in customary land tenure system.

8.2.1.2 How is land dispute resolved in customary land tenure system?

Review of literature in section 3.4 showed that two mechanisms of resolving dispute exist. These are the formal and informal mechanism see Figure 3-1. The formal mechanism is in two parts namely the boundary commission and the judiciary system. The boundary commission is subdivided into three (local government, state and the national). The judiciary system mainly operates through the court's system. The hierarchy of the courts from the lowest to the highest are State High courts, Appeal courts and the Supreme courts. The informal mechanism referred to alternative dispute resolution (ADR). The modes of informal mechanisms identified are mediation, negotiation, conciliation, arbitration and adjudication.

Although for this research, the extent of the usage of the mechanisms for resolving the dispute on land was not measured, the means of resolving the disputes was explored. During qualitative data acquisition, it was noted that the present dispute in Itaji-Ekiti is presently at the High court which is a formal mechanism for resolving the dispute. Some form of usage of ADR was also observed in Itaji-Ekiti. The need for ADR is upheld due to the prolonged court cases, among other attributes.

8.2.1.3 How can customary land rights be secured?

This question was addressed in section 3.2 by discussing reforms in cadastral systems. The reforms in cadastral systems were aimed at addressing the issue of land tenure which is not accommodated in the formal LAS. The customary land tenure system is mainly affected. The research identified reasons why reforms in cadastral systems are

advocated. The reforms are aimed at securing land in customary land tenure systems. The reasons for reform are identified as:

- 1) The existing system is ineffective and fails to satisfy users and land administrators. The ineffectiveness of the existing system makes land in customary land tenure system insecure. The research identified two pro-poor land tools (STDM and NCLRM) that are used to secure title and measure tenure security in customary land tenure systems. The take away from the thesis is the paradigm shift from the formal LAS to a more informal LAS.
- 2) Researchers and practitioners are challenged to explore new technology. The literature search was able to identify new methods used to record land rights in customary land tenure system. These new theories: fit-for-Purpose land administration, pro-poor land administration and land management paradigm employ the use of new technology. In all these new approaches, the use of High-Resolution Satellite Imagery (HRSI) in recording land rights in customary land tenure system is identified.
- 3) The need to improve transactions in land & ensure tenure security. The central aim of the research was aimed at ensuring tenure security of the rural poor. Many pro-poor land tools are developed for this, and in this research the STDM is used to secure tenure by recording land rights and NCLRM is used as a tool for measuring tenure security in Itaji-Ekiti.
- 4) To cater for the needs of the society & human-to-land relationship.

8.2.1.4 Who are the vulnerable or marginalised group in the study area?

Through the use of pro-poor land tools in Itaji-Ekiti, the study was able to identify women as the first group of people who are marginalised. This was immediately shown when the STDM was used to record land rights. Out of 472 land rights-holders, 39 were female, and 433 were male (see Table 7-2). During the interview stage, all the interviewees agreed that women have no land rights except where they hold the economic power. Patrilineal landholding is the usual practice in Itaji-Ekiti. Land rights are gender biased in Itaji-Ekiti. The second group are the farmers who are vulnerable to land conflicts. During the case study analysis, disputes are not common on individual land parcels but are common on family and farmland (see section 7.7.4.6).

8.2.1.5 What proportion of land rights-holders in the study area have insecure land tenure?

This research question is answered in chapter 7 during the case study analysis using the STDM and NCLRM. The NCLRM model identified four land rights types (See section 7.6.1). The four land right types were analysed against the triple vertical axes indicator of legitimacy, legality and certainty. All land right types have some forms of legitimacy and legality with uncertainty. The uncertainty is identified as land-related conflict in Itaji-Ekiti and affects all land rights type identified. All land right types identified have insecure tenure in Itaji-Ekiti. During the recording of land rights, 397 land rights-holders representing 84% have no title to land while 75 land rights holders representing 16% have title to land. This is used to determine the number of land rights holder who have secured tenure (see Figure 7-20).

8.2.2 INVESTIGATING THE IMPACT OF LAND USE ACT ON CUSTOMARY LAND TENURE SYSTEM

8.2.2.1 How has the objective of land use act been achieved?

Critical areas of the Land Use Act were evaluated in line with the objectives of this research. Although a full evaluation of the Land Use Act was not conducted, this is because the aim of the research is to measure tenure security of the rural poor. Hence areas in conformity with tenure security were evaluated. The research findings provide some conclusions about the Land Use Act of 1978. This is based on the analysis carried out in chapter 6 and the literature reviewed in chapter 5. The conclusion is based on the 3S framework that highlights significance of development outcomes as necessary for success and sustainability (see section 4.4.1). Considering the objectives of the Act, the implementation of the same is unsatisfactory. Many sections of the Act are not considering the rural poor (see Section 6.5). Hence the following conclusions about the objectives of the Act are presented.

In terms of the Act fulfilling its objectives, a vital objective is making land readily available at an affordable rate. This had been a dead objective for a long time in the history of Nigeria. This is attributed to many informal land markets operating side by side with the formal land market. The informal land markets have been the primary

source for acquiring land. According to the research findings, land speculators are still on the increase. This is a significant sign of bad governance in land administration. The land speculators operate in the informal land market. This only benefits the elite and the rich in the society while it is detrimental to the urban and rural poor. Many government officials acquire government land to sell to the public at an exorbitant rate making the whole process of land acquisition very complicated.

Government control and management of land may be termed not satisfactory because two schools of thoughts arise from the respondents' opinions. The first school of thought was in support that government had been able to control and manage land as stipulated in the Act. The second school of thought said the government had failed to control and manage land as stipulated in the Act. The land is placed in the hands of a few elites who have the economic power to acquire such. These elites take advantage of the populace who are in dire need of land to sell at a very high cost. Using the 3S framework, *success* is the achievement of stated objectives. The stated objective of the LUA is yet to be achieved according to the respondents' opinions and the literature reviewed.

8.2.2.2 What are the problems created by the enactment of the land use act?

This question was answered by the review of literature in chapters five and six. This is categorised into problems inherent in the LUA and the problems of implementation (Abugu, 2012). The problems inherent in the LUA are lack of implementation guidelines, entrenchment of the LUA in the constitution of Nigeria, inalienability of the land in rural areas, vesting of all land for the use and benefit of Nigerians only, compensation provisions, compensation payment outside the jurisdiction of the courts, land for grazing purposes not covered by deemed customary rights of occupancy, and the age of the Act. Implementation guidelines will provide a mode for administering the provisions of the Act.

The problems of implementation are an abuse of power by the governor, public service and bureaucracy, lack of political will and the failure of local government authorities. Bringing the LUA under the 3S framework (Hull and Whittal, 2017), sustainability is the ability of the LUA to keep achieving the stated objectives of enactment. The twin

problem of implementation ascribed to the LUA (problem of implementation and problem inherent in the LUA) may mar its sustainability. The process and outcome of enactment will show how the LUA will be significant for the land rights-holders. In short, it lacks *significance* for the land rights-holders (see Hull and Whittal, 2017).

Considering its impact on customary land tenure system, a confusion of ownership existed because the people claimed they owned their land while the Act transferred ownership to state government. The land rights holders and government land relationship should be well defined in the Act. Title ownership is another critical area of the Act that requires good governance by providing a pro-poor land policy. The formal land registration system is relied upon for title registration in Itaji-Ekiti which is not in the interest of the rural poor. The security of title had been found to be difficult since the promulgation of the Act. The need for alternative approaches is identified

8.2.2.3 What areas of the act support customary land tenure?

This research question was addressed partly in chapter 5 by discussing the effects of LUA on customary land tenure system: an understanding of the preamble to the Act was reviewed. Two words ‘vest’ and ‘trust’ used in the preamble to the Act caused confusion. Vest implies transferring of ownership to the Governor. The questionnaire analysis in chapter 6 addresses the impact of the LUA on customary land tenure system. Sections 34 & 35 of the LUA convert absolute ownership into rights of occupancy which can be enjoined as statutory and customary rights of occupancy. In this regard, customary land is recognised. Section 29 (3) states that when compensation is to be paid, it can be paid to a community this, also recognises customary ownership.

Rasak (2011) said that customary ownership is protected in a limited form with the status of customary landlord and tenant not clearly defined in the Act. Section 50 defined an occupier as someone who can enjoy land under customary law. Section 6 (9) empowers the Local Government to grant customary rights of occupancy; section 21 states that no transfer of such right can be done without the consent of the Local Government. Section 36 (5) said that land held cannot be subdivided and laid out into plots. Sections 34 and 36 specified that the land is to be continually held by the person

in possession before the commencement of the Act. In all these sections, customary land ownership is supported.

8.2.2.4 What areas need a review?

Analysing the areas that needed a review, the research findings showed that ownership of land should not be vested in the government. The two committees (LUAC & LAAC) compositions are inadequate. One of the main reasons is that the composition of LUAC excludes a professional land surveyor while the LAAC excludes the customary leader. The results from the research showed that the non-granting of a certificate of occupancy to people below the age of 21 is age biased. The enormous power ascribed to the governor is unnecessary because such power is used for political reasons. Hence a land commission should be established to supervise the committees as well as the governor in discharging their responsibilities.

An important outcome is an evaluation of whether the Act negates the presidential system of government in Nigeria. It is concluded that it does negate the presidential system of government in which the judiciary is a separate arm of government. The judiciary is the hope of getting justice when injustice is meted out.

In all, the Land Use Act had been both effective and non-effective. With the above conclusions, the Land Use Act has failed to meet some of its objectives. Although the Land Use Act was enacted to unify the land tenure system in Nigeria, its implementation and existence for forty years showed that it could not meet SDGs related to ensuring tenure security of the rural poor.

8.2.2.5 Has the land use act improved the security of title to land?

The two indicators used in this analysis are the rate in which politics affects the implementation of the LUA and the implementation rate. The respondents' view was that politics affects the implementation of the LUA. Two schools of thought emerged from the implementation of the LUA: the first school of thought says the implementation is good and the second school of thought says the implementation is poor. The application of STDM in Itaji-Ekiti showed that title to land is not improved by the existence of the LUA. Out of 472 houses enumerated, 75 have title while 397 are without tile to land (see Figure 7-20). This can be attributed to the LUA, which only

recognises the formal method of boundary demarcation. Hence, alternative approaches to boundary demarcation are proposed. The use of NCLRM in Itaji-Ekiti showed that customary/traditional land rights are demarcated using natural features while formal and registered leasehold used boundary beacons for demarcation. This increases the legitimacy of formal and registered leasehold over customary land rights.

8.2.3 IDENTIFYING SUITABLE PRO-POOR LAND TOOLS AND APPLYING TO SELECTED CASE STUDY

8.2.3.1 What pro-poor land tools have been developed for securing tenure in customary contexts?

This research question is addressed in chapter two. The study acknowledges that many pro-poor land tools are developed, out of which eighteen were developed by the GLTN and UN-HABITAT to secure tenure of the women, poor and the marginalised in the rural areas. This study identified two pro-poor land tools developed by GLTN and UN-HABITAT, and another by Whittal (2014). These are the STDM and NCLRM respectively, which are applied to Itaji-Ekiti to record land rights and measure tenure security.

8.2.3.2 What criteria can be used to choose suitable tools for the study area?

The land tools selected for this case study are recently developed pro-poor land management tools which are not gender biased. The criteria for selection of these land tools are: 1) Land tools developed by the non-governmental organisation, 2) Land tools developed by academic researchers. As explained above, the tools chosen are the STDM and NCLRM.

8.2.3.3 How can the tools be used to strengthen customary tenure security?

This research question was extensively discussed in chapter seven. The STDM and the NCLRM were applied to Itaji-Ekiti. The NCLRM showed that tenure security in Itaji-Ekiti is weak since all land rights types are open to conflicts. This is identified because of bad governance in the LAS. This, therefore, leads to the following conclusions.

The study findings reveal that the present land legislation lacks a pro-poor policy on recording land rights in informal and customary land tenure systems. The land policy

placed all land rights on the same pedestal in the land registration system. This affects the rural poor and marginalized. The formal occupation holds title to land while most customary landholders have no title to land.

The NCLRM showed that legitimacy is high for formal occupation and registered leasehold only. It is weak for informal occupation and neither weak nor strong for customary land tenure system. This is because customary landholders rely on natural features to demarcate their boundaries and the Land Use Act also recognizes the existence of same. In all, neither weak nor strong legitimacy in customary land is attributed to bad governance in LAS.

The first aspect of the bad governance relating to land administration is the Land Use Act which was enacted forty years ago during the military regime. The objectives of enactment as reflected in the Land Use Act have not been met and are not in conformity with the reality of 21st-century land policy that is pro-poor in nature. No aspect of this land policy recognized informal occupation as well as the use of modern technology in demarcating boundary.

The legality of all land rights holders is stronger while the certainty for all land rights is weak. This is because there is no anti-eviction law protecting people holding informal land rights. The certainty of all land rights is weak because of conflicts in Itaji-Ekiti. Bad governance in both formal and informal LAS is attributed to tenure insecurity. In all, the STDM and NCLRM helps analyse tenure issues in Itaji-Ekiti.

8.2.3.4 What can be learnt from the application of the land tools?

This section presents the lessons and challenges from the usage of pro-poor land tools, which is particularly for future users of the land tools. The lessons are tailored around five benefits for using pro-poor land tools to measure tenure security of the rural poor: Community empowerment, upgrading of informal settlements, alternative approaches to Land Registration System (LRS), reduction of poverty in rural areas, and Identification of land rights and the status of tenure.

- (1) Community empowerment: One important lesson to be learnt from the application of pro-poor land tools is the participatory approach in the collection

of both attribute and geometric data. This combines both the quantitative and qualitative mode of data collection in which the community is actively involved. It is of high note that every stage of the data collection can be attributed to empowering the youth who are not gainfully employed. In adopting this as a mode of recording land rights in the rural community, each stage requires a substantial number of people to accomplish the task.

- (2) Upgrading of informal settlements: The STDM enumeration exercise in Itaji-Ekiti using HRSI to demarcate boundaries has shown that the needed information for slum upgrading can be acquired and stored in a central database, which will aid government decisions. The realities are shown as spatial information can be connected to socio-economic data and shared with the required authorities to guide decision making.
- (3) Alternative approaches to LRS: The use of pro-poor land tools in Itaji-Ekiti also showed that land rights of the rural poor could be recorded with minimal cost compared to the formal land registration system. This method of LRS allows community members to understand their environment better. This is made possible because of the visual assessment of the satellite imagery provided. Another important lesson is transparency in boundary demarcation. The use of pro-poor land tools allows a face-to-face interaction between adjoining boundary owners.
- (4) Reduction of poverty in rural areas: The use of pro-poor land tools helps answer the question of how poverty can be reduced in rural areas. Studies had shown that lands are not registered because of cost; this gap in land registration in rural areas is what pro-poor land tools tend to fill. The use of pro-poor land tools in Itaji-Ekiti will help residents reduce costs in registering their land rights.
- (5) Identification of land rights and status of tenure: The application of STDM and NCLRM in Itaji-Ekiti allows for easy identification of tenure types and tenure transactions. The corresponding tenure status was revealed when legitimacy, legality and certainty of the NCLRM model were used against each land rights type identified.

Challenges: The challenges of using STDM and NCLRM are: (1) the need to be a community member for easy sensitization programme (2) the cost of acquiring HRSI because the available ones may not satisfy user requirements (3) Training for technical skills for usage of STDM & QGIS (4) the NCLRM is complex to comprehend especially the representation of the land values. (5) The need to train community members in the handling of STDM database (6) the difficulty of many not willing to show supporting documents to land ownership

8.2.4 MAKING RECOMMENDATIONS AND GENERALISING FINDINGS

8.2.4.1 Generalization of results

One of the objectives of this research is to generalize the findings of this case study in a broader context. Reasons for generalization are discussed in Section 4.3.4. Generalization of results will be in two phases: Land Use Act findings and the use of pro-poor land tools in rural areas. The findings will be generalised to Nigeria. The Land Use Act is a uniform land policy used in the country. This generalization is based on a statistical generalisation of the result. The statistical generalisation is explained in Section 4.3.4.

The use of pro-poor land tools in this case study is found to be a viable, practical tool in recording land rights of the urban and rural poor. This can be used to record land rights of the poor in South-western Nigeria. South-western Nigeria land rights are found in customary/traditional land rights types. The two models are designed to be adaptive to measure and improve tenure security in any local context. Hence the results of this study are generalizable. Conflicts occur in customary/traditional land types in South-Western Nigeria because of lack of well-defined boundaries. The generalization is based on both naturalistic and analytical generalization (Section 4.3.4). This also makes the results of the two models generalizable to the broader context.

8.2.4.2 Recommendations

This research provided additional knowledge to the impact of the Land Use Act on customary land tenure system. It has also helped identify suitable pro-poor land tools

that can be used to record land rights and measure tenure security of the rural poor. This research will also inform land administrators, government, non-government organisation and policymakers about alternative approaches to land administration system. Based on the extract from these research findings the following recommendations are made.

a. [Review of the land use act](#)

The Land Use Act needs a review particularly in the areas examined by this thesis (see sections 6.5, 6.5.1, 6.5.3 and 6.5.4). It also needs to be expunged from the Nigerian constitution to make the land policy an independent land law. This will also include considering the local context in which the law will be applicable. On review of LUA, the implementation procedures are an essential part that must be well specified through relevant sections of the Act.

Furthermore, various sections of the Act need a holistic view by setting up people who comprise of academia, land professionals and civil servants (see Tanner, 2002). The land policy needs to be reviewed to be able to achieve the SDGs related to ensuring tenure security of the rural poor.

In developing a pro-poor LAS, it is recommended that the government should not lay emphasis on formal LAS alone but to holistically consider alternative approaches to the land registration system. Many reasons are justified for the formal land administration not meeting the needs of the urban and rural poor (section 2.6).

Considering a country like Nigeria, which comprises of diverse culture, a single land policy will not be appropriate to serve the entire country. It is advocated that land policy should consider the local situation of the rural poor. Hence enactment of land laws should be based on pro-poor policies.

b. [The use of pro-poor land tools](#)

On the use of pro-poor land tools to measure tenure security and provide alternative approaches to the land registration system, the following recommendations are prescribed:

- (1) In developing a pro-poor land policy, it is recommended that the government use the pro-poor land tools to measure tenure security of the rural poor so that such legislation can address the insecurities that are revealed.
- (2) The Nigeria government should consider alternative approaches to LAS. Land registration should not be based on the formal land registration system alone. Informal approaches as developed by researchers and non-governmental organisation should be considered. The sample of certificate of customary rights of occupancy generated from the STDM should be seen as complementary to the existing certificate of statutory rights of occupancy. Hence the government should recognise such approaches when reviewing the present land policy.
- (3) During the research work, the major concern of the people is whether the government will recognise the certificate issued from this approach. Hence there is a need for institutional arrangements so that all arms of the government (executive, legislature and judiciary) will recognise the certificates provided by this approach for all land transactions such as land sales and land litigation.
- (4) The land reform of government that was stuck since 2009 needs to adopt alternative approaches like the one used in this thesis. The proposed cost of the land reform will be minimised by using satellite/aerial imagery for recording land rights of the people. To revisit land reform in Nigeria, the government needs to educate stakeholders in the land industry on the need for land reform and how it is going to be of benefit to both land rights holders and professionals in the land industry.

8.2.4.3 Further research

With the conclusions and recommendations made, areas of further research are identified. The study of the impact of the STDM enumeration on the residents of Itaji-Ekiti is necessary to evaluate the level of trust the people have built on the use of the model. Since the final output of this model is to produce a certificate of customary rights of occupancy, further research is necessary to see how the residents will perceive their tenure security by the issuance of this certificate. This model has been applied to a sectional part of Nigeria from one of the six regions. It is necessary to apply the model to other regions in the country to see how applicable the model will be.

9 References

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Appendix A

Dear Sir/Madam,

This survey is an effort to fulfil the requirement for an award of M.Sc. Degree in Geomatics at the University of Cape Town, South Africa.

This questionnaire is designed to obtain information necessary for completion of my research work (Thesis) on *Measuring Tenure security of the rural poor using pro-poor land tools: a case study of Itaji-Ekiti, Ekiti State, Nigeria*. The information sought from you is needed for academic purpose only and any personal view given will be treated in the strictest confidence.

Kindly co-operate by completing the attached questionnaire.

Thanks.

Yours faithfully,

Student Name:

Kehinde Hassan Babalola

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Supervisor's Name:

Mr Simon Hull

E-mail: simon.hull@uct.ac.za

Privacy Statement

We acknowledge and respect your privacy. All information obtained from the questionnaire will be used only for the purposes of this research

QUESTIONNAIRE

SECTION A

1. Age of Respondent

i. 20-29 years ii. 30-49 years iii. 50-69 years

iv. 70yrs and above

2. Sex Male Female

3. Occupation _____

4. Educational qualification _____

5. State of origin _____

Section B

Effects of Land Use Act on Customary Land tenure in Nigeria: case study of Ekiti State, Nigeria.

1. How long have you been in Ekiti State?

a. 0-5 yrs b. 6-10 yrs c. 11-15yrs

d. 16 - 20 e. 21 and above

2. How will you rate the population of Ekiti?

a. Very high b. High c. Very low d. Low

3. What in your opinion contributed to the change in population?

- a) Increased birth rate
- b) Migration
- c) Increase in commercial activities
- d) Creation of State e) All of the above.
4. What did you understand by the term customary ownership of land?
- a) Communal ownership b) Family ownership
- c) Ownership where the head of the family has supreme power d) All of the above
5. To what extent do you know the land Use Act of 1978 and its objectives?
- a) Very well b) not too well c) Moderate d) no idea
6. In your opinion has the land Use Act abolish customary ownership of land in Nigeria? a) Strongly agree b) Agree Neither agree nor disagree
- d) disagree e) Strongly disagree
7. What will you say about the demand for land in Ekiti State? a) Very high
- b) High c) Neither high nor Low d) Low e) Very Low
8. According to the objectives of the Act is land readily available at an affordable rate? a) Yes b) No Not sure
9. In your own opinion, has the Governor been able to control and manage Land as stipulated in the Act? a) Strongly agree b) Agree Neither agree nor disagree d) disagree e) Strongly disagree
10. Do you agree that ownership of land should not be vested in government a) Strongly agree b) Agree c) Neither agree nor disagree
- d) disagree e) Strongly disagree
11. In your own opinion, is the composition of the Land Use and Allocation Committee (LUAC) all right? a) Yes b) No Not sure

12. In your own opinion, is the composition of the Land Allocation and Advisory Committee (LAAC) all right? a) Yes b) No Not sure
13. Did you agree that non granting of a certificate of occupancy to people below the age of 21 is age biased a) Strongly agree b) Agree c) Neither agree nor disagree d) disagree e) Strongly disagree
14. To what extent will you say the politics in Nigeria affects the implementation of the Land Use Act? a) High extent b) very high extent c) Neither High extent nor low extent d) Low extent e) very low extent
15. Do you agree that the power given to the Governor by the Land Use Act is unnecessary?
a) Strongly Agree b) Agree c) Neither agree nor disagree
d) disagree e) Strongly Disagree
16. Do you agree that some portion of the Act negates our Presidential System of Government? Yes No Not Sure
17. Has the land Use Act been able to curb land speculators Yes No
Not sure
18. Do you agree that the Land Use Act created a vacuum of ownership in customary ownership Yes No Not sure
19. Has the Land Use Act made Land available for the citizenry? Yes No
Not sure
20. How will you rate the security of title to land since the promulgation of the Act of 1978?
a) Very Difficult b) Difficult c) Neither easy nor difficult
 Easy e) Very easy
21. Do you agree that compensation provisions in the Act need to be reviewed?

- a) Strongly Agree b) Agree c) Neither agree nor disagree
d) disagree e) Strongly disagree

22. How can you rate the implementation of the Act?

- a) Very good b) Good c) Neither good nor poor
d) poor e) Very Poor

23. In determining disputes arising from compensation payable, do you agree that the Act negates rule of a fair hearing?

- a) Strongly agree b) Agree c) Neither agree nor disagree
d) disagree e) Strongly disagree

24. In proffering a solution to the problem created by the enactment of the Land Use Act which of the following will you prefer as a solution?

- a) Review/amendment of the Land Use Act
b) Removal of the Act from Nigeria constitution.
c) Total repealing of the land Use Act
d) All of the Above

Appendix B

Dear Sir/Madam

I am a student in the faculty of Engineering and Built Environment (EBE) of the University of Cape Town, South Africa. I am pursuing a master degree in Geomatics. I am conducting research on *Measuring Tenure security of the rural poor using pro-poor land tools: a case study of Itaji-Ekiti, Ekiti State, Nigeria.*

Student Name:

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Supervisor's Name:

Mr Simon Hull

E-mail: simon.hull@uct.ac.za

Privacy Statement

We acknowledge and respect your privacy. All information obtained from the questionnaire will be used only for the purposes of this research.

Thank you

SOCIAL TENURE DOMAIN MODEL

QUESTIONNAIRE

1. Respondent Information

(Optional) Surname_____ First Name_____

Contact no_____

Age: (please tick as applicable)

- i. 20-29 years ii. 30-39 years iii. 40-49 year
iv. 50-59 years v. 60-69 years vi. 70yrs and above

Gender: Male Female

2. Street Name_____

3. Land use type: Residential Commercial Agricultural Land Others

4. Do you have any title to this land? YES NO

If your answer is yes in question (4), kindly state the type of document.

5. For how long have you being living here?

0-5years 6-10 years 11-15years 16-20years 21-25yesrs 26 and
above

6. Do you own this property? YES NO

7. If you own this property, how did you acquire ownership?

Government allocation Inheritance Gift purchase others

8. Is this land transferable? YES NO

9. Is there any dispute on this land? YES NO

10. If your answer is yes in question 9, kindly **answer the following questions**

10.1 state for how long _____

10.2. What type of dispute exist on the land?

Ownership dispute Boundary dispute with neighbours

Expropriation of land Land grabbing

10.3. Where is the dispute resolved?

Customary court High court Appeal Court Supreme court

10.4. How long does it take to resolve land dispute cases?

0-5years 6-10 years 11-15years 16-20years 21-25years 26 and above

11. What value do you derive from land? Not economic value but social/natural value (see Table 1 for a list of the value of land to mankind).

12. Rectangular Coordinates (to be supplied by Investigator)

Eastings Northings

13. Enumeration no (from base map) _____

Appendix B – Tick the items that correspond to this interview questions:

Table 1: Concepts of land and its value to humankind (Adapted Whittal, 2014)

CONCEPTS OF LAND AND ITS VALUE TO HUMANKIND		
Concepts of Land (Williamson et al. 2010)	Physical Value (after Williamson et al. 2010)	Conceptual Value
Land as terra firma	Natural resources	Home planet Earth
Land as physical space	Spatial extent and location	The sense of place, scarcity, locational and extent: value-in-use
Land as deity		The spiritual value of material land
Land as a community	Collective RRRs	Traditional and cultural value, homeland value, social network value
Land as a property institution	Land extent, development, services, uses, potential	Value in trade and investment
Land as a factor of production	Combination of natural resources and spatial extent	Livelihood value
Land as capital	Has inherent capital value as a secure physical resource	Security for loans, investment value, social safety net value
Land as a consumption good	Exploitation value	Economic opportunity value
Land as a commodity	Tradable resource	Wealth creation/risk value
Land as a human right	Land rights value, the bare minimum is physical occupation value	Human dignity value
Land as nature	Environmental systems	Essential for life, fragility value
Land as a resource	Sum of all the above	Source of power
Land as environment	Systems of administration for sustainability	Value of societal, environmental consciousness, the value of systems of sustainability, e.g. green credits

(Source: Whittal, 2014, p. 31)

Table 2: Land Tenure types and associated rights (partly informed by Williamson et al. 2010, p333-334)

LAND TENURE TYPES AND RIGHTS				
Tenure	Type	Examples	Rights	Instrument of security
Freehold may or may not be the tenure of underlying land	Traditional / indigenous	Tribal area or extent/range	To live according to traditional beliefs and customs since time immemorial on this land	Social relationships, cohesion, memory, trust, status, traditional/customary
	Customary and neo-customary	Resettled or newly settled area by a homogenous group with similar (perhaps evolved) customs	To live according to commonly held beliefs and customs, right to exclude others based on social affiliation	leadership, ancestral lineage, diagram & title are possible for outside figure, material evidence/documentation of boundaries, graves/shrines, historical evidence.
	Religious	Islamic land ownership	To live according to religious rules and customs	Religious community belonging, informal register, documentation
Cooperative tenure – freehold on parcel	Commonhold / group right	Communal property associations, homeowner's association, sectional title/ condominium developments, share block schemes, community trusts, family trusts, communities established with a set of common aims	To a share (defined or undefined) the value (see Table 3) of the land individually and collectively excluding others not part of the communal tenure arrangement	Documentation/contract; may include title deed and diagram on the underlying parcel, functioning land administration and legal system
	Life right	Retirement Village	Occupation, use. The individual(s) can exercise the conferred rights to the exclusion of all others until their death	
	Timeshare	Three weeks holiday accommodation at a	Occupation, use. Individuals have	

		game lodge or sea-side resort once per year, fractional shares	specific times during which they may occupy and use the property in accordance with the timeshare scheme	
Freehold/allodial land ownership	Individual	House and garden, flat, farm, vacant land	Ownership, occupation, use, transfer, specify inheritors. The individual can exercise the conferred rights to the exclusion of all others	Deed/ title document, diagram, boundary monumentation, maps, functioning land administration and legal system
	Company	House and garden, business premises, flat, farm, vacant land	Ownership, occupation, use rights held on behalf of another. The company can exercise the conferred rights to the exclusion of all others	
	Trust	Holiday property, family home/homestead, farms with subdivision restrictions	Ownership, occupation, use. The members of the trust can exercise the conferred rights to the exclusion of all others	Deed/title document; underhand trust; notarial trust registered against the title deed; other trust documentation; functioning land administration and legal system
	State ownership, the commons	State-owned land and infrastructure, parks and reserves, the seashore.	The State holds the land on behalf of and in the interests of the citizens of the country	Deed/title; diagram; vesting; noting on plans
	Unspecified	<i>Fideicommissum</i>	Future right to ownership	Last will and testament
Freehold servitudes	Praedial Servitude	Right of way servitudes, power line servitudes, grazing servitudes	The formal real right of the dominant tenement over the servient tenement; can be positive – requiring something, or negative –	Deed/ title document, servitude diagram, functioning land administration and legal system

			preventing the owner from exercising a right.	
	Public servitude	Roads	Via public Via vaginal	Proclaimed a public road The public road through long/immemorial use
Freehold Quasi-servitudes	Mining right	De Beers mines	The holder can execute mining operations in accordance with the law	Mining title and diagram
Public or private leasehold	Lease	The lease on apartment/house/business premises including rental Includes “rent to purchase” arrangements.	The period of time in which the specified rights may be exercised has a fixed term. Rental is usually paid to the owner. “rent to purchase” is linked to tenure upgrade	Lease agreement Registered notarial deed of long-lease “Rent to purchase.” agreement
Occupation: informal individual or communal	Informal Occupation	Occupation prior to a semi-permanent state, e.g. homeless temporary shelter or new settlement	Rights usually only include restricting eviction and basic human rights	Material and social evidence, Anti-eviction laws.
Fuzzy boundary				
Occupation: semi-formal individual or communal	Illegal squatting	Temporary housing on land not owned including informal squatter settlements and backyard shacks	Rights usually only include restricting eviction and basic human rights. Tenure increases as human rights are met through recognition, service delivery and dwelling assistance. Ownership may be a track through adverse possession.	Material and social evidence. Recognition by the state through the provision of services, housing lists etc. Anti-eviction laws

Fuzzy boundary				
Possession: informal individual or communal	Physical possession	Possession as if you are the owner – e.g. fences not in the correct place	The holder exercises rights of occupation and use as if full ownership is held. Ownership may be a track through adverse possession (in SA this is called prescription)	Material/document ary evidence of possession, memory, documentation such as payment for services.
Recognised occupation: individual or communal	Formal Occupation	Permission to Occupy (PTO), labour tenants, use provided in provisions of a will, e.g. may occupy the house until death etc. Backyard dwellers, garden flats.	Rights are only of occupation/use (residential/subsiste nce agriculture use) and are generally not transferable	Material and social evidence; possible documentation; housing provision. Anti-eviction laws. Usufruct registered against title deed. Lease.
Current Use	Licence	Usually governs an activity or use, e.g. a liquor licence, business licence	Rights can be exercised for the duration of the licence, conditional approval and retention	Licence documentation, government approval.
	Personal Servitude	<i>Usufruct, habitation, use</i>	Use and take the fruits (usufruct) may inhabit the property (habitation) or may use the land for personal needs (uses).	The registered title, contract or terms of last will and testament
Future tenure				

Appendix C

QUALITATIVE DATA COLLECTION

Dear Sir/Madam

I am a student in the faculty of Engineering and Built Environment (EBE) of the University of Cape Town, South Africa. I am pursuing a master degree in Geomatics. I am conducting research on *Measuring Tenure security of the rural poor using pro-poor land tools: a case study of Itaji-Ekiti, Ekiti State, Nigeria*.

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Privacy Statement

We acknowledge and respect your privacy. All information obtained from this interview will be used only for the purpose of this research.

General information.

- ❖ All information collected is controlled by the University of Cape Town Ethics & research policy
- ❖ You are not under any compulsion to answer any question, and you may decide to withdraw at any point during the interview.
- ❖ You may refuse to answer any question and may also withdraw any information provided at any stage.

- ❖ You may refuse to let a recording be made of the interview. If you agree to a recording, this will only be used for the purposes of accurate data collection and will be reviewed to add detail to written notes and to make corrections.
- ❖ A copy of the interview summary will be provided to you if you so wish so that you can verify or refute any information and add to the information recorded.
- ❖ You may withdraw from the research at any stage.
- ❖ No information will be published which will lead to your harm (anonymity)
- ❖ This interview time will take approximately (1hour)

Thank you

COMMUNITY HEAD

STRUCTURED INTERVIEW

1. Please, can you briefly introduce yourself?
 - ❖ Name (optional)
 - ❖ Position in the town
 - ❖ What is the name of your street in this town?
2. Specific Research Questions:
 - 2.1 How is land allocated to members of the community?
 - 2.2 What rights do members of this community have in the land?
 - 2.3 What are the causes of land disputes in the community?
 - 2.4. How is land dispute resolved in the community?
 - 2.5 What are the causes of land grabbing in customary land tenure?
 - 2.6 Is there any State Government acquisition in this area?
 - 2.7 Does the Local Government have land in this area?
 - 2.8 Is there any Community-Based Dispute Resolution committee?
 - 2.9 Did you know of the existence of the Land Use Act?

If yes, does the Land Use Act help solve land problems in this community?
3. Is there any boundary dispute in this community? e.g. dispute between communities, dispute between family lands, and dispute between individual land.

4. Access to land rights:
 - 4.1 How do people acquire land in this community?
 - i. If they are indigene?
 - ii. If they are indigene by marriage?
 - iii. If they are not indigene but are willing to live in the community?
 - iv. How do women acquire land rights in this community?
 - 4.2 Does the government allocate land to the people in the community?
 - 4.3 Do women have equal right to land as men in this community?
 - 4.4 Who owns land after the death of the husband, wife or children?
 - 4.5 Do female children have a land inheritance in this community?
 - 4.6 Can people sell their land without government?
 - 4.7 Can people sell their land without land documents? i.e. using a written agreement.
 - 4.8 Do people have to pay for allocating land in this community?
 - 4.9 What forms of land rights exist in this community? (See Table 2)
5. What proof of ownership do people have in the community? i.e. legal documents, written agreements, and verbal agreements.
6. What are the common means of livelihood in this community?
7. How can you rate the availability of land to the people in the community?
8. Did you know of the existence of Land Allocation and Advisory Committee in this Local Government? If yes, is functioning?
9. How do you control land transactions in the community?
10. How do you control land use in this community?
 - ❖ Who manages land in this community- Obas, traditional chiefs or Local Government
 - ❖ Do you have any map that depicts the community boundary?
 - ❖ Is the land use planning functioning well in this community?
11. How is land title secured in the customary land?

- ❖ Has there been any case where people were evicted from their land in this community?
- ❖ How has the Land Use Act helped in securing title to land in this community?
- ❖ Can you briefly express your view on the Land Use Act implementation?
- ❖ What areas did you need the government to assist this community in securing title to land?
- ❖ How do farmers secure their title to land in the community? Especially when they are not an indigene.

12. How is land transfer in this community?

- ❖ Who is in charge of land transfer and land sell in the community?
- ❖ How do the community members sell their land?
- ❖ What procedures are followed in family inheritance?
- ❖ In transferring land from one person to another, do people avoid traditional and formal processes? If yes, why.

13. What value do you derive from land? Not economic value but social/natural value (see Table 3 for a list of the value of land to mankind).

14. Do you have any question/s or comments for us?

LAND RIGHTS HOLDER

1. Are you a native of this community? If not, how did you become a resident of the community?
2. How long have you been in this community?
3. How did you acquire this property/land? E.g. inheritance, government allocation, gift, purchase, and other
4. Do you have any title to this land? If yes, what type of rights did you have and for how long? If no, why and for how long have you been staying here?
5. What type of value did you place on this land/house? (See table 3)
6. Is your boundary demarcated? If yes by who/ (Surveyor, government or traditional authorities)
7. What are your means of livelihood in this community?

8. Have you ever been disturbed on your land in this community? If yes when and how did you solve it?
9. In accessing land in this community are women and men treated in the same way?
10. Can you pass this land on to your children/wife? If yes, how?
11. Can you sell this land without involving government and lawyer? If yes, how?
12. Is there any land conflict in this community?
13. How are land disputes resolved in the community?
14. Is there any Community-Based Dispute Resolution Committee?
15. If you are to choose between living here and the city, which one will you prefer?
16. In your own view is the government relating well with customary leaders on land matters? (E.g. Obas and Chiefs).
17. Did you believe in your community leader in land allocation?
18. Is there any interaction between the people and the customary institution on land matters?
19. Is there any interaction between the people and the government on land matters?
20. What forms of land rights exist in this community? (See Table 2)
21. Do you have any question or comment for us?

FORMAL INSTITUTION

1. What is the name of your institution?
2. What department did you belong to in this institution?
3. What is your responsibility like in this institution? i.e. your office work

Specific Research Questions:

4. Who has land rights in this Local Government and what form are they? (see the range in the table).
 - 4.1 How is land allocated to members of the Local Government?
 - 4.2 What forms of land rights exist in this Local Government? (See Table 2)
 - 4.4 What are the causes of land disputes in customary land tenure system?
 - 4.4. How is a boundary dispute resolved in this Local Government?

- 4.5 What are the causes of land grabbing in this area?
- 4.6 Is there any government acquisition in this area?
- 4.7 Does the Local Government have land in this area?
- 4.8 Does the community have a Community-Based Dispute Resolution committee?
- 4.9 Does the Land Use Act help solve land problems in this Local Government?
- 5 Are there any land conflicts in this local government? E.g. conflict between the town, farmers /herdsmen.
- 6 Access to land rights:
- ❖ Is there any land/housing scheme by which people access to land in this Local Government? If yes, how is it acquired?
 - ❖ If the land is acquired through this scheme what tenure type is that?
 - ❖ Do men and women have equal rights to land in this Local Government?
 - ❖ Is there any boundary dispute between communities in this Local government?
 - ❖ If yes how has this issue been handled, who is responsible for such cases?
 - ❖ Are there boundary technical committee in the Local government?
 - ❖ In accessing land in this Local Government, are there any forms of corruption?
 - ❖ Are there any informal settlements in this Local Government? If yes, how did they derive their ownership?
 - ❖ What method of land sale is practice in this Local Government?
7. What evidence do people have for their land rights?
- ❖ Do they have a survey plan registered in the Surveyor General's office and in the land registry?
8. Are you collaborating with customary institutions in land administration in Itaji-Ekiti?
9. How do you value land? (See table 3 for different values of land)

10. Is there any committee in charge of land administration in your local government? If yes, what is the committee name and are they functioning?
11. Do you have any question/s or comment/s for us?