



# Linking Land Tenure and Use for Shared Prosperity

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## **PRO-POOR LAND RECORDS, PALM OIL, AND PROSPERITY: ANY PROOF FROM BUGALA ISLAND, UGANDA?**

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**Abstract**

In 2012, the GLTN released its pro-poor land recordation tool: design principles for establishing land records for a country's poorest people. The tool is undergoing refinement using further case examinations. This paper provides lessons from one case: the Vegetable Oil Development Project (VODP), based on Bugala Island in Uganda, instigated the Ugandan Government, and backed by IFAD. Field visits were undertaken in May 2014 and included interactions with Ugandan government, NGOs, local community groups, and outgrowers. Relevant to GLTN was how land interests of the poor were handled. Analysis suggests early VODP stages were not entirely imbued with a pro-poor recordation approach. Adopting the approach earlier might have contributed to more collective negotiations, identification of mutual incentives, and recognition of the wider range of development interests for the whole island, including environmental sustainability. Later stages of the project have seen pro-poor recording tools adopted: STDM trials were affordable, transparent, and inclusive. Whether STDM enabled the capture of the complexity in existing layered rights, could have delivered preventive justice if undertaken earlier, and will be co-managed using CPR principles, are key points of further discussion.

**Key Words:** STDM, GLTN, VODP, Pro-poor land administration, Bugala Island

## INTRODUCTION

Pro-poor approaches to land administration are increasingly promoted in international agreements, national land policies, and NGO policy briefs. The goal is to create and strengthen systems of land documentation to protect the land tenure rights of the poor and the revenue streams linked to those rights. Improved land documentation systems are argued to protect the rights of the poor and assist international entities engaged in those projects in ensuring responsible collaboration and improving overall agricultural production and food security.

In this regard, the Global Land Tool Network (GLTN) and the International Federation of Surveyors (FIG), advocate for recognition of a continuum of land rights and use of fit-for-purpose approaches (UN-Habitat, 2008; FIG, 2014). More specifically, in 2012, GLTN released its pro-poor land recordation tool (UN-Habitat, 2012): a set of design principles for establishing and maintaining land records for the poorest members of a community. Key design requirements included: affordability for citizens and state; recognition of complex layered rights; delivery of preventative justice; sporadic and systematic approaches; a flexible spatial index map; and processes that were transparent, inclusive, and flexible. Since 2012, the need for further refinement has been recognized: concepts relating to political-economy, mobilization, co-management, and CPR-management need incorporation into the design. Subsequent examination of existing pro-poor development projects was promoted: the way land tenure issues were handled would further inform the design.

This paper reports results from one such study: the Vegetable Oil Development Project (VODP), based at Bugala Island in Uganda, instigated by Ministry of Agriculture, Animal Industries and Fisheries, financially backed by IFAD, and aimed at facilitating economic and social improvement on the island. Commencing in the early 2000s, the aim was to develop 6.5K Ha of vegetable oil palm plantation. Using the loan, lands for a nucleus estate were acquired, to be run by a Malaysian private investor (BIDCO/OPUL). The loan also facilitated the establishment and ongoing support of outgrower farms: small farms run by local Ugandans. As of May 2014, 1610 outgrowers worked on 3.9k Ha of vegetable oil palm plantation, delivering 900 tons of palm oil per month, and directly employing 2000 people (35.9% women). OPUL additionally employed 1760 people on the nucleus estate, 97% local and 3% (50) of their own employees, and 500 in farmer gardens.

This chapter presents results from an analysis of the pro-pool land recordation techniques used on during VODP on Bugala Island. The aim is to assess whether the design requirements are appropriate or whether

modifications might be needed. A secondary objective is to observe the nature of land recordation on Bugala Island. The results of the case are presented by first delivering an overview of the case content, the analytical framework, and then subsequently identifying how each design element of the pro-poor land recordation tool was dealt with, or not, in the selected case study. Proposals to improve the GLTN pro-poor land recordation tools and VODP are provided.

## **BACKGROUND AND METHODOLOGY**

Bugala Island is situated on Lake Victoria in Central Uganda. The island is approximately 29.6 Ha (KDLG, 2005), has a transient population of over 50K<sup>1</sup>, and is administratively part of the Kalangala district<sup>2</sup>. Until recently the district was considered one of the poorest in the country<sup>3</sup>. Since the early 2000s, Bugala Island was a focus for central government development initiatives. Priorities for central government have been the delivery of infrastructure, services, enhanced productivity and employment, and human resource development. More specifically, the introduction of palm oil plantations to facilitate economic and social improvements has been undertaken. Initial research on palm oil production on the island was undertaken in the 1970s. The crop was found to be suitable: after seedlings are planted they produce a crop after 4 years and can be harvested for the following 20 years. Plantations can be calibrated to enable harvesting every 10 days. Once picked, seeds must be milled and processed within 28 hours. After 20 years, 20% of the crop should be cut, and new seedlings planted in order to sustain the farms. These characteristics were deemed suitable for the Bugala Island context: a first effort to gain donor funding in the 1990s was eventually blocked due to environmental concerns such as, deforestation, pollution of the lake, and eutrophication due to excessive fertilizer use.

In 2002, a first phase of the project was initiated by IFAD. A Board of Trustees (BoT) was established in 2005 to facilitate the project and included representatives from the Government of Uganda, the VODP Project Management Unit, district officers, NGOs, and outgrowers. A project management unit was established by central government and acted as secretariat. A loan was provided to the Government of Uganda in order to acquire land for a nucleus estate, to be run by a Malaysian private investor, under the name of Oil Palm Uganda Limited (OPUL), a subsidiary of BIDCO which is a subsidiary company of Wilmar International – an international company based in Singapore and operating in Indonesia,

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<sup>1</sup> According to IFAD/GLTN (2013) the population was 16K in 1991, 34K in 2001 and 50K in 2011

<sup>2</sup> Consisting for about 95% of 84 islands, of which only 25 are inhabited (KDLG, 2005)

<sup>3</sup> According to the UNDP Human Development Index for Uganda, in 2000, Kalangala was ranked the 71st poorest district in Uganda, out of 76. By 2007, Kalangala had improved to 7th position.

Malaysia, China, India, Kenya, Tanzania and Europe, and holds 90 percent of OPUL's shares. The investor required 6.5K Ha of vegetable oil palm plantations on the island. This was an additional 5.5K Ha over the originally planned 1K Ha, with regards to the first ranked private sector investor bidder. The loan also facilitated the establishment and ongoing support of outgrower farms: farms run by local inhabitants, collectively totaling 3.5K Ha, to be expanded to 4,7K Ha of which 3.8K Ha were realized by May 2014. Throughout 2002, initialization and sensitization activities were undertaken. OPUL arrived in 2003, commenced preparing the lands for the nursery and nucleus estate, and raised the first seedlings. Between 2002 and 2005 extensive public hearings were undertaken: planting into the nucleus estate commenced in 2005. In 2006, in order to better operationalize actions by the BoT, and facilitate the operations of the outgrower farms, the Kalangala Oil Palm Growers Trust (KOPGT) was established. A field office manager was appointed. Initially, 98 smallholder outgrower farmers worked on a total of 150 Ha. Subsequently, the number of farmers and hectares grew. In 2009, the total number of outgrower farms was 1133 on 2K Ha or 2.6K Ha pledged.

As of May 2014, 1610 outgrowers work on 3.9k Ha of vegetable oil palm plantation, delivering 900 tons of palm oil per month, and directly employing 2000 people (35.9% women). OPUL additionally employs 1760 people on the nucleus estate, 97% local and 3% (50) of their own employees, and 500 in farmer gardens. Most of these jobs are for casual labourers, most of them not coming from Kalangala, but from the Northern and Eastern parts of Uganda. Most of them are men. Salaries have been low or below the minimum wage, but, in recent times have been raised somewhat. In total, 10.5Bn UGX in sales have been completed, 750km of road network built, a ferry service with two vessels established, and a power network created. In addition, according to KOPGT, 56 new permanent houses have been built, 70 motorcycles have been purchased by locals, a new political voice as emerged, tourism and other nonagricultural services are expanding, most farmers now hold bank accounts, and anecdotally there are more marriages, mobile telephones, and there is less pressure on the lake due to reduced fishing. However, a hospital or dedicated public medical facility is still lacking on the island, alcoholism and HIV/AIDS have been on the rise and require intervention, and environmental risks concerning the chemical fertilizer required for the palms are expected to reduce the fish stock in the medium term. A second project phase aims to create an extra 1.2K Ha of plantations on Bugala Island and extend the plantations to the neighboring Buvuma Island.

Regarding land tenure and related records, the Ugandan Land Act of 1998 recognizes four broad types of tenure: freehold, Mailo, leasehold, and customary (Jonckheere et al, 2014): public lands are by default those not clearly vested into anybody. Mailo is specific to Uganda. Mailo land tenure came into effect

during the Buganda Agreement of 1900: land was divided among the nobles (chiefs), the Protectorate (British) Government, and the Kabaka (King). This system was based on square mile sub-divisions of land with an area of 19,600 sq.miles (USAID, 2010). Mailo land can be further categorized into Private Mailo and Official Mailo types. On Bugala Island, the majority of lands are Private Mailo. Private Mailo landlords are usually absent and lease lands to tenants. Meanwhile, portions of Official Mailo were vested into the Uganda Land Commission as public land. Overall, a large portion of the Bugala Island (80%) is tenants, either as bonafide occupants or as recent settlers (IFAD/GLTN 2013). In some cases records for the leases exist. These involve letters between Kibanja/tenant and landlords, sometimes witnessed by local council chairpersons – with some rough boundary descriptions. However, it is also possible that tenants have no records.

The National Land Policy (NLP) adopted in 2013 supports a range of tenure types, and specifically seeks to support registration of customary lands, and improve the rights of women. Authoritative land records relating to the tenures are held and maintained on the mainland in the Masaka District Land Office, Ministry of Lands, around 50KM from Bugala. The district is a pilot area for land information system improvements supported by the World Bank. The work focuses on improving land record sustainability and affordability, amongst other issues. The general quality of these records could not be fully explored in this study, however, without question portions are outdated. For example, some names on the records are those whose great grandchildren now occupy the land.

During the establishment of VODP formal land acquisition procedures, including land transfers and land consolidation, were utilized in order to enable the establishment of the nucleus estate and its 99 year lease for OPUL. Surveys of outer boundaries were undertaken by the 2 district surveyors based on Kalangala and the documents were processed in the Masaka Land Office. The outgrower farms received less attention with regards to records administration: individual outgrower farms were not spatially mapped formally at this time and therefore ‘possession’ initially carried weight. More recently, the economic success of the outgrowers has seen land values increase, and landlords return: various disputes and court cases, some longstanding, have surfaced. Outgrowers and landlords alike are now interested in securing their interests and recording and mapping of farms is seen as a useful element of overall security. Some outgrowers have elected to use the services of the district land surveyors. Meanwhile, GLTN supported VODP to pilot the Social Tenure Domain Model (STDM) on two farm blocks (See: Kabuleta et al, 2015). These various recording and mapping initiatives, and their alignment with pro-poor land recording methods, form the focus for the remainder of the paper.

Regarding methodology, in May 2014 field studies were undertaken on Bugala Island and incorporated observation and semi-structured interviews with the Ugandan government, NGOs, local community groups, and individual outgrowers. The pro-poor land recording and mapping aspects of the VODP project on Bugala Island were analyzed using a framework based upon the pro-poor land recordation principles, and included: citizen and state affordability; recognition of complex layered rights; delivery of preventive justice; a sporadic vs. systematic approach; the flexible spatial index map; transparency, inclusiveness, and equitability; political-economy; co-management; mobilization; and CPR-management.

## RESULTS AND DISCUSSION

**Affordability for state and citizens:** “A pro-poor system has to be radically cheaper, in the order of \$ 1 a parcel...” and also “...enable many governments to be able to scale up their work to reach the majority of their citizens” (Zevenbergen, 2011).

During the VODP start-up phase (2002-06), the initial mapping and recording processes could be considered affordable, at least for outgrowers: there were no costs. No complete audit of existing land users or owners was undertaken. Instead, the focus was on land acquisition for the establishment of the nucleus estate and out-grower plantations. In hindsight, this is considered an oversight by IFAD, Government of Uganda, and KOPGT. Perhaps understandably, attention was on the crop: starting a nursery, ensuring seedlings were raised, and eventually getting them planted by outgrowers. Ensuring land tenure security appears to have been a secondary concern. Reasons for this are: 1) the risk of seedlings and plantations being a greater initial risk; and 2) the initial low-value of lands. Therefore, occupation was considered good enough tenure security by project stakeholders in the early stages.

At any rate, existing formal land records and land administration processes did play a key role in the initial project phase: conventional land acquisition, transfer, and consolidation processes were used. Activities focused on identifying appropriate lands, clarifying holdings, enabling transfer, and providing compensation, where appropriate. Specifically, the IFAD project funds were used to assist owners with outdated documents to get updated ones. This enabled payment of compensation and supported formalization of informal land holders (e.g. in some cases squatters who wished to become farmers were supported by the project). Again, in this regard, the procedure used can be considered highly affordable: by focusing on resolving specific land disputes, the direct costs relating to land recording were minimized. Indeed, the existing land users (i.e. the poorer squatters or leasers) did not have to pay for land

administration services as these were subsidized by the project funds. However, the approach may have more significant indirect costs in the medium to longer term: unresolved disputes are being resolved, in some cases through the formal court system.

Subsequent to 2010, as the economic success of the project became more visible, land values began increasing. On average the land value for 1 acre of land increased from UGX 80-100K in 2000 to UGX 3-4M in 2014 (Mukasa 2014). One outgrower also shared that the value for 1 acre of his land increased from 100K UGX in 2006, to 2,500K in 2014. Moreover, farmers began making steady incomes. Outgrower farmers began recognizing the need to secure their investments. Some now had the means to pay for the surveying and mapping services of the district land surveyors, however, not all farmers were in such a sound economic position, particularly those who commenced later. Moreover, a holistic community record of outgrower holdings was not available digitally. Consequently, STDM was piloted at no cost to outgrowers in two blocks on Bugala Island. These costs were offset by the VODP-PMU and KOPGT with technical support from GLTN/UN-Habitat.

**Recognition of complex layered rights:** “...use the community to describe the tenure system and the kinds of evidence of the land rights currently in use. This will encourage the introduction of new forms of legal evidence into the system, which fit more with the social tenures of local communities.” (Zevenbergen, 2011) and “The pro-poor design is certainly not a title system. Nor is it a fully-fledged deeds system. Evidence which is counter to that on the recorded land documents should still be allowed in the pro-poor system” (Zevenbergen, 2011).

The historic layering of rights on Bugala Island undoubtedly creates a complex tenure context: Official Mailo (lately known as public lands) and Private Mailo co-exist with informal tenancy agreements, squatter arrangements, licences, smaller interests over specific resources (e.g. fisheries, wood for charcoal), and customary uses. Private Mailo is the most dominant form of tenure (~85%), however, most landlords are absent and tenancy arrangements exist. At one institutional level or another, be it local or state, all these were recognized prior to VODP. The introduction of the vegetable palm oil plantations added further layers of interests in some areas, and assisted in regularizing or assimilating others. In general, VODP sought to respect all formal and informal interests; however, the recognition process has been gradual: a concise knowledge of the complex tenure situation could not easily be obtained upfront.

*Official Mailo* (or public lands) account for roughly 15% of the island area. These lands were used for the establishment of the VODP nucleus estate. In the early 2000s, the high level Land Acquisition Taskforce



was set up to work with the Ugandan Land Commission with the aim of setting aside the required developable land. Consequently, all existing state lands were identified, surveyed (including a 200m buffer for land management reasons), and offered to the project by the District Land Board. A local official suggested 70% of these lands were grasslands, the remainder being de-gazetted public secondary forest (IFAD, 2011). In total the Kalangala District Local Government offered 3K Ha of land in 2000 and another 2K Ha in 2001 to the National Land Commission. However, the amount of state land available was insufficient for the required VODP plantations. It should be noted that areas occupied by people were demarcated off the land based on surveying, i.e. villages such as Nakitaba and Kananansi respectively Kasekulo, Kaseny, Buyindi, and Buswa.

*Private Mailo* lands were focused upon to make up the remaining required lands for development. This was done on a voluntary or 'willing buyer, willing seller' basis. A mixed response resulted: some sold, some did not, and others did not possess necessary documents (i.e. they were outdated or no longer existed). In the later cases, the parties were assisted by KOPGT and the District Land Office to get authentic documents. The formal procedures required for land acquisition were followed: public advertisement, government valuation, price negotiation, and document processing. A further 364Ha was added in 1.5 years using this procedure: still insufficient for the project.

*Customary or traditional land uses*, exist overlaid upon Mailo land tenures. These might be communal grazing areas or cultural areas of significance used for Buganda Kingdom rituals. These are administered by the Buganda Land Board on behalf of the Kingdom. The areas are highly respected as sacred. Such land use arrangements were identified through the VODP land acquisition processes. For example, specific rocks and trees were identified locally as holding spirits or gods: they could not be moved or disturbed during plantation development. KOPGT took measures to respect the beliefs and areas in question. Gaining this understanding required significant time investment on the part of KOPGT.

*A leasehold arrangement* between OPUL and the Government of Uganda was agreed upon once the minimum land area had been acquired through the VODP project. OPUL leased 6.5 Ha of land from the government for more than 89 years, at the cost of UGX 10K/year, approximately \$4/year. This low lease rate is related to the high investment for the establishment of the project by the investor and the expected jobs, revenue and the 10% share of KOPGT in the company. The investors were given an initial tax holiday, fixed at five years by the Uganda Investment Authority, because of the costs of starting up production, but today, the company is the third highest corporate tax payer in Uganda (Santiago, 2013).

*Outgrowers* are under a myriad tenure arrangements. Most are tenants or squatters on Private Mailo land or Official Mailo land. Prior to VODP, the formal tenure security of these land users was limited; however, this was not considered a major issue: the low values of lands and annual returns on the planted crops (e.g. banana plants and coffee beans) meant there was little urgency from tenants and landlords for more formal arrangements. The perennial nature of vegetable oil palms changed perceptions about tenure security: 1) landlords were uncomfortable with the idea of a 24-year crop harvesting cycle and longer-term leases; and 2) most outgrowers became interested in purchasing the lands they farmed from landlords, particularly as the value of land rose. For this reason, certificates of occupancy were intended to provide some security for outgrower farmers where tenure issues had not been resolved. However, this program was ultimately considered a failure: the certificates did not carry authority as they were overruled by formal land documentation. Meanwhile, within VODP, there are no formalized fast-track processes for facilitating transfers between existing landlords and outgrowers, handling disputes, or providing compensation: the issues are dealt with on an ad-hoc basis. KOPGT usually facilitates for fairness, equity, and involvement of all concerned parties, however, there are no guidelines. In cases where squatters were found to be living on public lands, public meetings were called and encroachments were highlighted: squatters were variously invited to become outgrower farmers. It is worth noting that in all cases, KOPGT claims the planted vegetable oil palm trees as collateral: outgrowers take out loans from KOPGT in order to facilitate farm start-up. Loan appraisal is undertaken at the local village/council level at a 2% decimal rate.

*The interests of extended family members, women, and orphans* (often children of HIV sufferers) represent another often less recognized layer, at both local and national levels, despite the 2013 National Land Policy. The different layers of tenure can be used to exploit these interests. For example, a significant portion of farmers are infected with HIV and members of the outgrower community regularly succumb to AIDS. Wills are not commonplace and females might not be listed on titles: widows and orphans (or other extended family members) can then be disposed as they have no legal rights, or subject to customary practices which tend to favor male possession. The NGO KaOrphan assists in claiming the rights and entitlements for family members in these cases, however, most NGO paralegal work focuses on violence. KOPGT also plays a role in supporting these interests, albeit in an ad-hoc fashion. For example, in one case a widow was threatened with being ‘thrown off her land’ following the death of her husband due to an existing outstanding loan: KOPGT played a mediation role and eventually assisted in paying the widow’s outstanding loan amount. The ad-hoc approach requires KOPGT staff to be embedded into the

local community, for both reasons of trust and fair application of funds – although, a ‘secret’ dedicated land fund was also established to support these ad hoc solutions.

*The fishing communities* represent another unique layer of land interests. The fisherfolk tend to cluster dwellings around landing sites located variously around the island. Whilst they are long standing, they are usually squatter settlements on either Official or Private Mailo land. During the VODP land acquisition processes, these rights were not adequately dealt with. For example, some of the nucleus estate lease takes in one of these communities. For now, OPUL is happy to let the community exist, provided it does not expand further. However, this stance could potentially change throughout the 99-year lease. Meanwhile, in a more positive sign, parts of the fishing settlements have been moved, modified or upgraded. For example, settlement sites have been moved for safety and environmental reasons (e.g. decreased silting and soil erosion), boat numbers decreased, a modern processing site added, and solar power installed.

*Environmental rights* represent another less recognized layer. Whilst environmental impact studies were necessarily undertaken, the longer-term impact of intensive fertilizer application and the plants are yet to be seen (although, according to OPUL palms are natively African and not considered ‘grass’). Additionally, the District Land Office suggested forest reserves were degazetted to enable the outgrower farms to be established. OPUL suggests no forest reserves were touched in the formation of their nucleus estate. Meanwhile, the policy of the Government of Uganda is that no more than one third of the island should be palm plantation and at least one third of the island should remain forest reserve.

**Delivery of Preventive Justice:** “A pro-poor land recordation system could have a major impact on both existing conflicts and in the prevention of new conflicts.” (Zevenbergen, 2011)

VODP had economic and social development motivations: preventive justice was not a stated goal. This explains, and justifies, the initial focus between 2002-06 on sporadic land acquisition activities, using formal systems, rather than a systematic adjudication of all Bugala Island. However, even the land acquisition activities brought long standing land issues to the surface. These included various incongruences between Mailo lands, customary land uses, and squatters.

From around 2005, the certificate of occupancy program was one instrument of VODP that appears to have had preventive justice in mind. However, as discussed the certificates held little authority, did not curtail subsequent land disputes, and in many cases were not implemented. Some of the land disputes were considered significant enough by parties to use the formal court systems (e.g. competing claims).

However, KOPGT's preferred method is to use ADR approaches such as facilitation or mediation, backed by pragmatism, fairness, and equity. For example, in one particular case, an outgrower was unhappy with the ground rent that the landlords now wish to charge, due to the increasing land values. KOPGT illustrated the benefits of the outgrower meeting the landlord halfway: the proposed rent increase was steep, however, the overall profits would remain high and no costly court cases would be necessary.

Following 2010, after the first outgrowers began producing harvests and profits, newer cases emerged: absentee landlords returned looking for remuneration. Here, the benefits of undertaking an initial land rights adjudication exercise become clearer: landlord opportunism might have been curtailed when risks were more unknown and potential profits unclear.

As of 2014, resolving land tenure issues is recognized as a key ingredient for ensuring the VODP has longer term sustainability. Subsequent phases on both Bugala Island and neighboring Buvema Island will ideally resolve land issues prior to any planting. Additionally, there are moves to formalize the alternative dispute resolution processes successfully used by KOPGT staff in 'Land Clinics' – although, how and where these would be established, and how binding outcomes would be, remains unclear.

**Sporadic or Systematic Approach:** "...it will not be possible to cover the whole country in a few years and areas of high priority will have to be chosen for a more systematic approach" (Zevenbergen, 2011)

The 2002-06 phase of VDOP used a sporadic approach to land adjudication, with a specific focus on enabling land acquisition. The formal land administration procedures were utilized. No systematic adjudication of the island was undertaken. Whilst this saved costs upfront, it is likely to have resulted in land related disputes later in the project. A low-cost, rapidly applied, pro-poor adjudication procedure may have been of use in this regard.

From 2006 onwards, evidence of a more systematic approach to land recording is evident, although, not linked with formal land administration procedures. These activities coincided with the commencement of planting of outgrower farms: basic surveys of plot areas were completed by teams at the block level motivated by KOPGT staff. Meanwhile, a more sporadic approach was used for dealing with land conflicts, and consequently updating official land records. The lack of tailor-made land procedures relating to the project again meant that formal land administration processes, including court procedures were required to resolve disputes.

In 2013, a pilot of STDM, facilitated by UN-Habitat and GLTN, was undertaken on two blocks on the island (See Kabuleta et al, 2015). The pilot was intended as the first stage of a more systemic mapping and recordation program for the island. A participatory approach was utilized: outgrowers walked boundaries with support staff. The results were stored in the geodatabase, part of STDM. Interviewed outgrowers were positive towards to mapping procedure, although, it is perhaps too early to rate the value and validity of the records produced. Moreover, outgrowers themselves do not yet have access to the records.

**Flexible Spatial Index Map:** “It may not be possible to have any form of spatial index at the beginning, because of cost and technical complexity.” (Zevenebergen, 2011)

The importance or need of a spatial index map was either not recognized by major project stakeholders, or was a secondary consideration at best, during the VODP start-up phase (2002-06). No authoritative map of outgrower plantations was generated. However, the District Officers keep maps of the islands and the spatial dimensions. These were produced or updated during the land acquisition phases. Initial pacing and making was undertaken as early as 1991, whilst surveying commenced in the early 2000s. Meanwhile, area calculations were made for specific outgrower farms by VODP staff and basic survey teams from each block during the early phases. These measurements enabled basic land size calculations in order to determine seedling numbers.

Subsequent to the start-up phase, OPUL maintained its own spatial records of its estate, however, mainly for asset management purposes – rather than tenure security: GNSS receivers, of unknown grade, are used. Meanwhile, some outgrowers began paying for the services of the district land officers once they were returning profits and the value of their plantations were increasing. One outgrower expressed concerns with using district surveyors (who make use of total stations): they are paid by the area, rather than time spent, or a fixed fee. Therefore, there exists an incentive to record larger parcels than actually exist. In the specific case, the district surveyor recorded 10 Ha for one plantation, whereas the later GPS survey (part of the STDM pilot – see below) recorded 6 Ha. This is a significant discrepancy and cannot be explained by the inaccuracies in the low-grade GPS alone. The difference in area has implications for the outgrowers as it determines how much credit they can access, but, also how much they pay in costs of fertilizer, for example (it should be noted that each palm requires a 9m<sup>2</sup> buffer). At any rate, another plot was actually measured less in area by the STDM survey (10.5Ha), as against the District Surveyor Survey (8.5Ha).

More recently (post-2010), the utility of an index map has been recognized by both KOPGT and outgrowers: both land administration and land management activities could be supported. The index map would act as a community resource in the form of evidence and verification for dispute resolution, negotiation of payment amounts between tenants and landlords, ensuring the amount of credit can be access (i.e. neither too high nor low), and control of land use.

For this reason a pilot of the freely available STDM software was undertaken in late 2013 (see above) – with the intention to extending the survey across all outgrower holdings if the method proved successful. A general boundary approach was used with trees and roads being used as delineators. The data was then loaded onto a computer. Two units (or 5.7% of the outgrower farms) were mapped and recorded over a short period. One case showed that a survey of a 40 Ha parcel could be completed within 1 day: this compared favorably with the 2 to 3 days that district surveyors took to complete the same job. Where discrepancies in areas between the new and old records were found, outgrowers were able to recalibrate their loan amounts with KOPGT.

Plans are now underway to survey all outgrower farms using the method. In addition, the follow-up project on Buvema Island plans to undertake the STDM mapping upon start-up. However, details regarding adjudication procedures, demarcation methods, surveying, recording, dissemination, and access are yet to be determined – and will need to be. Of immediate focus is the desire for a parcel numbering system and demarcation method: interest was expressed in sourcing and using stones, however, the practicality and longevity of the approach needs careful thought. The KOPGT Offices in Kalangala would appear the ideal setting for hosting the records: it has prominence within the community, carries authority, and outgrowers already interact with the simple collection and pricing chalkboards displayed on a regular basis. The IT facilities within the office are being upgraded to include computers. Indeed, the land record information collected during STDM trials will be kept on site – and apparently made available. Thus far, farmers are yet to receive a tangible hardcopy (or softcopy) of the data they collected. Ideally, farmers could receive a laminated copy of the imagery of their plot, the boundaries, accompanied with their own photo: outputs from the mapping exercise would then be more tangible.

**Transparent, inclusive and equitable:** “...the land recordation system should be closer to the ground to improve record correctness, also to ensure ease of access and improve land management, land tax and planning” (Zevenbergen, 2011)

The land administration activities required during VODP start-up period (2002-06) utilized the existing formal system. In this regard, they were as transparent, inclusive, and equitable as the Land Act 1998 demanded. As already stated these formal records and their processing take place on the mainland, in Masaka – not immediately close to the community. However, the community sensitization activities and public meetings illustrate attempts at transparency and inclusiveness during this period.

Meanwhile, the more informal approach taken by KOPGT, post-2006, in resolving land disputes is underpinned by the notions of equity and fairness, for outgrowers, landlords, and the state alike. KOPGT and its records are located within the community: for outgrowers it acts as a de facto land administration office, or land clinic, amongst other things. The land records it holds (e.g. STDM data, collection schedule, numbers of trees per farmer, areas) are not official in the sense of the formal land administration system, however, they are likely to be more up-to-date and reflect the true situation on-ground. The use of SMS, mobile telephony, and regular interactions between KOPGT staff and outgrowers act to improve levels of transparency and inclusiveness. The importance of senior members of staff at both KOPGT and the District Offices cannot be understated in this regard: it is most likely through their personalities, decision making approaches, and management methods that the principles mentioned are mostly adhered.

The central role of KOPGT and its staff play in delivering transparency, inclusiveness, and equity is both a strength and weakness. The outgrower community, whilst exhibiting increasing economic status and knowledge about vegetable oil farming, is still extremely dependent on KOPGT and MAAIF staff. Efforts are undertaken to increase outgrower capacity with regards to financial planning and enterprise mixes (i.e. being less reliant on one crop), however, there have been numerous early cases of economic mismanagement by specific outgrowers. Fast tracking collective community ownership of the palm industry, and ensuring the benefits of VODP are maintained once KOPGT and MAAIF begin to play a lesser role, as the project demands, remains an ongoing challenge.

**Political Economy Analysis:** VODP had primarily an economic objective, hence it did not carry out a full political economy analysis at the beginning of the project. It focused mainly on economic analysis, rather than institutional, political and social analysis. The latter were partly covered by the project risk management analysis. However, the risk management analysis merely recognized the importance and the need to address land tenure issues (and other issues, such as environmental sustainability). These land tenure issues were not incorporated in the initial project design, but rather dealt with as external risks and generally formulated mitigation measures were used to ensure project performance. During the later stages of the project the need for incorporation of land tenure issues in the project design seems to have

become more apparent to the VODP project management. The initial composition of the VODP project team also did not reflect the relevant disciplines for carrying out a full political economy analysis. Therefore, there was only limited anticipation of risks and opportunities and identification of incentives - beyond technical solutions - to deal with these in advance and during the proposed intervention. A full political economy analysis in the beginning of the project could have indicated the need for the STDM intervention on land tenure issues at an earlier stage. In addition, it could have informed the need for a twin-track strategy of local level individual/collective cooperating agreements between landlords and tenants (see also under 'mobilization' below) and national level change in terms of land policy. Finally, it could have also addressed the issue of land acquisition for the nucleus plant and thereby could have avoided the linkage to the heated debate over land-grabbing with international NGOs such as Friends of the Earth.

**Mobilization:** Mobilization of the community especially aimed at stimulating participation and involving the local community in farming, rather than informing it (Picenza 2012). The introduction of an activity that requires the allocation of all the former public land that was available, and which dramatically impacts on the island's landscape should have also necessitated the acquisition of a free prior and informed consent from all locals: VODP impacted the entire population, not just farmers and plantation workers (Picenza 2012). Instead, the mobilization process by KOPGT immediately focused on acquiring the 6.5K Ha of land for the nucleus plant and the mobilization of smallholder farmers to grow the 3.5K Ha on a commercial basis, which are both discussed below.

The mobilization process aimed at acquiring 6.5K Ha for a nucleus estate. As already discussed the majority of this land was acquired from Official Mailo lands offered by the Kalangala District Local Government. The remaining shortfall of 3,300 Ha were to be acquired through a process of buying land from willing sellers/vendors. The identification of owners of land/occupants who were willing to sell the land to the project was a complex, lengthy and time-consuming and cumbersome process that took place from 2005/2006 to 2008/9, with land transactions and court cases.

The process of buying land from willing sellers/vendors consisted of calling a meeting of all landlords with large chunks of land to sensitize them about non-performing assets and land use; and then allowing willing parties to come in office with their papers. This posed challenges as many landlords were without papers, they were lost, or the land was still in the names of their grandfathers. A range of measures including consultations with local council, searches at the land office, inspections by government valuers, and other forms of negotiations were used as work around.



Another mobilization process was that involving motivation of farmers to grow the 3.5K Ha, which was later expanded to 4.7K Ha due to demand of farmers. This mobilization process involved: 1) Inviting all leaders (LCIII, LCII, all LCI, Church Leaders, Opinion Leaders) to the sub-counties and providing sensitization to oil-palm; 2) In a participatory way, dividing sub-counties into blocks and units. Leaders were selected for each of the 14 blocks to carry out the mobilization of farmers. Leaders for the units were also selected; 3) The mobilizers were given forms to register who ever wanted to grow oil palm. The forms had the name of the farmer, land tenure, gender, area of land, and area pledged for oil palm growing; 4) After receiving these forms, the Agricultural Field Staff together with block leaders would move with a team of surveyors to make location maps for each piece of land. Each block had a survey team. The purposes of surveying were to: 1) Establish the size of the land, as many people did not know the measurements of an acre/hectare; and 2) Plan how many seedlings each farmer would require. The project predominantly looked at the mobilization process of farmers from the perspective of realizing the targeted 3,500 Ha for production. It faced major challenges in realizing the speed and accommodating the absorption capacity of seedlings produced by OPUL, due to the fact that the landlords did not want tenants to grow oil palm on their pieces of land.

Evidence of pro-poor mobilization approaches from VODP for dealing with these tenure complexities included: 1) creating a brokering arrangement, facilitated by KOPGT, whereby tenants and landlords were being brought together for negotiations; 2) establishing the Land Fund of UGX 30 mln, through which loans were provided to some tenants to purchase land from the landlord; 3) creating a cooperation agreement between landlord and tenant on user rights of land for growing oil palm and the sharing of proceeds that accrued after sales; 4) outright allocation of land to poor farmers. As an example of the final point, in Mugoye sub-county, 10 acres of land were allocated to 8 poor women, some of them being widows, and 3 women planted oilpalm: the rest are being assisted by KOPGT to develop their land. Meanwhile, in Bumangi village, on 54 acres of land on Block 49, farmers were mobilized, trained and empowered. They formed a Parish Land Allocation Committee. The farmers allocated land amongst themselves in a participatory manner. The VODP project facilitated a survey team to work with them.

Another mobilization aspect relates to the settlement scheme by Kalangala District. During the first design of the project, there was a settlement component. Under this component, 2 small villages were intended to be developed, comprising of 500 outgrowers and their families who would be selected from landless, young farmers. These would be given a settling allowance and houses of uniform acceptable standards, and facilitated to grow 2 Ha of oil palm. Around the years of 2000, 2001, 2002, all people had

been sensitized: demand among the community was growing. The District Agricultural Officer looked for land and requested for it from the District Land Board in 2009, from the outlying island, a scheme was developed to settle the landless poor people. They applied for leases and these were given. Surveyors were deployed to conduct farm planning services; each individual was allocated 2.8 Ha. A total of 167 farmers benefited from the scheme of which 36% are women. The project plans to construct roads for them after which they will plant palms. A ferry has been promised by the project to connect those islands, so as to transport fresh fruit bunches to the factory on Bugala Island.

**Co-management and co-governance:** VODP is organized as a Public-Private-Producer-Partnership (PPPP) between the Government of Uganda, OPUL and KOPGT (Marini & Baasalidde 2013): 1) Government avails the land, financing of infrastructure, and the legal framework (via the IFAD loan, agronomy advice, governance, and finance are funded); 2) KOPGT supports the outgrower activities, manages the loan process (originally managed by District Officers), takes 10% shareholding, assists in establishing KOPGA, and holds trees as collateral; 3) OPUL runs the nucleus estate, provides seeds, seedlings, access to markets, the mill, fertilizer, local training (Marini and Basaalidde, 2013).

VODP has elements of co-management, generally speaking. However, it is not clear whether this co-management translates to land records. The key reason for this is that land records were not a central concern at the commencement of the project, both for outgrowers and KOPGT/IFAD/MAAIF. The Ministry of Lands was only directly involved in the Land Acquisition Task Force for the identification and acquisition of land for the nucleus plant. Co-management between outgrowers and KOPGT especially took place with respect to project implementation at the level of blocks and units. In 2006 and 2007 outgrowers were organized into blocks and units (several villages make a parish; blocks are 1 or 2 villages make a unit of between 50 and 100 units). This structure was especially established to help KOPGT engage with the farmers. Each block/unit has a KOPGT field officer for technical support and reporting. In 2008/2009 the Kalangala Oil Palm Growers Association (KOPGA) was established for purposes of voicing of farmers through the facilitation of KOPGT. Each oil palm grower automatically becomes a member of KOPGA. All blocks and units are represented in the KOPGA.

Co-governance of VODP currently remains limited to indirect representation of KOPGA through KOPGT. KOPGT has the dominate role: the outgrower community is heavily reliant on their knowledge and expertise regarding land issues and other issues. In addition, KOPGT often operates as a 'shock absorber' between OPUL and the outgrowers. In addition, KOPGT has only 3 of the 8 seats in the board. Therefore, the outgrowers cannot be considered equal managers in VODP, which has severe risks and

limitations for institutional sustainability in terms of capacity building and influence of outgrowers. They are being weaned off the financial support by increasing fees relating to transport cost recovery and contribution for roads. The same will need to apply to land records. Other relevant stakeholders with regards to the project are the Farmers Credit Society, the District Land Offices, and the NGOs.

**Common Pool Resources (CPR) Management** with respect to the collective and available land records is at an early stage: the basic surveying teams employed at block level during planting and the more recent STDM mapping activity provides promising examples. However, unlike information relating to harvest times and prices displayed on blackboards in the KOPGT offices, the results of the mapping activities were not immediately available in KOPGT or the Kalangala District Offices. In addition, those outgrowers interviewed who had participated in the STDM trials did not possess records or outputs. Regarding CPR management more generally, the CPR principle of secondary user rights of plots was included in the VODP project through the profit sharing agreements between individual landlords and tenants (see also under ‘mobilization’).

## CONCLUSIONS

Overall, the paper makes several key conclusions and recommendations. The initial stages of VODP cannot be said to be fully imbued with GLTN’s initial pro-poor land recordation approach. The primary focus was on facilitating a land-use change: land-tenure changes were an important, but, secondary concern. Focus was placed on acquiring lands for the nucleus estate, and ‘getting plants into the ground’ for both the private investor and the outgrowers. The positive side-effects were quick plantation establishment, quicker financial returns, a positive perception towards the project at multiple levels, and increased land values. Whilst the lack of records and documents, official or otherwise, potentially made outgrowers vulnerable to returning landlords, in the several cases studied (although, certainly not all), they now possessed the resources to pay for the services of a surveyor. In this vein, it could be argued the approach was successful: ultimately the vegetable oil crop brings the development, not land records per se.

However, an earlier pro-poor approach to land recordation might have brought more medium to long-term stability. The initial successes resulted in latent land disputes surfacing. No streamlined land dispute resolution processes, or ‘land clinics’ were in place to deal with them. Consequently, numerous cases have been drawn out, creating community friction. Taking the land recordation issue up in the earlier

stages of a project, and making use of CPR principles, might have contributed to more collective negotiations, identification of mutual incentives, and the recognition of the wider range of development interests embedded in various strands of the community, not only those relating to the project, but, also whole island, including environmental sustainability. Indeed, increased collective engagement of the community in earlier project stages might have enabled community co-governance, a step beyond co-management. Earlier collective involvement of community groups might also have reduced the adverse side effects of short term financial gains, such as the excessive buying of 'boda boda' and alcohol consumption. Having said this, the importance of the tripartite agreement between Ugandan government, OPUL/BIDCO and KOPGT, under which KOPGT works closely with and represent the farmers, cannot be underestimated: the multi-skilled network of KOPGT project staff provide advice and assistance on a range of issues, not the least being those relating to land.

Finally, given subsequent VODP phases intend to commence with land interest recording and mapping activities, the benefits of incorporating the activities appears recognized as outweighing any costs. Meanwhile, later stages of the project have seen a pro-poor approach to land records adopted. The STDM based approach appears affordable, transparent, inclusive, equitable, and allows for both systematic and sporadic application. However, whether it enabled capture of the complexity of existing layered rights, would have delivered preventive justice if undertaken earlier, and will be co-managed using CPR principles is less certain.

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