



The application of the social tenure domain model (STDM) to family land in Trinidad and Tobago

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ABSTRACT

Family land is a form of communal tenure found in some of the countries of the English-speaking Caribbean inclusive of Trinidad and Tobago. It has been problematic to administer, is sometimes the source of land conflict and litigation, it has been seen as the cause of many land-related problems such as land degradation and fragmentation, and has therefore been targeted for eradication by land title registration programmes. Informal occupation of many years standing on state and private land is also widespread in Trinidad and Tobago. Recording the existence of these extant extralegal but legitimate rights would go a long way to improving the land administration and the security of tenure on these lands.

The Land Administration Domain Model (LADM) is a logical and structured standard format for describing the land–human relationship, using an ontology that would allow for sharing of understanding, data and, eventually, software among jurisdictions. This standard is being developed, but has not as yet been finalised, by a technical committee of the ISO (The International Organization for Standardization). The Social Tenure Domain Model (STDM) is a refinement of the LADM, also being developed by ISO, related to describing more nuanced tenure and land administration components and arrangements that do not fit into the more general descriptions within the LADM, such as customary tenure and informal settlements.

This paper charts a preliminary investigation into the applicability of the STDM descriptions to the particular land tenure situations of Trinidad and Tobago and to other countries in the Caribbean in which family land and other informal tenure forms are found. Describing these rights using the standard would then allow for the communication and understanding of the tenure situation and should support the eventual recordation of these rights.

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Introduction

Family land tenure derives from a cultural response to a shared history of colonisation and slavery in much of the Caribbean (Clarke, 1953; Smith, 1956; Besson, 1979; Griffith-Charles, 2006). It is defined to be a system wherein communal rights to land are derived from descent from a common antecedent. The origin of the tenure rights may be from initial purchase and subsequent unregistered inheritance or from original settlement. Rules of governance and membership may be unclear to or unacknowledged by the state and may also differ from family group to family group and from country to country within the Caribbean. This paper describes the extant tenure and registration situation in Trinidad and Tobago. It then examines the particular tenure situations that can be adequately accommodated by the Social Tenure Domain Model (STDM)

version of the Land Administration Domain Model (LADM), which is a standard being developed by a technical committee of the ISO (The International Organization for Standardization), and describes the particular components of the model that are applicable and what requires adaptation to the Trinidad and Tobago situation. It then concludes on whether the standard, when finalised, may be adopted in Trinidad and Tobago. As far as possible the current situation is described without proposing improvements or changes to the tenure structure that may not be implemented or necessary.

Background

Trinidad and Tobago is a small twin island state in the southern Caribbean of slightly over 5100 km² in area and roughly 1.3 million in population making it a relatively densely populated country and thus increasing the necessity for a structured approach to land administration and management. More than 50% of the land is owned and managed by the state and this includes not only reserves and lands vested in state agencies but also lands

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leased to private individuals and groups for residential, agricultural, commercial, industrial and other uses. While there is a nominally comprehensive cadastral index, and a land registry supported by land registration legislation, it is posited that 30% of parcels are unsurveyed and unregistered and some 47% of parcel occupants remain without adequate documentary security of tenure because of informal occupancy on state and private land or occupation of family land (Stanfield and Singer, 1993). Much of Tobago is said to be under family land ownership. The country has been proposing to perform a systematic titling programme for more than ten years and legal, institutional and technical infrastructure has been instituted to address this even though implementation has met with continuous delay. If systematic registration is performed, it may not be possible or advisable to individualise family land. When St. Lucia underwent systematic titling in the 1980s, with the intention, *inter-alia*, of individualising family land, the issue of family land proved to be insurmountable and other mechanisms were used to allow registration to continue (Stanfield, 1988). If Registration is not performed, some form of documentation of what exists is required to support security of tenure. There have been instances where land has been conveyed informally by family members or others without the knowledge of the family. Land in Tobago has become attractive as an investment especially to tourists and the escalating increase in value has proven to be an incentive to unscrupulous persons, even family members to fraudulently sell land to which they do not have rights. Residents on and owners of family land continue to demand some resolution to this issue of securing their rights.

The Registrar General's Department maintains both deed and title data in Trinidad and Tobago while the Surveys and Mapping Division maintains data on the spatial extent of parcels. There is no obvious link between the data held in both institutions for parcels held under the deed system while for parcels held under the title system, which number only some 15% of registered parcels, there is a reference number, noted on the survey plan that indicates where the original registration certificate is held in the registry. Since the title system is Torrens based there is no general map held by the land registry. For the deeds system, a survey plan is not legally required for a transaction to be registered but even when a survey plan is attached, the registration of the transaction is referenced sequentially and not by parcel.

The land registration system can therefore be categorised as a centralised, primarily negative, state-supported, juridical and separated system based on fixed boundary surveys and sporadic adjudication, in the terminology collated by Bogaerts and Zevenbergen, 2001. Acknowledgement by the state of the differing tenure types and recordation of the rights held would help to provide security of tenure to the landholders in Trinidad and Tobago.

The STDM

The STDM is an application of the more generic LADM which is a structured and standardised method of describing the land tenure relationships between land and humans. The STDM is a more flexible way of representing the actual tenure arrangements where the structured and individualised LADM is too general to describe the nuances of many existing informal and non-standard tenure relationships. The justification for modelling is twofold as stated by Lemmen and van Oosterom (2003); to provide a systematic way of describing the land–human tenure relationships and, if the model is actualised in software development, to allow interactions between different land registration systems (Lemmen and van Oosterom, 2003; van Oosterom and Lemmen, 2006). For the

Trinidad and Tobago context, attempting to portray the tenure in a model using the defined terminology would compel the examination of what exists to achieve a better understanding of the extant relationships, and, also, the structure would allow the possibility of interactions between the data from areas that would fit into the more generic core cadastral model and the data from family land and other informal areas that would not. Comprehensive and complete data would support land administration and land policy decision making.

Researchers are currently applying the LADM and STDM models to particular jurisdictions such as Indonesia, Tanzania and Portugal to test its applicability in specific cases (Ary Sucaya, 2009; Mithofer, 2006; Hespanha et al., 2006). Each country or jurisdiction has to develop the application of the generic model to the particular situation as legislation and practice may restrict or expand the possible instances, attributes, authorising documents and other variables in the model. Testing will allow the model to be improved to accommodate alternative situations and will also assist individual countries. The standard utilises UML terminology and graphics to diagram the land administration relationships between human and land.

Specific areas for attention

Augustinus et al. (2006) look at specific problems related to Africa that the STDM is required to address and question whether the standard is flexible enough to accommodate the issues of land rights relevant to the poor in that environment. Some of the issues highlighted there may not arise in the particular case of Trinidad and Tobago because of the differing contexts. The specific issues that may be impacted by the use of STDM model in Trinidad and Tobago need to be identified and examined to determine the advisability of using the descriptions in the standard.

Coverage

Trinidad and Tobago has an established cadastre, illustrated by an index, comprising of an estimated 300,000 parcels which, because of the gaps, errors and lack of currency of the data, defies, in many instances, conclusive determination of legal status. The different types of tenure regimes, however, must be incorporated or linked into a comprehensive whole and this is one of the issues that the STDM must address. In Trinidad and Tobago individualised tenure held under either title or deed registration coexist with informal occupation of many years standing on state and private land and with family land ownership. There is, therefore, a continuum of tenure regimes from the state guaranteed registered title through the uncertain evidence of deed registration to the unrecognised legitimacy of family land and lastly to the uncertainty of informal occupation of varied duration. The different datasets in the information system would therefore need to be seamlessly merged into one spatial dataset especially since each tenure type is not physically grouped into a distinct area. This would effect comprehensive coverage of the country in the recordation or registration of tenure.

Land right

The nature of the land right on family land must also be able to be captured in the descriptions of the standard in an explicit fashion where these rules may never have been documented before. The rights governing use, restrictions on usage and responsibilities of the occupants in the family land scenario must be able to be described and the differences between different groups and their governance rules stated.

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