THE ROLE OF LAND RECORDS IN THE PROTECTION OF CITIZENS' RIGHTS AND ENTITLEMENTS: A STUDY OF MINISTRY OF LANDS, BUNGOMA COUNTY, KENYA

BY

JUMA, ALPHONCE

A Thesis Submitted in Partial Fulfillment of the Requirements for the degree of Master of Philosophy in Information Sciences (Records & Archives Management)

MOI UNIVERSITY
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NOVEMBER, 2013

DECLARATION

Declaration by the Candidate

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JUMA ALPHONCE ………………………………… Date: …………………………………..

IS/MPHIL/023/09

Declaration by Supervisors

This thesis has been submitted for examination with our approval as University Supervisors.

PROF. HENRY KEMONI ………………………………. Date: ………………………….

Department of Library and Information Studies
The Kenya Polytechnic University College – Nairobi, Kenya

PROF. JAPHET OTIKE ………………………………… Date: ………………………….

Department of Library, Records Management and Information Studies
School of Information Sciences
Moi University- Eldoret, Kenya

DEDICATION

To my mother - Fridah Nasike and my spouse – Doris Vosenge.

ABSTRACT

Land records are integral to human rights and entitlements as access to land records ensures economic protection by providing access to livelihoods. The right to access land records forms the basis for other numerous rights and entitlements. The study investigated the role of land records in the protection of citizens' rights and entitlements in the Ministry of Lands in Bungoma County with a view to coming up with a best-practice framework to integrate management of land records in the protection of citizens' rights and entitlements. The specific objectives of the study were to: carry out a Business Process Analysis (BPA) of the lands office to determine the functions performed and types of records generated; determine how the land records are managed; determine how the existing records management practices in the lands office affect citizens' rights and entitlements; investigate the potential applications of Information Communications Technologies in the management of land records for enhanced protection of citizens' rights and entitlements; determine the challenges faced in the management of land records and; propose a best-practice framework for the management of land records for the protection of citizens' rights and entitlements. The study was informed by the Control, Access, Disposal, Storage and Sustain (CADSS) model. The study research design was qualitative design and study population consisted of 32 respondents. Data was collected through the use of structured face-to-face interviews and observation methods and analyzed according to relevant themes. The findings revealed that there existed an obvious correlation between the functions, transactions and the land records generated in the Ministry of Lands, land records are integral to human rights and entitlements, the existing records management practices though support the protection of citizens' rights and entitlements, but not satisfactorily, ICTs can be applied in the management of land records to enhance the protection of citizens' rights and entitlements. Among the challenges that hamper effective management of land records included incompetency of records staff, lack of organizational plans as well as lack of basic records management policies and tools. The study recommended the need for the Principal Secretary and the Cabinet Secretary in-charge of Ministry of Lands, Housing and Urban Development to embark on a resource mobilization campaign to support the development of a Records Management Policy, modernization of the Ministry of Lands, Bungoma County, adequate funding for management of land records, outreach programme and automation of the Lands Office. Best-practice framework for the management of land records and protection of citizens' rights and entitlements is proposed and areas for further research suggested.

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ACKNOWLEDGEMENT

Great thanks go to the Almighty God for the gift of life and whom all things are possible. Further, my heartfelt gratitude goes to Professor Henry Kemoni and Professor Japhet Otike under whose supervision this whole project was delivered. Their dedicated and selfless encouragement and advice gave me immense inspiration. Allow me to say thank you Sirs.

I also register my appreciation to the Bungoma District Lands Valuation/Administration Officer – Madam Bridget Changilwa for her facilitation and coordination role which enabled me to obtain the data required, without forgetting the rest of the staff in the Ministry of Lands, Bungoma County, and the DOs who supported me during my data collection as well as all those respondents who participated in this study. May God bless you all.

CHAPTER ONE

INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 INTRODUCTION

This chapter provides the background to the study, the statement of the problem, aim and objectives, research questions, assumptions, scope and limitations of the study.

Land is critical to economic, social and cultural development of Kenya. It is crucial to the attainment of economic growth, poverty reduction and gender equity. Its importance has been clearly recognized by various Government initiatives including the Poverty Reduction Strategy Programme, Economic Recovery Strategy for Wealth and Employment Creation Programme 2003 – 2007 and Kenya Vision 2030.

On the same span, land is a resource of controversy that has caused animosity and bloodshed in many countries including Kenya. This is because land in Kenya is not just essential for agricultural production but it is a symbol of wealth. Lack of access to land is a major determinant of poverty, as many people depend on agriculture for their livelihoods and growing inequality in land ownership as well as small landholdings contributes to high levels of poverty.

Ownership and/or use of land in Kenya is based on the following principles: equitable access to land; security of land rights; sustainable and productive management of land resources; transparent and cost effective administration of land; sound conservation and protection of ecologically sensitive areas; elimination of gender discrimination in law,

customs and practices related to land and property in land; and; encouragement of communities to settle land disputes through recognized local community initiatives consistent with the law.

However, according to Southall (2005) the Ndung'u report of 2004 revealed illicit land practices which have caused a substantial proportion of the Kenyan population to face the problem of scarcity of land and has no access to land to undertake useful economic activities. The existing land problems are a direct result of failed land management system and more particularly, the inability of the land rights delivery system to achieve equitable and fair distribution of the limited land resources.

Important issues relating to land ownership and use have been inadequately addressed in law, policies and procedures. These include land administration, access to land, land use planning, restitution of historical injustices, the institutional framework, land information management systems, environmental concerns, conflict resolution, public land allocations and the informal sector. The resolution of land administration and management problems is vital for minimizing conflicts and tensions between and among various communities and for contributing to national unity and diversity.

Recognizing the serious problems facing land administration and management; and the contribution that effective land administration can make to economic development, it is imperative that land administration and land rights delivery processes have to be understood because nearly half of the main causes of poverty in Kenya have direct

linkage with land issues. The rising levels of poverty have been attributed to lack of capacity to gain access to clearly defined, enforceable and transferable property rights. This basic understanding would then recognize how management of documentation arising from land transactions in the form of land records is likely to enhance or undermine citizens' rights and entitlements.

Land administration is the process of registration and dissemination of information in relation to land transactions. African Woman and Child Features Service (AWC) (2013) opines that a good land administration system provides land title guarantee and land tenure security and supports land transactions. On the other hand, land rights delivery is a process which entails the mobilization of institutional mechanisms and personnel for ascertainment of rights, registration, planning, demarcation and/or survey.

Registration and titling of land rights are needed because only formal or documented rights are assumed to be secure enough to enable the citizens' access land and undertake agricultural development and other economic activities.

1.2 BACKGROUND INFORMATION OF BUNGOMA COUNTY

A new structure is being worked out to fit in the new two-level devolution of governance – the national government and the county government. The eight provinces - Central, Coast, Eastern, Nairobi, North Eastern, Nyanza, Rift Valley and Western have been replaced by the 47 Kenya counties that will be second level of governance after the national government (Commission on Revenue Allocation, 2011).

The study is spatially based in the former Bungoma district, Bungoma County. The larger Bungoma was recently divided into four districts namely: Bungoma West, Bungoma North, Bungoma East and Bungoma South districts. The larger Bungoma district together with Mt. Elgon district form Bungoma County. The Bungoma County is in the Western Part of Kenya. The county borders the Busia, Kakamega and Trans Nzoia counties and the Republic of Uganda at the Northwestern point town of Lwakhakha.
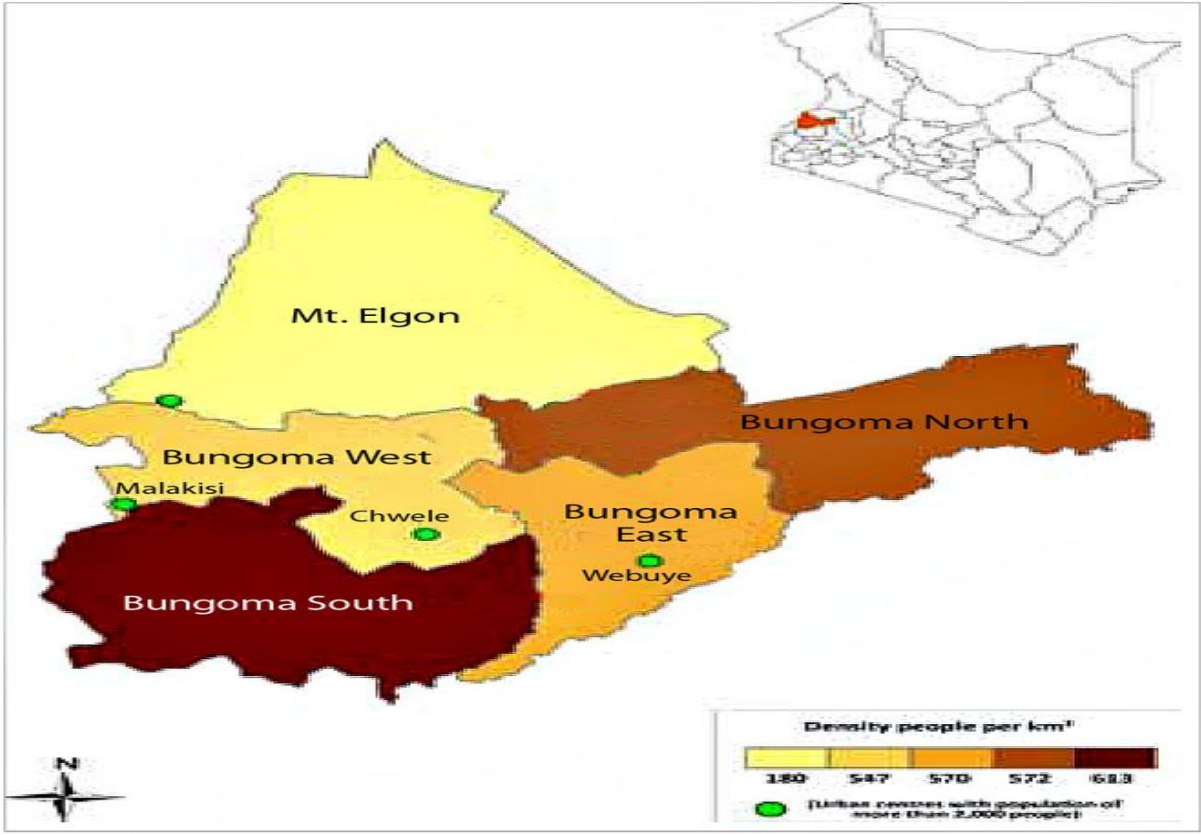
Figure 1: Map of Bungoma County

Map of Bungoma County (Source: Kenya County Fact sheets, 2011).

The Former Bungoma district is divided into ten (10) administrative divisions namely: Kanduyi, Webuye, Sirisia, Bumula, Nalondo, Kimilili, Tongaren, Chwele, Malakisi and Ndivisi. The district is further sub-divided into 44 locations with 114 sub-locations as shown in table 1 below. This arrangement solely aims at improving service delivery and bringing the government closer to the people in line with the District Focus for Rural Development Strategy (Ministry of Planning and National Development, 2010). Table 1 below indicates the administrative units of Bungoma District.

Table 1: Administrative units of Bungoma District by divisions

	Division	No. of Locations	No. of Sub-locations
1.	Kanduyi	5	14
2.	Sirisia	2	5
3.	Kimilili	4	8
4.	Tongaren	6	12
5.	Webuye	4	13
6.	Bumula	10	24
7.	Nalondo	4	7
8.	Chwele	2	6
9.	Malakisi	3	9
10.	Ndivisi	4	16
		44	**114**

Source: Bungoma District Development Plan, 2002-2008.

Most of the land in the district is under smallholder and medium farms. Leasehold land occupies the least percentage (Ministry of Planning and National Development, 2001). The soils of the district show considerable variation in fertility and drainage properties. Soils of moderate to high fertility are confined largely to the northern part of the district. These soils are well drained, deep to very deep and vary from dark red nitosols and ferrasols to dark brown acrisols. In the eastern and southern parts of the district, the soils

are well drained, moderately deep to very deep. The soils here are reddish brown to yellowish brown. The good soils coupled with gently sloping terrain in most parts of the area, make the district one of the most arable in the country. The district has high agricultural potential. Most farmers in the district practice mixed farming. Various crops are grown in the district. These include food, oil, cash and horticultural crops.

According to the Ministry of Finance and Planning (2008) in the Bungoma District Development Plan 2002 – 2008, the causes of poverty in Bungoma District are many and vary from HIV/AIDS prevalence, unemployment destitute, squatter/landlessness, to illiteracy. The major causes of poverty have been identified among others as lack of community involvement in planning, handouts, poor infrastructure, collapse of agricultural marketing institutions, high cost of farm inputs, and lack of access to production assets – land included, delay in payments for sugarcane deliveries by Nzoia Sugar Company, inhibitive cultural practices, corruption, crime and insecurity.

1.3 MINISTRY OF LANDS, BUNGOMA COUNTY

The decentralized offices of the Ministry of Lands are only found in districts. The Ministry of Lands, Bungoma County is headquartered in Bungoma town with branch land offices at some divisions having District Land Tribunal & Control Boards authorized to deal with land matters. The Ministry of Lands, Bungoma comprises of four departments: namely; the Lands Department, Survey Department, Physical Planning Department and the District Adjudication and Settlement Department. Some of the functions undertaken include policy formulation for management and administration of

land, allocation of Government and Trust land for various purposes, approval for extensions of lease, change of user and sub-division schemes, valuation of land for various purposes, among others.

The Ministry's mandate is to; formulate and implement land policy, undertake physical planning, register land transactions, undertake land surveys and mapping, land adjudication and settlement, land valuation and administration of state and trust land. The Ministry upholds the following core values in undertaking its mandate: commitment and team spirit; customer responsiveness; integrity - honesty, accountability and transparency; patriotism; proactiveness and innovativeness; professionalism; promotion and protection of public interest, particularly vulnerable groups and impartiality and fairness.

The Ministry envisions excellence in Land Management for Sustainable Development of Kenya. Its mission is to facilitate improvement of livelihood of Kenyans through efficient administration, equitable access, secure tenure and sustainable management of the land resource.

Besides serving Bungoma County, the Ministry of Lands, Bungoma County also serves Busia and Teso districts of Busia County. The Ministry of Lands, also collaborates with the Office of the President (District Commissioner) in the County on land matters. The Office of the President is charged with the responsibility of coordinating the Land Control Board and Land Disputes Tribunal. The Office of the President also officiates

over consents to transfer or any transactions on freehold properties. The minutes and prescribed forms (consent form) originate from the Office of the President and then forwarded to the Physical Planning department of the Ministry of Lands.

The Physical Planning upon receiving the minutes and consent forms, issues a conveyance certificate which is forwarded to the Survey Department. The Survey Department then produces mutation forms containing sketch plan and indicating new numbers. The mutation form is sent to the District Land Registrar. The Land Registrar in turn produces a green card for every land owner. The owner takes an official search in the office, and takes the search results to the Lands Control Board. At the board, the owner gets consent for transfer.

The consent form, transfer of land form and application for consent of Land Control Board containing attestation from the advocate are presented to the Valuation Section in the Lands Department. The Valuation Section forwards the documents to the District Land Registrar, who then presents them back to the owner to make the payment. After payment, the documents are returned to the Land Registrar. The title deed is processed and given to the owner. All these documents are filed and managed in the district land registry for future reference.

1.4 STATEMENT OF THE PROBLEM

The mission of the Ministry of lands is to facilitate improvement of livelihood of Kenyans through efficient administration, equitable access, secure tenure and sustainable

management of the land resource. In achieving this mission, the Ministry provides various services which include the Physical Planning Services, Surveying and Mapping Services, Land Administration and Management Services and Land Adjudication and Settlement Services. At the heart of the provision of these services, vital documents are produced in form of records. Since these records form the basis on which decisions are taken, it is essential that they should be maintained in the lands registry for future reference.

There is no debate that land administration and land rights delivery in Kenya has not met the expectations of the ordinary Kenyan. Reports from the various government commissions, regional workshops that were held in all the provinces of Kenya, and consultative group meetings pointed out that on a general scale there has been a systematic breakdown in the management and land administration and land delivery procedures throughout Kenya. Following a preliminary survey done in September 2010 at the Ministry of Lands in Bungoma County, the researcher established that there exists inadequacy in the existing records management practices due to poor organization of the land registry, particularly retrieval of necessary information which is an important component in supporting land transactions. The inadequacies have resulted into unwarranted delays in service delivery. This has made the ordinary Kenyans unable to access the relevant information necessary in land transactions and hence undermining the protection of citizens' rights and entitlements.

Moreover, the storage facilities such as cupboards and shelving racks required for the maintenance of land records were inadequate as land records were exposed to environmental factors that cause deterioration.

The situation was further compounded by uncoordinated recordkeeping practices; heaps of unmanaged records on the floor; poorly functioning indexing and filing systems and completely manual operations. This situation was impacting negatively on not only the delivery of services but more importantly on the protection of citizens' rights and entitlements.

The problem of weak records management at the Ministry of Lands, Bungoma County therefore, presented a potential research area that needed intensive and extensive investigations. It was from this background that the researcher embarked on this study to investigate the role of land records in the protection of citizens' rights and entitlements in the Ministry of Lands, Bungoma County.

1.5 AIM AND OBJECTIVES OF THE STUDY

1.5.1 Aim of the Study

The aim of the study was to investigate the role of land records in the protection of citizens' rights and entitlements in the Ministry of Lands, Bungoma County with a view to coming up with a best-practice framework to integrating management of land records in the protection of citizens' rights and entitlements.

1.5.2 Objectives of the Study

The specific objectives of the study were to:

1. Carry out a Business Process Analysis (BPA) of the land office to determine the functions performed and types of records generated.

2. Determine how the land records are managed in relation to protection of citizens' rights and entitlements.

3. Determine how the existing records management practices in the Ministry of Lands affected citizens' rights and entitlements.

4. Investigate the potential application of Information Communications Technologies in the management of land records for enhanced protection of citizens' rights and entitlements.

5. Investigate the challenges faced in the management of land records.

6. Propose a best-practice framework for the management of land records to enhance the protection of citizens' rights and entitlements.

1.6 RESEARCH QUESTIONS

The researcher sought to answer the following questions:

1. What functions are performed in the Ministry of Lands and the land records generated from the functions?

2. What role do the land records play in the protection of citizens' rights and entitlements?

3. To what extent does the current state of management of land records practices enhance or undermine the protection of citizens' rights and entitlements?

4. How can Information Communications Technologies (ICTs) be applied in management of land records to enhance protection of citizens' rights and entitlements?

5. What challenges are encountered in the management of land records in the protection of citizens' rights and entitlements?

6. How can the management of land records practices be improved to protect rights and entitlements?

1.7 ASSUMPTIONS OF THE STUDY

This study was conducted with the following assumptions in mind:

- There was poor management of the land records generated at the Ministry of Lands in Bungoma County hence undermining the protection of citizens' rights and entitlements.

- The lands registry had not adopted Information Communications Technologies (ICTs) in the management of land records for enhanced protection of citizens' rights and entitlements.

- The registry staff were inadequately trained in the management of land records, hence impacting negatively in the protection of citizens' rights and entitlements.

1.8 SIGNIFICANCE OF THE STUDY

The researcher was not aware of any similar studies done in the county and in the country at large. Therefore, the most significant part of this study was the methodology used and

the survey results. The output of this study was essential for future researchers in this area.

The recommendations of this study if implemented were likely to lead to the improvement of records management practices. This study therefore, gives insights to the land officials, records managers and policy-makers on how land records can well be managed for enhanced protection of citizens' rights and entitlements.

Among the outputs of this study is a best-practice framework for the management of land records. This study therefore is of significance to the policy-makers, land officials and records managers for it provides a best-practice framework for proper management of land records for the protection of citizens' rights and entitlements.

1.9 SCOPE AND LIMITATIONS OF THE STUDY

1.9.1 Scope of the Study

The study is confined to the management of land records in the Ministry of Lands, Bungoma County. It is however, limited to the former Bungoma District Lands Office. It does not consider land offices in Mt. Elgon and the newest districts born from the larger Bungoma District. This is because (1). The land records are still centrally kept and maintained at the former Bungoma District headquarters and (2). The political volatility in Mt. Elgon District poses insecurity to the researcher.

1.9.2 Limitations of the Study

The inability of some respondents to converse in English posed a language barrier during interviews. The researcher endeavoured to use alternative languages, either Kiswahili or vernacular, to simplify the issues that could not be comprehended by users.

Another pitfall was unwillingness of the identified respondents to be interviewed due to time constraints or due to suspicion that the researcher is a government agent who could cause them victimized by their superiors in government. This compelled the researcher to identify other respondents as replacements and re-scheduling the interviews causing delay in data collection process.

1.10 SUMMARY

This chapter has provided the background and introductory information to the study. The chapter has laid a foundation for the study and provided a broad guideline that sets a philosophical and methodological framework within which the study is based. It has also provided information that sets the pace for the study and served as the basis for subsequent chapters in the study.

1.11 DEFINITION OF TERMS

The following key terms have been used in this work:

Business Process Analysis – Process of systematically and objectively gathering information about business systems and subjecting that information to formal analysis (Roper & Millar, 1999).

Framework – A set of assumptions, concepts, values, and practices that constitutes a way of viewing reality (Houghton Mifflin Company, 2000).

Human rights - Interests, claims, freedoms and entitlements protected by law (Fortman, 2009).

Human entitlements- Rights granted by law or contract especially a right to benefits (Princeton University, 2010).

Information Communications Technologies (ICTs) - Technologies dedicated to information processing, information storage, retrieval and communication irrespective of whether the information is in the form of numerical data, text, sound, images or others (The International Bank for Reconstruction and Development/The World Bank, 2004).

Land Registry - is the organization responsible for registering, storing and changing information about land ownership (Embertons Solicitors, 2006).

Record - A document regardless of form or medium created, received, maintained and used by an organization (public or private) or an individual in pursuance of legal

obligations or in the transaction of business, of which it forms a part or provides evidence (Roper & Millar, 1999).

Records Management –The field of management responsible for the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including processes for capturing and maintaining evidence of and information about business activities and transactions in the form of records (ISO 15489-1 (2001).

Land record - A document stored in a public file that contains the definitive statement of some characteristic of a piece of land that is a matter of public interest (University of Minnesota, 2011)

1.12 ACRONYMS

AWC - African Woman and Child

BPA – Business Process Analysis

CDF – Constituency Development Fund

DIRKS - Design and Implementation of Record Keeping Systems

ICTs – Information Communication Technologies

IRIN - Integrated Regional Information Networks

IRMT – International Records Management Trust

VERS - Victorian Electronic Records Strategy

UCC - University College Cork

CHAPTER TWO

LITERATURE REVIEW

2.1 INTRODUCTION

This chapter discusses literature related to the area of study. The chapter is organized in two sections – theoretical framework and related literature. The literature review themes include: Business Process Analysis (BPA) and Records; Records Management; management of land records and protection of citizens' rights and entitlements; Information Communications Technologies (ICTs) and the management of land records; and; review of empirical studies on management of land records.

According to the Central Queensland University Library (2000), a literature review is an evaluative report of information found in the literature related to a selected area of study. The benefits of conducting a literature review in any study were highlighted by various scholars. Kemoni (2008) points out that a literature review assists in the achievement of a critical analysis of the existing literature in the proposed research area, in clarifying and framing research questions. The review should describe, summarize, evaluate and clarify this literature. It should give a theoretical base for the research and help the author determine the nature of the research.

Literature review enables the researcher to determine what has been done that is related to the present study and the kind of additional data needed so as to avoid unnecessary duplication. It helps the researcher to re-define the research topic; sharpens and deepens theoretical foundation of the research and helps the researcher to identify any findings

from other studies that can be validated by his/her study and wide reading demanded by the process of reviewing the literature increases the researcher's confidence in conducting the study by giving him/her a firm grip and clear understanding of the major issues and development in the area of study (Kasomo, 2006, Kombo, 2006 and Mugenda, 2008).

2.2 RECORDS

Kemoni, Ngulube and Stilwell (2007) state that the term 'record' is defined in various ways. Some of the definitions take into account the value for which a record was created, while other definitions consider the media in which records were created, for example, paper or electronic medium.

According to the Roper and Millar (1999) the word 'record' has a legal origin, as noted by the author Ole Kolsrud, who wrote that 'in medieval Latin *recordum* meant the testimony of a witness, and thus a record came to mean a text of evidential weight'. Records by their very nature provide proof of the activities of organizations or persons within a society. Thus records serve as evidence of the rights and obligations of individuals, organizations and governments. Association of Records Managers and Administrators (ARMA) (2009) states that records are the evidence of what the organization does. They capture its business activities and transactions, such as contract negotiations, business correspondence, personnel files, and financial statements, just to name a few.

The term 'records' includes all the documents that institutions or individuals create or receive in the course of administrative and executive transactions. The records themselves form a part of or provide evidence of such transactions. As evidence, they are subsequently maintained by or on behalf of those responsible for the transactions, who keep the records for their own future use or for the use of their successors or others with a legitimate interest in the records. Although records may ultimately have significant research value, they are not created in the interests of or for the information of archivists or future researchers (Roper and Millar, 1999)

Williams (2006) submits that in the United Kingdom, records include archives. The record is a document drawn up or used in the course of an administrative or executive transaction of which itself formed a part; and subsequently preserved in their own custody by the successors. Further, records serve as evidence or proof of decisions and actions taken by individuals, organizations and governments. Therefore, records can be thought of as vital 'glue' that holds society together. Without recordkeeping, civil societies would not exist.

In the United States of America, a record refers to all books, papers, maps made or received by any institution in pursuance of its legal obligations or in the transaction of its proper business and preserved by that institution or its legitimate successor as evidence of its functions, policies, decisions, procedures, operations or other activities or because of the informational value of the data contained therein. Whereas, in Australia, records refer to recorded information, in any form including data in computer systems, created or

received and maintained by an organization or person in the transaction of business or the conduct of affairs and kept as evidence of such activity (AS 4390:1996).

Internationally, the record is defined as information created, received and maintained as evidence and information by an organization or person, in pursuance of legal obligations or in the transaction of business (ISO 15489:2001).

From all the above definitions, it is clearly evident that what really distinguishes a record from any other kind of information is that it is produced as a result of a unique activity or transaction and can therefore provide evidence of that activity or transaction.

2.2.1 Characteristics of Records

A record has key features that make it unique and therefore different from any other document. As Schellenberg (1988) puts it, records are sources of or a primary material rather than secondary in character. Further, the author explains that this difference accounts for the physical variations between the two classes of material. What distinguishes records from other information entities is summed up in the term 'recordness'- an elusive quality usually represented by the six characteristics described below. Recordness requires that records are (Williams, 2006):

- **Complete**

A record is considered complete when it is a finished, bounded entity comprising structure, content and context and when it has the following elements: date (time and

place of creation, transmission and/or receipt); originating address, an author/compiler, an addressee/recipient, title or subject accompanying its content/message.

- **Static or 'Fixed'**

In order to provide evidence, the record must be fixed and must not be susceptible to change. If a record is changed or manipulated in some way, it no longer provides evidence of the transaction it originally documented

- **Organic**

Records are the natural output of work processed; therefore records are only meaningful as a sequence of transactions. Each record is related to or is a consequence of some preceding document, with the matters documented by the former further explained or dealt with in the latter.

- **Contextual**

Records derive their meaning, and therefore their usefulness or value, from their context. Because they are created, organized and used in the conduct of normal business by a particular entity, they reflect the purposes and the activities of that entity over time. For this reason, records are managed not as individual items, but in aggregates known as series, which are organic 'flows' of material created and structured by the normal course of work activity.

- **Authoritative/'Official'**

Records created as documentation to support ongoing work or business activity have a status as 'official' evidence of those decisions and actions undertaken. That is, they embody the full and unchallengeable authority of the author - be it an individual or an organization and its officers.

- **Unique**

Unlike books, journals and other published material, records appropriately maintained in context are always one-of-a-kind. That is, any record or group of records with its sequences and interrelationships is unique, despite the fact that there may be duplicate copies of some or even all individual records held elsewhere.

In the traditional paper world, according to Cox (1994) the concepts of record and recordness have often been taken for granted or assumed to be self-evident: "A large portion of the archival and records management literature has seemed to suggest that the authors and readers know a record when they see one."

Records are categorized as public records or private records. Private records refer to records created, received and maintained by non-governmental organizations, families or individuals relating to their private and public affairs (Roper & Millar, 1999). Public sector records are those records created or received and maintained in any public authority - central government, local government and government agencies (Schellenberg, 1988, Roper & Millar, 1999). Examples of such records include:

announcements, applications, appointments, authorizations, charters, circulars, commissions, decrees, directives, passports, deeds, and so on.

2.2.2 Land Records

Each time a land transaction occurs, (e.g., ownership transfer, mortgage registration, subdivision, Crown land grant, and so on.) various land records are created. The lands registry is responsible for maintaining the integrity and security of these records, and ensuring that clients have reliable access to them. According to the Land Title and Survey Authority of British Columbia (2010), land records can be divided into several general categories:

- **Historic Records**

These are land title and survey records of enduring value for legal, survey, research and conveyancing purposes, and which includes any of the following types of records.

- **Land Titles**

These are records of property ownership and various interests that affect ownership. Titles prove the ownership of land and the rights and restrictions that apply to the land.

- **Land Title Documents or instruments**

These are legal instruments deposited with the Ministry of Lands that create and affect ownership of interests in land. An instrument is a legal document such as a transfer of ownership, a mortgage or an easement. For example, a transfer of ownership instrument

lists the: seller's name, buyer's name, dates, and so forth. The most common types of instruments are (Land Information New Zealand (LINZ) (2010): transfer, mortgage, discharge mortgage, easement, covenant, lease, restriction, caveat and transmission.

- **Survey Plans**

These are plans showing the legal boundaries of Crown and Private land parcels and interests.

- **Field Books**

These are historic books containing survey field measurements, notes and other observations. Surveyors use field books to record measurements obtained in the field. Field books show the bearings and distances between each survey mark involved in a survey.

- **Crown Grants**

Documents verifying the terms and conditions of a transfer of a Crown land parcel to private ownership.

- **Index Books**

Various books/ledgers containing references and notations about parcels, ownership, companies, documents, plans and other records, and that function primarily as 'finding aides' to enable the retrieval of land title documents and survey plans.

- **Deeds**

These are the original main records of property ownership. Deeds are instruments in solemn form which require the author's signature and either notarization or a number of attesting witnesses. Deeds are also referred to as agreements under seal, contracts by deed, or specialties. Deeds can be described as contract-like as they require the mutual agreement of more than one person. Deeds can therefore be distinguished from covenants, which, being also under seal, are unilateral promises.

2.2.3 Uses of Records

Records, in whichever form, and the information they contain, are a valuable asset that provide the essential evidence governments and organizations need to function and be accountable to their citizens and stakeholders, hence must be managed and protected (Association of Commonwealth Archivists and Records Managers-ACARM, 2007). They are a key tool in developing and implementing policy in a transparent way, fighting corruption, and protecting citizens' rights (including human and property rights). Furthermore, to preserve records is cost-efficient: in fact, records cut down duplication of efforts, provide examples from the past, document, preserve and disseminate knowledge. All too often the management of records is overlooked, and short-term and inefficient solutions are implemented. These lead to loss of evidence, which threatens rights, makes audit difficult and allows corruption to occur. All too often the information the records contained has to be re-created at great expense (The World Bank Group, 2010).

Records provide the essential evidence that a particular action or transaction took place or that a particular decision was made. Records management is an established theory and methodology for ensuring the systematic management of all records and the information they contain throughout their lifecycle (RIMA Foundation, 2010).

According to the International Records Management Trust and World Bank (2000) records have various uses: relevant and accurate public records are essential to preserving the rule of law and demonstrating fair, equal, and consistent treatment of citizens. Without access to records, the public does not have the evidence needed to hold officials accountable or to insist on the prosecution of corruption and fraud.

Public servants require information to carry out their work, and records represent a particular and crucial source of information. Records provide a reliable, legally verifiable source of evidence of decisions and actions. They document compliance or non-compliance with laws, rules, and procedures.

Records are used to protect rights of citizens and to improve citizen-government interaction; are the instruments by which governments can promote a climate of trust and demonstrate an overall commitment to good government; are a foundation for accountability; are the basis for defining and nurturing identity and building knowledge-based societies; among others (International Records Management Trust and World Bank, 2000).

Within governments, records are created and used on a daily basis to document actions, confirm decisions, identify rights and responsibilities, and communicate information. Without records, governments and businesses simply could not operate. Governments use records for such wide-ranging purposes as (International Records Management Trust and World Bank, 2000): documenting the work of employees; confirming pensions, leave, and health benefits; confirming or reviewing policies and procedures; confirming citizens' rights, such as benefits, or land ownership; and; providing information about past actions or decisions.

With regard to land issues, many different parties require access to lands records for the purposes of conveyancing, legal research, environmental research and historical research. The records users include (Land Title and Survey Authority of British Columbia, 2010):

- Primary: lawyers, notaries public, land surveyors, title search/registry agents, government agencies and taxation authorities (provincial, municipal), and Crown corporations.

- Secondary: real estate agents, land appraisers, researchers, genealogists, historians, writers, natural resource companies, property owners and others.

The effectiveness and efficiency of the public service across the range of government functions depends upon the availability of and access to information held in records. The International Records Management Trust and World Bank (2000) identify various types of public records and illustrate the relationship between key governance objectives and

the records required to support them: legislative records, court records, police records and prisons records support the rule of law.

Governments are being asked to be transparent, open, and engaged with their citizens. At the same time citizens are becoming more concerned about their roles in the governance of the country. They want to be able to trust in their government, and they expect it to function in a manner that engenders this sense of trust. Records, and the evidence they contain, are the instruments by which governments can promote a climate of trust and demonstrate an overall commitment to good government. Similarly, accountability is critical to a responsible government. The foundation for accountability is well-managed records. When managed in a way that ensures integrity and authenticity through time, records allow employees to account to their managers. They permit managers to account to the heads of government institutions and they help the heads to account to elected officials and others who represent the interests of society. Accountability depends on accounting records, procurement records, tax records, customs records, electoral registers, policy files and case files

Good recordkeeping is essential to clear and accountable financial management. Without accurate records of actual expenditures, the process of preparing budgets can become almost meaningless. Poor recordkeeping affects the entire accounting function, with the result that reporting and auditing may become virtually impossible. Fraud becomes difficult to detect. Debt management also suffers because records of borrowing may be held by different government offices or may be incomplete. Virtually all approaches to

improved financial management rely upon more efficient use of information, but these approaches cannot succeed if financial records are badly managed. To ensure proper management of state resources, government relies on budget papers, policy files, accounting records, personnel records, payroll records, procurement records, fixed assets registers and property registers (International Records Management Trust and World Bank, 2000).

People take better care of land and are more productive when they know they can prove their title or claim to the land and can buy, sell, or lease land with assurance that their rights to do so will be respected. All such rights, claims, titles, and so on are managed through records. Consequently, good recordkeeping is essential for good transparent management that in turn leads to security, better land management, and better economic development. The rights and entitlements of citizens are based on records, and the ability of a government to continue to respect these rights and entitlements is based on the quality of the policies, standards, and practices employed for the care of those records. Protection of entitlements is achievable through pension records, social security records, land registration records and birth and/or death records (International Records Management Trust and World Bank, 2000).

2.3 CITIZENS' RIGHTS AND ENTITLEMENTS

The Concise Oxford Dictionary defines a right as including "a thing one may legally or morally claim; the state of being entitled to a privilege or immunity or authority to act. According to University of Liverpool (2008) rights are God-given. Rights are inherent to

all human beings, whatever their nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. They are all equally entitled to their rights without discrimination hence these rights are often referred to as 'human rights'. These rights are all interrelated, interdependent and indivisible (The Office of the High Commissioner for Human Rights – OHCHR, 2010).

Article 17 of the Universal Declaration of Human Rights recognizes the rights of everyone to own property either alone or in association with others, and that no one should be arbitrarily deprived of their property. In addition, the right to an adequate standard of living and security (Article 25) entails a universal right to adequate shelter.

Now, therefore the General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in

certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

According to the Kenya's constitution, citizens' rights are recognized and protected under the Bill of Rights. The constitution specifies that every person has the right, either individually or in association with others, to acquire and own property including any vested or contingent right to, or interest in or arising from land, or permanent fixtures on, or improvements to, land; goods or personal property; intellectual property; or money.

Other people can take them away, and may also defend them for you, but they cannot give them to you. Rights include the freedom to do as one pleases (within certain limitations) and the opportunity to excel, achieve, and succeed. They also consist of the freedom from being harmed by or unduly burdened or inconvenienced by the government and others, as well as the privilege to serve or give in any way that one chooses (University of Liverpool, 2008).

Entitlements and Rights are two different things. According to University of Liverpool (2008) rights or individual rights are addressed in the Bill of Rights in a nation's constitution (for example, the right to life, liberty, and the pursuit of happiness). Princeton University (2010) defines entitlement as that right granted by law or contract especially a right to benefits. Entitlements are established by governments via elected representatives or direct votes by the people. They include money, material items,

services, and various forms of aid and assistance. Entitlements can be initiated or revoked at any time. Entitlements can be fully or partially earned.

2.4 BUSINESS PROCESS ANALYSIS (BPA) AND RECORDS

A business process is a sequence of steps performed for a given purpose. According to United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) (2010), a business process is considered as a chain of logically connected activities to move goods and related information across borders from buyer to seller and to provide related services. Business processes are valuable organizational assets. They enable the creation and delivery of business values as defined by organizational goals. Business processes are often driven by information.

Business Process Analysis (BPA) also referred to as Business Systems Analysis (BSA) is the analytical framework that involves analyzing organizations as systems or the process of systematically and objectively gathering information about business systems and subjecting that information to formal analysis. This includes identifying broad organizational goals and supporting business areas and processes, and business process definition and decomposition (Roper & Millar, 1999).

According to Roper and Millar (1999) a powerful way to understand records, and therefore to manage them effectively, is to analyze them in relation to organizational systems, in relation to the context of their creation. BSA offers a tool for this analysis of records. BPA is a systems-approach that brings a deeper understanding of the processes

and ultimately gain a much deeper understanding of records as opposed to seeing records simply as discrete physical objects.

BPA is a tool that records and archives managers can use to map the relationship between an organization's mission, administrative structure, functions, processes and transactions and the records generated over time. With this understanding and knowledge, records managers are better positioned to improve the state of records in their care, improving access and also making their own work easier. Ultimately, good record keeping will contribute to strengthening the organization and, in the public sector, achieving the goals of efficiency, accountability and good governance.

Roper and Millar (1999) assert that BPA helps records managers and archivists to gain a deeper understanding of records in relation to organizational transactions, processes and sub-systems or functions. The kind of understanding derived from a BPA exercise supports the effective management of organizational records and thereby achieve records and archives management objectives by building record-keeping requirements into organizational processes. This then enables the records professionals to:

- Understand the kind of information required to operate and control organizational processes to ensure that written communications, such as correspondence, reports and forms, are limited to only those absolutely necessary to these processes and to the most appropriate format.

- Understand the kind of information required to operate and control organizational processes to develop procedures manuals.

- Analyze the link between records and organizational processes and the functions that these processes have been designed to achieve to provide information that can be used to design better record-keeping systems.

- Analyze the link between records and organizational structures and processes for the production of freedom of information legislation directories.

- Understand the interrelationships between functions, processes and structures to understand better the factors influencing retention of records and make appraisal easier.

- Understand the link between organizational records and the organization's mission to identify vital records, which are critical to the organization's operations.

- Understand records as inputs and outputs of organizational functions, processes and activities to see where information technology may be usefully applied to improve workflow and the quality of information.

- Strengthen the records and archives management professional's ability to communicate with information management and technology colleagues and articulate record-keeping requirements in information systems in a way that information technology professionals can act upon in designing workflow and electronic document management systems.

- Understand old records-creation systems and thereby contribute to the proper appraisal, arrangement and description of the archives created using those systems.

- Understand the organization and to gain much needed advocates among programme managers and executives outside of the records and archives management arena.

2.5 RECORDS MANAGEMENT AND PROTECTION OF CITIZENS' RIGHTS AND ENTITLEMENTS

As is the case of records, there is no universally accepted definition of the term "records management". However, International Records Management Trust and World Bank (2000) state that records management is the task of ensuring that recorded information, paper and electronic, is managed economically and efficiently. Records management controls the creation, maintenance, use, and disposal of records so that the right records are provided to the right person at the right time. Roper and Millar (1999) further defines records management as that area of general administrative management concerned with achieving economy and efficiency in the creation, maintenance, use and disposal of the records of an organization throughout their entire life cycle and in making the information they contain available in support of the business of that organization.

ISO 15489-1 (2001) defines records management as the field of management responsible for the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including processes for capturing and maintaining evidence of and information about business activities and transactions in the form of records.

According to ISO 15489-1(2001), records management in organization constitutes the following: setting records management policies and standards; assigning responsibilities; providing a range of services relating to management and use of records; designing, implementing and administering specialized systems for managing records; and; integrating records management into business systems and processes.

When a records management system works well, the information contained in records can be readily retrieved, facilitating administration. As well, it is easier to manage the disposal of unneeded records and the retention of valuable information. Space, facilities and resources can be used efficiently and economically. Finally, because they are accessible and identifiable, records retain their value and utility both to government and to society as a whole (Roper & Millar, 1999).

Government of South Australia (2005) notes that there are a multitude of benefits that can be expected from agencies and authorities achieving adequate records management such as: ability to mitigate the considerable risks associated with inadequate records management practice, specifically, accountability, transparency, sound corporate governance, and public sector efficiency; compliance with statutory requirements; ability to provide enterprise-wide access to documents, records and information resources contained within multiple databases; ability to manage electronic documents and records as inviolate and credible evidence; knowledge of fundamental records management practices and how they relate to Freedom of Information and Information Privacy principles and increased productivity and individual accountability.

Records and archives are vital sources of information which enable public officers to render efficient and effective services to the public, and governments use records for wide-ranging purposes including confirming the work of employees, pensions, leave and health benefits and formulating and reviewing policies and procedures, proving citizens' rights such as land ownership and providing information about past actions or decisions, and enhancing transparency and accountability (Kemoni, Ngulube & Stilwell, 2007; Ndenje-Sichalwe, 2009).

To exploit records and archives as tools for enhancing good governance and human rights in the society, there is need for close collaboration between records managers and archivists, to establish good recordkeeping systems (Kemoni, Ngulube and Stilwell, 2007). This concurs with the objectives of the continuum model which seeks to achieve efficiency and effectiveness in service delivery to the users.

The importance of records to the public is also emphasized by Cox and Wallace (2002). Open access to government records is the hallmark of a democratic government, and such openness is crucial to the notion of accountability. Mutula and Wamukoya (2009) opine that sound management of information contained in records and other information systems in the public sector is the end product of democratic governance. For effective access to government held information, Freedom of Information (FOI) legislations impose significant duties and responsibilities on public authorities to give access to information.

FOI legislation is premised on the principle that effective records management enables authorities to enforce wider government agenda to increase openness, transparency, trust and accountability in the public sector. Effective access, management and exploitation of official information are the means by which governments can demonstrate accountability and transparency in the use of public resources, expose corruption and fraud, protect citizens' rights, as well as improve overall service delivery to citizens.

According to the World Bank (2010), the key to effective and sustainable development and poverty alleviation lies in expanding the traditional theories of development economics. Development can be seen as the process of expanding the real freedoms that people enjoy. These freedoms are both the primary end and the principal means of development. To make development work, a consolidated package of specific requirements that includes honest governments, open legislative and transparent regulatory system, properly trained and remunerated officials, and a vigorous commitment by leaders to fight corruption at all levels are needed. Other requirements include an effective and impartial legal and justice system, with protection of and positive support for rights and freedoms of various kinds, a well-organized and supervised financial system, effective social safety nets and essential social programs (The World Bank, 2010).

In view of that, the World Bank developed a Comprehensive Development Framework (CDF), a paradigm for cooperative development aid planned and organized by the client countries in consultation with development partners. The Four Pillars of the

Comprehensive Development Framework are: good governance; equitable judicial system; accountable financial system, and

enforceable civil rights.

All of the elements for effective development depend upon an effective records management infrastructure. Without a records management infrastructure, governments and organizations are incapable of effectively managing current operations, and have no ability to use the experience of the past for guidance. Records are inextricably entwined with increased transparency, accountability and good governance.

The loss of control of records has consequences for all citizens, especially for the poorest, who are least able to defend themselves. Relevant and accurate public records must exist if governments are to preserve the rule of law and to demonstrate fair, equal, and consistent treatment of citizens. Without access to records (either directly or through their representatives) the public does not have the evidence needed to hold officials accountable or to insist on the prosecution of corruption and fraud. Moreover, the public suffers when inadequate information systems affect program delivery. Indeed, public health, education, pensions, land, and judicial rights all depend upon well-kept and well-managed records (The World Bank, 2010).

The above sentiments are shared by Ndenje-Sichalwe and Ngulube (2008) who submit that the records of government organizations are an important and often crucial source of

data for accountability processes. Lack of proper records management may compromise accountability, good governance and the protection of human rights.

Proper records management is required for government accountability, good governance and the protection of human rights. Accountability processes cannot effectively be fulfilled unless the evidence of actions taken is made available through organized, secure, yet easily accessible means. To achieve this, consistent provision of reliable documentary evidence in the form of records must be ensured. Documentary evidence or records are an important component of all sets of its accountabilities in the public sector. Without records to provide evidence of its activities, no government or organization can be held accountable. Thus, it is essential that organizations should have a systematic approach to managing records from their point of creation to their ultimate disposal. This will enable the organization to trace all the activities which are taking place in the organization (Millar, 2003).

The key governance objectives of the organization cannot be attained without the availability of certain types of records to support them. To strengthen and safeguard the rule of law, for instance, proper legislative records, court records, police records as well as prison records must be well maintained. In order to demonstrate transparency and accountability, there must be proper accounting records, procurement records, tax records, customs records and electoral records. Pension records, lands records, property records, social security records and birth and death records are essential to the protection

of citizens' rights and their other entitlements (International Records Management Trust and World Bank, 2000).

Palmer (2000) opines that there is a direct relationship between internal regulation and the more complete and accurate recording of government decisions and actions. Records provide evidence of compliance with regulations; records management rules provide the guarantees that the evidence is captured in a system and is readily available. Well-managed documentary evidence, or records, is the basis for: formulating and evaluating policy; preserving the rule of law; managing finance and personnel; and; protecting the rights of individuals.

2.6 MANAGEMENT OF LAND RECORDS AND PROTECTION OF CITIZENS' RIGHTS AND ENTITLEMENTS

Records are a critical asset of government. They are the evidence that people existed as citizens of their country and that their government acted in good faith on their behalf. Records are also evidence of a citizen's interaction with government. Without that evidence, citizens cannot protect themselves and governments cannot prove the integrity of their efforts (Millar, 2003).

A government that is able to create, manage, protect, disseminate and use records and information effectively creates an environment in which: citizens can ensure that their human rights are respected and upheld; citizens can question decisions in an informed manner; citizens can place information about government activities in context, so a full understanding of events is possible; governments can demonstrate the process involved in

decision making and so remain accountable; governments and citizens can investigate and redress any alleged abuse or mismanagement; and; governments can demonstrate compliance with international agreements on human rights.

Unfortunately, record keeping has long been a low priority in governments around the globe, in both the developed and developing world (Millar, 2003). In many public sector offices around the world, record keeping systems are unable to cope with the growing mass of unmanaged records. This is particularly true due to limited financial or administrative resources; inadequate infrastructure or where records and archives managers lack training or professional development opportunities. Such problems render public registries havens of corruption and inefficiency. This was evident when one of the Kenya's local dailies, revealed that officials, including the Commissioner of Lands spent hours searching for missing files from the central registry. The search that paralyzed operations at the headquarters for several hours yielded over 12,000 'missing' land files hidden in personal desks.

According to Smith (2007) records management is a key business process that underpins strategic planning, decision-making and operational activities. In the context of rights and entitlements, records provide the information by which government and other organizations can meet and discharge their obligations to citizens and communities. Records provide proof of what happened, when it happened and who made decisions.

Good recordkeeping is essential to clear and accountable financial management. Without accurate records of actual expenditures, the process of preparing budgets can become almost meaningless. Poor recordkeeping affects the entire accounting function, with the result that reporting and auditing may become virtually impossible. Fraud becomes difficult to detect. Debt management also suffers because records of borrowing may be held by different government offices or may be incomplete. Virtually all approaches to improved financial management rely upon more efficient use of information, but these approaches cannot succeed if financial records are badly managed. To ensure proper management of state resources, government relies on budget papers, policy files, accounting records, personnel records, payroll records, procurement records, fixed assets registers and property registers (International Records Management Trust and World Bank, 2000).

The effectiveness and efficiency of the public service across the range of government functions depends upon the availability of and access to information held in records. The International Records Management Trust and World Bank (2000) identify various types of public records and illustrate the relationship between key governance objectives and the records required to support them: legislative records, court records, police records and prisons records support the rule of law.

With regard to land issues records that provide proof of land ownership are referred to as land records. Land records are records which describe matters concerning ownership, possession or other rights in land to provide evidence of title, facilitate transactions and to

prevent unlawful disposal. According to the Christchurch City Libraries (2010) land records are deeds - proof that a piece of land is owned by a particular individual. A deed is a signed and usually sealed legal instrument in writing used to grant a right. Deeds have historically been part of the broader category of instruments under seal, requiring only the affixing of a common seal to render them valid.

There is a strong correlation between land records and protection of citizens' rights and entitlements. Well-managed land records, as documentary evidence, provide a basis for poverty reduction. People take better care of land and are more productive when they know they can prove their title or claim to the land and can buy, sell, or lease land with assurance that their rights to do so will be respected. All such rights, claims, titles, and so on are managed through records. Consequently, good record keeping is essential for good transparent management that in turn leads to security, better land management, and better economic development.

According to International Records Management Trust and World Bank (2000) land records are integral to citizens' human rights and entitlements in the following ways: first, access to land records ensures economic protection by providing access to livelihoods. Without access to land records, people are robbed of their main source of physical, economic and livelihood security, including shelter and access to food, safe water and sanitation.

People take better care of land and are more productive when they know they can prove their title or claim to the land and can buy, sell, or lease land with assurance that their rights to do so will be respected. All such rights, claims, titles, and so on are managed through land records. Access to accurate land records can be used in upholding the rule of law by restoring land rights. This ensures fair, equal, and consistent treatment of citizens. Consequently, good record keeping is essential for good transparent management that in turn leads to security, better land management, and better economic development.

Many different parties require access to lands records for the purposes of conveyancing, legal research, environmental research and historical research. The records users include (Land Title and Survey Authority of British Columbia, 2010):

- Primary: lawyers, notaries public, land surveyors, title search/registry agents, government agencies and taxation authorities (provincial, municipal), and Crown corporations.

- Secondary: real estate agents, land appraisers, researchers, genealogists, historians, writers, natural resource companies, property owners and others.

2.7 INFORMATION COMMUNICATIONS TECHNOLOGIES (ICTs) AND THE MANAGEMENT OF LAND RECORDS

Public access to information has been established globally as a strong determinant of people's empowerment, leading to better chances for human security to prevail. One of the key factors in an overall human security framework is the asset security, backed by legal instruments to ensure it. The legal instruments however can only be invoked effectively if the asset holders have complete information about their assets, knowledge

of the nature of the tenure system used and the means to exercise the legal rights to asset security, and the socio-legal structures to enable them to defend their entitlements (Qazi, 2006).

Land enjoys a significant place among the assets owned by the people in both urban and rural contexts in Africa. The rapid access and transparency of land records is a must to give an impetus to investments in land in terms of agricultural production, residential development and so on, as it facilitates the process of transactions, credit, transfer and mortgage. It also provides a chance to the smallholders to turn their fixed assets in the form of land, into dynamic assets to be integrated in the market.

Management of land records is an organizational function that deals with issues related to the information about land administration. The increasing use of ICT, especially the Internet, in government operations around the world driven by public sector reform, has given impetus to the generation of e-records, touted as strategic assets vital to the functions of the state.

Like traditional paper records, e-records support the day-to-day operations of government services and interactions with citizens, private and public sector partners. By and large, in developed regions such as North America and Europe where government services have increasingly moved online, e-records are becoming the basis for confirming pension and other entitlements; registering births and deaths; verifying citizenship, certifying voting

rights; enabling collection of taxes, supporting financial management; and supporting litigation (Mutula and Wamukoya, 2005).

Information Communication Technologies (ICTs) refer to technologies dedicated to information processing, information storage, retrieval and communication irrespective of whether the information is in the form of numerical data, text, sound, images or others. Advances in information and communication technologies provide the opportunity for governments throughout the world to improve the delivery of information and services to citizens and businesses, to streamline public sector functions, and to increase participation in government. In some instances this is just a matter of providing electronic access to existing information. In others, electronic services, such as land searches or submission of tax returns, are being delivered on-line. Electronic government has the potential to transcend constraints imposed by distance and increase the speed of service delivery, but it also poses a number of challenges for accountability, the rule of law and the maintenance of organizational memory (The International Bank for Reconstruction and Development/The World Bank, 2004).

According to Cain (1996) manual recordkeeping presents a number of challenges: Too often, files and records are not well kept. Storage rooms are often overcrowded and security inadequate. Indexing procedures are not always in place and file tracking systems are often lacking. Many registries have no means of finding who has a file at any particular time, and files cannot be retrieved without a major search being launched. The result is large amounts of staff time being wasted.

Even when the relevant files can be located easily there may be other problems. There is a tendency for duplicate files to proliferate. It is a common feature in most African countries to find several files belonging to an individual owner held by different offices, although some are never used. It is not unusual for files to be held for the same individual at the central land office, the headquarters of the ministry of lands, the provincial and the local levels.

The proliferation of files encourages the retention of copies of the same documents in different places, but the nature of the system makes it difficult to ensure that there is a master file which contains a complete set of records. The consequence is multiple files on the same land owner scattered through many filing systems, but no one place where all the information can be reliably found. Obviously this has a serious impact on the management of land records in terms of the decision-making process. Not only are large amounts of expensive office space occupied needlessly by duplicate records but much time is wasted attempting to obtain information spread over many locations. Moreover, the situation can be particularly frustrating to land owners who need to establish proof of their ownership records to claim their land rights: in fact, delays have led to actual hardship.

According to Cain (1996), another major problem is that it is often very difficult to compile an accurate list of everyone who owns land by using the official records. Moreover, with movement control it is difficult to know what files should be in the

registry and what files are in use. This is a situation which makes it relatively easy for inaccuracies to creep on to the land records, either by mistake or design because it is so hard to compile an authoritative master list of land owners.

ICTs can be used for a wide range of records management functions. Potential land administration records-related functions to which ICTs are applied include the following: administrative tasks such as correspondence, personnel management, statistics and accounting, or reporting; classification and listing of current records; printing file labels; scheduling of current records; location and tracking of current and semi-current records and boxes; information about authorized users of current and semi-current records; identification of records for disposal; management of physical space and storage for current records; production of management information about the land records (Millar, 2009).

Database management applications are used to store and manipulate many different kinds of information that can be used to classify and catalogue records, track files, register users, schedule records amongst other uses. Setting up a database to allow land records office staff to search for files more quickly impacts a great deal on how the office operates. The internet, intranet, and local area networks in conjunction with communications software are used to allow the land records staff to communicate from their computers through emails and faxes. Integrated records management software packages are used to track files and box locations, check materials in and out, generate lists of records to be considered for destruction based on retention schedules, and create managerial reports.

The main reason for employing ICTs in management of land records is to provide readily up-to-date information on land administration. To achieve this, all land records are integrated into one database to facilitate speedy retrieval of information. In this age of 'instant' information, there is an increasing demand for speedy access to records and the information contained in them. Computers thus permit the collection and aggregation of statistical information which would be very time consuming, if not impossible, to assemble from manual systems.

Finally, additional funds are needed from governments for national archival institutions to meet the added costs of managing electronic records It is important to point out that within an e-government environment, a central agency such as the national archives should be designated to coordinate e-records management activities and to ensure that government-wide standards and practices are developed and implemented, and appropriate facilities and resources are available for the management of official records in digital and other formats. For the agency to fulfill its mandate effectively, these additional roles and responsibilities should be recognized and embedded in the national archives legislations.

2.8 REVIEW OF EMPIRICAL STUDIES ON MANAGEMENT OF LAND RECORDS

The importance of empirical research cannot be overemphasized. According to Ngulube (2003) empirical research supports decision-making. Its absence can be detrimental to the development of organizations. Institutions are hampered in delivering their best services

by not having the useful knowledge that would come from empirical and applied research.

Hoyle and Sebina (2008) conducted a study in Botswana to investigate and address the requirements for building integrity in public sector information systems in the ICT environment. The relationships between paper and electronic records were assessed, and sample records were examined to obtain an indication on the quality of land information and records. The methodology for the study visit involved working closely with the National Archivist and with officials at the Ministry of Lands and Housing. The research involved conducting interviews and undertaking documentary research to collect qualitative information about land tenure management and the paper and electronic land information systems.

The study identified the following challenges that were encountered in the management of land records: while the paper-based records systems and central registries viewed in the Ministry of Land and Housing were good, there appeared to be little knowledge or understanding as to how electronic records should be captured and managed to preserve their integrity and reliability; there existed a disconnect between the management of paper-based and electronic records management in relation to inter-connected business process.

More challenges highlighted are: recordkeeping functionality and maintenance of electronic records over time appeared to play no part in the development of new systems;

lack of awareness of the international Standard for Records Management (ISO 15489) or of other standards or guidelines relating to contemporary recordkeeping; despite training at different levels, paper files were considered the responsibility of low level clerks; poor filing of applications was evident; lack of trained records personnel which had resulted in severe difficulties; despite efforts to hire more records management staff, there was high employee turn-over due to the heavy demand for records professionals.

In view of the challenges outlined above, the study recommended that the Government needed to manage the staff turn-over issue carefully to ensure that there was a pool of records professionals across the state sector; new policies, standards and procedures needed to be designed, taught and adopted; sensitization and good communications were required if systems were to be designed, taught and adopted; there was need for the national Archival Institution to play a prominent role in the transition from paper to electronic records management systems, from the design of the system and inclusion of standards in system design to the safe transfer of records with enduring value to long term storage. However, the national Archival Institution's resources were overstretched as it grappled with a myriad of records and archives related issues across government.

Barata (2001) conducted a study in Uganda to analyze current conditions and practices at the Land Registries located in Kampala to determine immediate and long-range remedial options and solutions with a view to designing a methodology for establishing a model District land registry. The methodology included: an examination of international consultants' and Ugandan experts' reports, legislation, and other relevant documentation;

interviews with central government officials; visits to central government and relevant District offices, including the surveying; and mapping facilities at the Department of Surveying and Mapping in Entebbe; small scale reviews of the completeness of land title files in the Ministry of Water, Land and the Environment's Mailo, Leasehold and Freehold Registries.

Among key findings included: lack of finding aids to the records held in the registries causing excessive handling of original records leading to wear and tear; lack of reliable cross-indexing system that could be used to find records; inadequate space as the available rooms were filled to capacity; poor storage boxes as the file folders used to store the instruments were flimsy and provided inadequate protection for the records; shelving was poor and was constructed primarily of wood; lack of ability to control the temperature of the room, although the windows were often left open to allow air to circulate; lack of smoke detectors or fire extinguishers; dusty and dirty rooms; and lack of adequate professional staff working in the registries.

The recommendations included: the need to improve training in records management practices in the Land Registries. In particular all staff should be trained in basic records management procedures, including regular housekeeping practices, the recognition and identification of missing instruments, loose pages and the need for re-foldering; tight performance standards should be in place with regard to speed, accuracy and security; the need to create an accurate computerized inventory and index of existing records to improve significantly access to the land title records; the index should be automated and a

paper copy produced at regular intervals as a backup in the event the system fails or cannot be accessed due to power shortages.

Other recommendations included: improving the security and durability of land records through a combination of measures designed to protect the records against fire, theft, and mechanical damage through excessive use. The measures recommended included better quality shelving, equipment and supplies, more stringent fire protection measures and environmental controls, regular cleaning of storage areas and appropriate back-up and storage of computer files; improving the physical control of the land title records by placing the records in new, sturdier file covers or archival boxes as appropriate; equipping storage facilities to improve fire prevention and environmental conditions; and considering appropriate preservation measures.

The two empirical studies highlighted above have given insights on challenges encountered in the management of land records in Africa. The present study has attempted to fill a gap in the management of land records in Africa in general and Kenya in particular. The gap takes the form of a lack of data and empirical studies on management of land records and protection of citizens' rights and entitlements.

2.9 THEORETICAL FRAMEWORK

A framework refers to a set of assumptions, concepts, values, and practices that constitutes a way of viewing reality (Houghton Mifflin Company, 2000). A theoretical framework, then, is an essay or narration that interrelate the theories involved in the

question. It guides the research in determining what things to measure and what relationship to look for (Escalada, 2009).

In records management, various best-practice frameworks exist. Examples of such frameworks include the Records Continuum model and the famous life cycle concept. Kemoni (2008) identifies more frameworks which include: the International Council on Archives (ICA) Electronic Records Management Guidelines (Model); the National Archives of Australia Records Management Guidelines (AS ISO 15489 2002); the National Archives of Australia Digital Recordkeeping Guidelines 2004; the National Archives and Records Service of South Africa Guidelines (Model); the National Archives (TNA) 2005 Model; the Victorian Electronic Records Strategy Model (VERS); the University of Pittsburgh Electronic Records Management Model; State Records Authority of New South Wales; and; the Design and Implementation of Record Keeping Systems (DIRKS) Model. The following discussion presents some of the frameworks and their relevance to the present study.

2.9.1 Records Life Cycle Concept

The lifecycle concept conceived and developed by Theodore Schellenberg is based on the premise that any record has a life, and that like an organic being once it has been generated or created it has an active life in maturity, a less active life in old age, and in the end is discarded – it dies and either destroyed (hell) or transferred to the archives (heaven). This is thought as the lifespan or time period from the creation or receipt of a record through its useful life to its final disposition.

This model identified stages in the useful life of records which provide opportunities for managers to intervene effectively (Pederson, 2000). Atherton (1985) describes the life cycle in four phases - record and file creation, record use and maintenance, record appraisal and repository management. This effectively divided the profession in two: the records management phase and the archival phase (Atherton, 1985; McKemmish, 1995).

The life cycle concept has been useful in promoting a sense of order, a systematic approach, to the overall management of recorded information. This model is useful because it enables records managers to track in a sequential process the progress of a record and to ensure that the right processes are undertaken at each phase of its life (Atherton, 1985; Williams, 2006). However, this model falls short of the practicalities. This is because not all records follow a similar path. Some records are created with an archival value already attached to them and therefore not considered for destroying at all. Whereas, others are born ephemeral and thus if one has no particular interest, then such records need not be kept at all. The reality here is that records can go in and out of currency or backwards and forwards around the life cycle.

Strict adherence to its principles undermines any trend towards cooperation and coordination of archivists and records managers and that the life cycle negates the concept of the transactional and evidential nature of records, whether they have enduring value or not (McKemmish, 1995). Williams (2006) citing Schellenberg, states that the life cycle represents Schellenberg's view of a clear division between records and archives. In practice, records managers have traditionally been responsible for managing

the current and semi-current records and the archivists have taken over responsibility at the archival stage. At the end of the records life cycle, those records selected for their continuing or enduring value as archives become subject to a further series of archival processes such as appraisal, selection acquisition, and etcetera.

This physical division between the two aspects can lead to disjointed practice - the records manager describes for instance through file plans, classification schemes, and so on, the current and semi-current records for one set of processes; then archivist re-describes them when they are transferred to the archives for a different set. It would be easier if they are described once.

Since the life cycle is based on linear progression, then this cannot encompass the digital records. This is because the model is more linked to a record as a physical item. The message contained in a record is intricately and intimately attached to the medium or base unlike the electronic records which are virtual and only described as logical entities. They only exist as binary digits randomly stored in a computer until one calls them up. The medium is separate from the message. Because of such shortcomings associated with the life cycle model, the Australians developed a more integrated model – the continuum. Thus, the records life-cycle theory may be more applicable to those studies dealing with management of paper-based records in organizations. The theory is not suitable for studies investigating management of electronic records (Kemoni, 2008).

This study could not be anchored on the Life Cycle Concept because this model falls short of the practicalities. The lifecycle model of records management offers two choices of "death" for the active record – destruction or removal to an archives. This is misleading as records are not "disposed of" in an archives; in fact, they start another life. In records management world, there is a focus on the process rather than the product, the concept rather than the item.

However, there is a parallel and equally important paradigm shift occurring across many information professions – the shift from a document-centered focus to an information-centered one.

2.9.2 The Records Continuum Model

In order to minimize the possible loss of important material at the uneasy/uneven nexus between business and cultural interests, Australian record keepers advocate a continuum approach for effective management of records and archives to fulfill both managerial and cultural responsibilities. As defined in Australian Standard AS 4390, a records continuum is a consistent and coherent regime of management processes from the time of the creation of records (and before creation, in the design of recordkeeping systems) through to the preservation and use of records as archives. This definition suggests an ideal integration for documents, records, and archives management.

The continuum approach rejects the time-based, linear approach, in which records progress through different stages in their lifecycle; instead it posits that records can be

used simultaneously for many different purposes – for instance, serving current organizational needs, being managed and preserved in an archive, and forming a resource for researchers. It stresses the overlap between traditional records management and archival activities, which have historically been seen as distinct. According to Atherton (1985), all stages of records management are interrelated, forming a continuum in which both records managers and archivists are involved, to varying degrees, in the ongoing management of recorded information. She explained how the lifecycle stages that records supposedly underwent were in fact a series of recurring activities within both archives and records management. The underlying unifying or linking factor in the continuum was the service function to the records' creators and all users. Atherton's view pointed out the dangers of separating records management and archives administration under the life-cycle model.

The Records Continuum as a model concept was formulated in the 1990s by Australian archival theorist Frank Upward based on four principles: 1). A concept of 'record' which is inclusive of records of continuing value (archives), stresses their uses for transactional, evidentiary and memory purposes, and unifies approaches to archiving/recordkeeping whether records are kept for a split second or a millennium. 2). There is a focus on records as logical rather than physical entities, regardless of whether they are in paper or electronic form. 3). Institutionalization of the recordkeeping profession's role requires a particular emphasis on the need to integrate recordkeeping into business and societal processes and purposes. 4). Archival science is the foundation for organizing knowledge about recordkeeping. Such knowledge is revisable but can be structured and can be

explored in terms of the operation of principles for action in the past, the present and the future.

McKemmish points out that the model provides a graphical tool for framing issues about the relationship between records managers and archivists, past, present, and future, and for thinking strategically about working collaboratively and building partnerships with other stakeholders. The Records Continuum diagram helps in understanding the nature and scope of recordkeeping in organizations and in society. It presents an overview of a seamless and dynamic recordkeeping regime that transcends time and space to capture and manage records for as long as they are required to satisfy business, regulatory, social and cultural requirements.

The continuum model provides the independence from the idea of records tied to archival institutions as places, but instead a visionary image where location of the record is not an issue but the record itself, no matter where it is, can still be authentic and reliable (Upward, 1996). Because the continuum is holistic yet multidimensional, it can be refracted or separated out into its constituent layers like a band of light.

The continuum model affirms the role of recordkeeping in relation to organizational, legal and social accountability. It provides for building alliances with different disciplines concerned with organizational, legal, social and historical accountability. It also acknowledges multiple uses for records over time, identifying a range of customers for records and archives services (Upward, 1996). Thus, whereas the life cycle concept

perceives each stage as linear with and independent of the other stages, the continuum perceives record keeping as multidimensional. It suggests that the management of records is not time-bound or sequential and that actions on the record are seamless and may be simultaneous – a record may at one and the same time be accessed for current organizational and archival purposes especially if it is in electronic form.

Although the records continuum model has been, and continues to be, of benefit to recordkeeping professionals, the model has generated certain concerns and fears amongst them. Picot (1999) cited by Kemoni (2008) indicated that the model and notions of its theory generated a certain reaction of fear and hatred in many people in the records and archives industry. The fear emanated from the concept that records managers and archivists shared both territory and professional competencies and thus, the continuum model posed a threat to their autonomy. Additionally, even if the model would be invoked to justify restructuring, job cuts or changes in workplace practices, these would not nullify its usefulness.

This model was found unsuitable for this study due to its silent and implied nature in enforcing accountability. The continuum model asserts the role of recordkeeping in relation to organizational, legal and social accountability but does not explicitly explain the specific activities involved in systematically enforcing the accountability.

The above discussion has presented various frameworks theories/models that may be applied in records management research. This study is sturdily anchored on the CADSS Model.

2.9.3 Control, Access, Disposal, Storage and Sustain (Cadss) Model

This model is accredited to Ann Pederson in 2001. The functions embodied in the acronym CADSS (for Control, Accessibility, Disposal, Storage and Sustain) make up the core of all information management activities.

2.9.3.1 Control

The CADSS Model begins with **C** symbolizing the function of Control. Whilst the word 'Control' also conveys the overall goal of records/archives management, Control as a discrete function includes all recordkeeping activities required to: bring a record into existence as complete, integrated entity that can serve as reliable evidence of the acts to which it attests; identify the physical and intellectual attributes of a record's content, structure and context; devise/identify and assign a physical 'address' for the record so that the record can be safely stored and efficiently retrieved; and; articulate/represent and document the attributes and 'address' above as an integral part of the record and of the information systems controlling access and retrieval of the record and/or of information about the record.

2.9.3.2 Accessibility

The function of Accessibility covers all activities associated with determining, administering and facilitating access to and use of records/archives. Accessibility may involve the acquisition or design and operation of specialist facilities, services, expertise and information sources to ensure that: laws, regulations, conditions and terms of access

to records/archives are suitable, authoritative, documented, disseminated and properly administered; information about the records/archives, about obtaining access to them and about using them effectively as accurate, understandable, timely and readily available to authorized users; prospective users and their uses are appropriate, authorized and documented; and; the records/archives are retrieved, used and returned to safe custody in a timely manner.

2.9.3.3 Disposal

The Disposal function incorporates all activities involved in: identifying and documenting/surveying organized activities and records making/keeping systems within a designated universe of recordkeeping responsibility; determining what documentation reflecting organized activity within a designated record making/keeping system should be retained and, conversely, what should be destroyed; authorizing when, where, how and by whom these decisions will be implemented and documented; and; providing advice, mechanisms, facilities and documentation for systematic, secure and accountable disposal processes and outcomes.

In creating/custodial offices, Disposal embraces activities such as: conducting records use/location/activity audits; providing information about records use/location/activity for disposal decision-making; drafting or responding to proposed disposal decisions and recommendations; and; approving, implementing and reporting disposal actions. The Disposal function is generally manifested in activities to identify and select or

appraise/evaluate records of enduring value, but may also include the disposal and de-accessioning of unwanted material following appraisal or subsequent re-appraisal.

2.9.3.4 Storage

The Storage function is largely concerned with the physical preservation and care of records and archives through the use of archivally sound and/or appropriate: recording technology and media, packaging components/supplies, storage equipment, facilities, macro- and micro-environments; handling procedures during retrieval/refile, use, copying, display, transfer and transport; macro-preservation actions including risk assessment and minimization; preventative and protective intervention activities; disaster response and recovery planning; collection and environmental stability monitoring; informational copying/media migration; and; micro-conservation treatments to stabilize, repair, strengthen and/or protect individual documents or series.

2.9.3.5 Sustain

The final CADSS letter represents Sustain, which is used here as a synonym for management - the function that sustains the recordkeeping regime as a viable and effective component of its host organization. Whether a particular operation is large or small, all professional recordkeepers must fulfill their management responsibilities to acquire and deploy valuable resources and to get work done productively, effectively, harmoniously. Because recordkeeping regimes must establish and operate effectively across the whole organization, it is essential that recordkeeping professionals understand

and learn to enhance the influence and, thereby, the effectiveness of their recordkeeping regimes.

Because of the power and importance of records as a resource, managing records over time is a necessity. Management means imposing a regime which influences the control, accessibility, disposal, and storage of this irreplaceable evidence and which manages itself effectively. Regimes adhering to these core functions ensure that reliable records of the highest quality and integrity are available in a timely fashion for authorized use at the right price. These processes further guarantee that the best of the records continue to be available effectively and efficiently as part of our cultural knowledge base (Pederson, 2000).

2.10 RELEVANCE OF CADSS MODEL TO THE PRESENT STUDY

This study endeavours to investigate various facets of accountable recordkeeping in the management of land records and protection of citizens' rights and entitlements. These aspects include: functions performed and types of records generated; management of land records and protection of citizens' rights and entitlements; current records management practices and how they affect rights and entitlements; and application of Information Communications Technologies in the management of land records for enhanced protection of citizens' rights and entitlements. The CADSS Model is relevant to this study as it stresses the following components of accountable recordkeeping in the management of land records:

The CADSS Model provides for the independence of the record from the medium used to capture it and this represents the overall goals of records and archives management. Machine-readable records are more complex to describe than paper-based materials because understanding and accessing them needs special machinery. Documenting how these records were made and what technologies were used in their making is an integral part of the 'Control' function of record keepers. As a discrete function, Control includes all and crucial activities required to bring a record into existence with all attributes of 'recordness'. It is this recordness that is respected to protect rights and entitlements.

The model advocates for accountable recordkeeping regimes that foster productive, professional relationships and welcomes diversity. An accountable recordkeeping regime is defined as a unified framework of identified policy objectives and implementation directives, and a consistent strategic orientation that operate throughout a jurisdiction over time. Within accountable recordkeeping regime, there exists an integrated set of laws, rules, professional standards and best practice, policies, directions and procedures that are acknowledged, enforced and monitored. Responsibilities and accountabilities are also specified. The accountable recordkeeping regime ensures a full range of services including protection of its own records with enduring value or archives. This accountability component is powerful in influencing rights and entitlements in management of land records.

The CADSS Model provides for cohesion and continuity in records management. Such compliant recordkeeping systems at micro level ensure integrated archives/records

management program which provides services to meet the host business, regulatory and cultural/historical recordkeeping needs. Here, the model includes all tasks associated with creating and/or receiving and organizing records physically and intellectually for initial use. If there is a centralized or coordinating entity such as central registry, records management and/or information services with this responsibility, there is a chance for cohesion and continuity. This is of great relevance to this study as the researcher strives to determine the cohesiveness of current records management practices in the Ministry of Lands and how they affect rights and entitlements.

The CADSS Model further seeks to support beneficial alliances with other accountability players and relationships of trust with accountability stakeholders both at macro level and micro-level in recordkeeping. The accountability players at micro level include: CEOs, senior managers, information managers, auditors, lawyers, business process designers, software vendors, IT professionals, contract managers, compliance and risk managers, and service providers. At macro level, accountability players include: sociologists, historiographers, information and cultural players, society's watch dogs, standard setters, regulatory authorities, IT shapers, and law makers. Accountability stakeholders include: all of the above plus citizens, clients, consumers, individually and collectively. This administrative placement and structures facilitate not only ready access to key decision-makers; but also ensures a host body with a cohesive focus on recordkeeping in administering a 'heritage' or 'culture' (McKemmish,1999).

2.11 SUMMARY

The review of literature is critical in any research work. This chapter has not only enabled the researcher to study different theories related to the identified topic and gain clarity of the research topic but it has also enabled the researcher to know the kind of additional data needed in the study; justified the need for the study and highlighted the relationship between the past and the current studies.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 INTRODUCTION

This chapter describes the procedures that the researcher used to collect data on population of study. The chapter discusses the research design adopted, target population for the study, sample size and sampling procedure, data collection methods, data validity and reliability, data collection procedures, procedures for data analysis and ethical issues in research.

3.2 RESEARCH DESIGN

Design is a logical task undertaken to ensure that the evidence collected enables one to answer questions or to test theories as unambiguously as possible. Research design refers to the structure of an enquiry: it is a logical matter rather than a logistical one. According to the New York University (n.d), the central role of research design is to minimize the chance of drawing incorrect causal inferences from data.

There are various research approaches and the choice is determined by three considerations: the research problem, the personal experiences of the researcher, and the audience(s) for whom the report will be written (Khumwong, 2004). When designing research it is essential that one identifies the type of evidence required to answer the research question in a convincing way. This means that one must not simply collect evidence that is consistent with a particular theory or explanation. Research needs to be structured in such a way that the evidence also bears on alternative rival explanations and

enables one to identify which of the competing explanations is most compelling empirically.

Creswell (2003) identified three research designs: quantitative, qualitative, and mixed methods approach. Hopkins (2000) opines that in quantitative research one's aim is to determine the relationship between one thing (an independent variable) and another (a dependent or outcome variable) in a population.

Quantitative research designs are either descriptive (subjects usually measured once) or experimental (subjects measured before and after a treatment). A descriptive study establishes only associations between variables. An experiment establishes causality (Hopkins, 2000). Qualitative research is research involving detailed, verbal descriptions of characteristics, cases, settings, people or systems obtained by interacting with, interviewing and observing the subjects. Qualitative research typically starts with the use of a document review to collect data (Thomson, 2007). Qualitative research methods try to answer the general research question "What is going on here?"

In view of the above highlights and in relation to this study, the researcher employed a case study approach of qualitative research design. This design was deemed appropriate since it offered the researcher an interactive chance to examine complex questions that could be impossible with quantitative methods and emphasized detailed contextual analysis of the problem under study.

This approach was also considered appropriate since it helped the researcher not only to explore or describe the data in real-life environment, but also help to explain the complexities of real-life situations which may not be captured through quantitative approach.

3.3 TARGET POPULATION

The target population is the entire group a researcher is interested in; the group about which the researcher wishes to draw conclusions. This study was limited spatially to the former Bungoma District in Kenya. The target population for the study included users of land records and staff working in the Ministry of Lands, Bungoma District, who according to the researcher, possessed influence and knowledge concerning land issues and land records in one way or another. The staff comprised of the following: District Lands Officer, District Lands Valuation/Administration Officer, District Physical Planning Officer, District Lands Surveyor, Land Registrars (District Land Registrar, Deputy Land Registrars) and Registry staff. Also included in the study are the District Officers who serve as chairpersons to the District Land Boards.

3.4 SAMPLE SIZE AND SAMPLING PROCEDURE

In selecting the representative sample, the researcher employed purposive sampling. This required the researcher to sample with a purpose in mind. Purposive sampling was adopted for this study because the researcher needed to reach those participants who possessed influence and knowledge concerning land issues and land records in one way or another. The breakdown of the sample population is as tabulated below.

Table 2: Sample population for the study

Cadre	Total population	Number in the study
District Lands Officer	1	1
District Lands Valuation/Administration Officer	1	1
District Land Settlement Officer	1	1
District Physical Planning Officer	1	1
District Lands Surveyor	1	1
Land Registrars	2	2
Registry Staff	10	10
District Officers	8	4
District Officers at the Bungoma District Headquarters	3	1
Commissioner of Lands	1	1
Records users	997,175	10
Total	**997,204**	**33**

3.5 DATA COLLECTION METHODS

The researcher used the following methods for collecting data, namely structured face-to-face interviews and observation.

3.5.1 Structured Face-to-Face Interviews

Kothari (2004) defines an interview as a technique of data collection which involves verbal interaction relevant for the research purpose from the respondent. It is simply a

planned approach which the researcher obtains information from the respondent relating to the subject of the research.

The researcher used the structured face-to-face interview *(see appendix I)*, where the same open-ended questions were asked to all interviewees in a category. An open-ended question is where respondents are free to choose how to answer the question, i.e., they don't select "yes" or "no" or provide a numeric rating. This approach facilitates faster interviews that can be more easily analyzed and compared (McNamara, 2007).

According to Opdenakker (2006), reasons for using in-depth interviews include the following: face-to-face interviews are characterized by synchronous communication in time and place. Due to this synchronous communication, as no other interview method, face-to-face interviews can take advantage of social cues. Social cues, such as voice, intonation, body language and so on of the interviewee can give the interviewer a lot of extra information that can be added to the verbal answer of the interviewee on a question.

With this approach, the researcher designed four sets of interview schedules, each containing a series of questions to enable him carry out the interviews. The first set was for the Registry staff working at the Ministry of Lands, Bungoma County, second set for the land officers, third set for the Provincial Administration Representatives (District Officers), whereas the fourth set was for the land records users *(see appendices)*. The interview questions were sent to the respondents before the day of actual interview for the

respondents to familiarize themselves with the questions and assist in answering the questions appropriately.

The researcher employed this approach because it facilitated faster interviews that were more easily analyzed and compared; and; the researcher was able to probe further on the responses given as a means of getting the meaning behind the respondents' experiences.

With this technique, there was no significant time delay between question and answer; since the interviewer and interviewee could directly react on what the other said or did. This yielded spontaneous answers from the interviewee without extended reflection.

Five Lands Officers - District Lands Officer, District Physical Planning Officer, District Land Settlement Officer, District Lands Surveyor and District Land Valuation/Administration Officer - were personally interviewed in a face-to-face situation to get their views about the problem of study in the Ministry of Lands, Bungoma County. Initially, the research also targeted the Commissioner of Lands in the Ministry of Lands headquarters in Nairobi, but this was unattainable despite several attempts that were made to reach him. Other respondents that were deliberately targeted for the interviews in order to improve the response rate included two Land registrars, five District Officers, ten registry staff and ten records users.

After every interview, the researcher summarized all the answers in narrative format. Where applicable, the process involved comparing the responses with what was obtained during the observation.

3.5.2 Observation

This method of data collection involves studying behavior where individuals do not know they are being observed. Here, there is no concern that the observer may change the subject's behaviour. The researcher developed an observation schedule *(see appendix II)* to help him write down whenever he saw something and made inferences about the underlying emotion.

The researcher gathered relevant data guided by a well-designed observation schedule. The researcher immediately documented the data collected in the observation schedule to avoid data distortion due to memory loss.

The technique was deemed necessary for this study as it enabled the researcher to observe directly the appearance of the facilities and equipment as well as the behaviour of the respondents rather than self-reported behaviour. This eliminated errors caused by memory loss, poor recall, and perceptions affected by experiences after the original experience. It also reduced error due to translation, and provided a richer dataset that included non-verbal and physical behaviour. This is because what was said was very often different from what was actually done - for a variety of reasons. The observation

technique also enabled the researcher to gather supplementary data that helped to further interpret findings obtained by the interviews.

3.6 DATA VALIDITY AND RELIABILITY

It is possible to assess the accuracy of the survey tools used to collect data about a phenomenon. An assessment of the collected data hinges upon determining the reliability and validity of the survey instruments. In estimating reliability of a test, one would be examining its viability as a measurement device. Thus, reliability is the degree to which a test consistently measures what it sets out to measure while at the same time yielding the same results (Babbie and Mouton, 2001).

Reliability is a necessary precondition of validity (Cohen, Manion and Morrison, 2000; Neuman, 2000; Schutt, 1996). On the other hand, measurement validity is a necessary foundation for social research. As pointed out above, validity is concerned with what a survey tool measures and its appropriateness, whereas reliability refers to the consistency with which the research instrument measures whatever it measures. The four common methods of testing validity are: content validation, criterion-related validation, face validity and construction validation (Bernard, 2000; Bless and Higson-Smith, 2000; Neuman, 2000).

According to Burns (2000) reliability of a research tool depends on how other researchers can replicate the steps of the original research and have similar conclusions. Repeating a study in different settings or with different subjects is called replication. In fact, research

findings are considered to be reliable if they are repeatable, to the extent that repeated measurement would yield constant results (Burns, 2000; Cohen, Manion and Morrison, 2000).

In that regard, Sapsford (1999) observed that standardization lies at the heart of a research. A standardized procedure promises the best results because it would produce information that could be compared most easily. The researcher achieved data reliability and validity through pre-testing the data collection tools on a small sample. This ensured consistent answers to the questions.

3.7 DATA COLLECTION PROCEDURES

The researcher embarked on data collection after a successful defense of the proposal before a panel. Upon successful defense, a letter from the School of Information Sciences was sent to the National Council of Science and Technology (NCST) informing them of the researcher's intentions to conduct the study. Upon approval and paying the requisite fee, the National Council of Science and Technology then issued a research clearance letter and research permit *(see appendices IV and V)*, authorizing this research. Consequently, the researcher communicated his intentions to carry out this study to the relevant offices – the Ministry of Lands (Bungoma Office), Bungoma District Education Office and the Bungoma District Commissioner's office. The clearance was obtained and the officers involved in the study were visited to inform them of the purpose of the study and to seek their assistance, especially in scheduling appointments for the interviews.

3.8 PRETESTING INTERVIEW

Pretesting interview questions is an important way of finding out if everything works correctly. In this regard, the interview questions were pretested with a small pilot group selected for the study. This was aimed at testing the interview schedule with a view to establishing its appropriateness for this study. The researcher made the necessary modifications in cases of any weaknesses identified.

3.9 DATA PRESENTATION, ANALYSIS AND INTERPRETATION

Before analysis, there is need for data organization. This involves putting data into some systematic form by correcting errors in the data, coding the data and storing it in appropriate form. Analysis of data on the other hand refers to examining the coded data critically and making inferences (Kombo and Tromp, 2006).

Qualitative research uses qualitative data analysis (QDA) to analyze text, interview transcripts, photographs, art, field notes of (ethnographic) observations, etcetera. Analyzing qualitative data consists of three parts: noticing, collecting, and thinking about interesting things (Creswell, 2007). All the above QDA stages were followed as much as was practically possible considering that the study had generated massive amounts of data from the respondents. As an implication, data analysis took considerable time.

The process involved going through each of the responses, examining relationships among the responses and grouping them into themes that were relevant to the research

objectives. The responses were further organized through simple narrative description to provide explanation of why things happened as they did.

3.10 ETHICAL ISSUES

Each profession has its own ethical standards to govern the practice in the profession. Ethics as an academic discipline is a branch of moral philosophy concerned about the study of conduct that strives to answer age-old questions about duty, honour, integrity, virtue, justice, the good life, and so on. In research, ethics are norms for conduct that distinguish between acceptable and unacceptable behaviour (Resnik, 2007). The variables that form the basis of ethics are honesty, integrity, courtesy, and consideration. According to Sapsford (1999), all the variables that constitute ethical research are dependent on the researcher.

Jefferies (1999) and Trochim (2006) identify the following areas of dishonesty to constitute unethical issues: plagiarism, fabrication and falsification, non-publication of data, faulty data-gathering procedures, poor data storage and retention, misleading authorship, sneaky publication practices, involuntary participation, uninformed consent, anonymity and confidentiality.

Given the importance of ethics for the conduct of this research, the researcher exercised honesty at every stage of this research and at the same time avoided biasness in data analysis, interpretation and avoided exaggeration in reporting. No preconceptions or prior values shaped the results. The researcher strived to be objective. To maintain the integrity

of the researcher and privacy of the respondent, names of the respondents were withheld. The researcher treated all responses with utmost confidentiality and all responses were deemed right. A good rapport was established by the researcher when dealing with respondents. The researcher also strives to publish the findings to enhance wide sharing of knowledge.

3.11 SUMMARY

This chapter has provided an insight into how data was gathered and the various data collection tools used by the researcher during the data collection process. The data collection techniques used in this study were deemed suitable as they enabled the researcher to gather relevant data that enhanced continuous progress of the study.

CHAPTER FOUR

DATA PRESENTATION, ANALYSIS AND INTERPRETATION

4.1 INTRODUCTION

This chapter presents, analyses and interprets data obtained from the study. The main purpose of this chapter is to process the raw data into some meaningful facts. Data analysis is based on the responses obtained from the field in line with the study objectives stated below.

1. To carry out a Business Process Analysis (BPA) of the Land Office to determine the functions performed and types of records generated.

2. To determine how the land records are managed in relation to protection of citizens' rights and entitlements.

3. To determine how existing records management practices in the Ministry of Lands, Bungoma County affect rights and entitlements.

4. To investigate the potential application of Information Communications Technologies in the management of land records for enhanced protection of citizens' rights and entitlements.

5. To investigate the challenges faced in the management of land records.

6. To propose a best-practice framework for the management of land records to enhance the protection of citizens' rights and entitlements.

4.2 CATEGORIES OF RESPONDENTS

This study employed structured face-to-face interviews complemented with observation for data collection. Prior to data gathering, the researcher grouped the various

respondents into four clusters and developed the interview schedule for each cluster. The

respondents interviewed are as categorized in the table below.

Table 3: Distribution of Total Respondents by Category

Cadre	Total	Sample interviewed
District Lands Officers (District Physical Planning Officer, District Land Settlement Officer, District Lands Surveyor, & District Land Valuation/Administration Officer, Land Registrars)	7	7
Registry Staff	10	10
District Officers	8	4
District Officers at the DC's office	3	1
General Public Records' users	997,175	10
Total	**997,203**	**32**

The District Lands Officer, District Physical Planning Officer, District Land Settlement

Officer, District Lands Surveyor, District Land Valuation/Administration Officer and

District Land Registrars were considered as a homogeneous group and hence categorized

together as District Lands Officers.

The researcher selected the sample of public records users to be interviewed as the

Ministry of Lands, Bungoma County did not maintain a register of any kind that could be

utilized by the researcher in this exercise. This caused the researcher to extend his stay at

the District Lands Office for 3 more days.

4.3 BUSINESS PROCESS ANALYSIS AND TYPES OF RECORDS GENERATED

The first objective of this study was to carry out a Business Process Analysis (BPA) of the Ministry of Lands, Bungoma County to determine the functions performed and the types of land records generated. The respondents were asked to explain the functions and processes they carry out in relation to land matters with a view to establishing the types of records received or generated relevant to the protection of citizens' rights and entitlements.

(i) Data from District Lands Officers

(a) Lands Department

The following are the key activities that the department undertakes:

- 'Resolution of boundary and land disputes.'

- 'Valuation for revision of land rent.'

- 'Documentation of claims within squatter settlements to enhance security of tenure.'

- 'Inspection of developments on leased government land to enforce compliance with development plans.'

- 'Document all public utility land.'

- 'Preparation, registration and issuance of title deeds for all categories of land, including also registrations of transactions relating to land.'

- 'Assessment and collection of stamp duty, conveyancing and other land transaction fees.'

- 'Hearing of appeals of the registered lands on any refuted registration.'

- 'Hearing of land partition and boundary disputes.'

- 'Hearing of land claims.'

- 'Custody, maintenance and updating of land Records.'

(b) Survey Department

The Department of Survey is the official agency of the Government of Kenya on all matters affecting land surveys and mapping. Its main functions are:

- 'To provide and maintain plans for property boundaries in support of the Land Registration.'

- 'To prepare all kinds of topographical and thematic maps in both rural and urban areas of the district.'

(c) Physical Planning Department

Its responsibilities include:

- 'Preparation of plans for public utilities to guide development.'

- 'Processing development applications such as extension of leases, change of users, subdivisions, amalgamations, and issuance of compliance certificates.'

- 'Publishing of notices in the press and Kenya Gazette of approved development plans.'

(d) District Adjudication and Settlement Department

This division is mandated to ascertain rights and interests on land in trust land areas and transformation of ownership from customary tenure to individual ownership through

demarcation, survey and registration. Specifically, the department undertakes the following functions:

- 'Processing of applications for land and issuance of letters of allotment.'

- 'Documentation of claims on Government Land and Trust Land.'

- 'Processing and approval of applications for development of land.'

- 'Processing of applications for extension of leases, extensions of user, changes of user and subdivisions.'

- 'Updating of land rent records and collection of land rent.'

- 'Preparation of valuation rolls for local authorities.'

- 'Asset valuation.'

- 'Recovery of Governments contribution in view of rates from the allottees.'

(ii) Data from District Officers (DOs)

The Provincial Administration's role in relation to land matters cannot be over-emphasized. In this regard, five District Officers were interviewed. The DOs interviewed were those whose offices were officially gazetted by the government leading to the formation of District Land Tribunal & Control Boards authorized to deal with land matters**.**

The DOs are the chairpersons of District Land Tribunal and Control Board. This is a function designated to them by the District Commissioner. The District Land Tribunal and Control Board is mandated to undertake the following duties:

- 'Authorize transfer of land;'

- 'Sub-divide land;'

- 'Confirming mortgage of land;'

- 'Arbitrate in cases of land disputes either mutually or refer the matters to District Land Dispute tribunal; or arbitration through respective land registrars for interpretation.'

- 'Oversee succession processes through the chiefs i.e. by sorting out liabilities on land and administrators of land for eventual appointment of the court.'

- 'Demarcate drainages, footpaths and water ways.'

(iii) Data from Registry Staff

Eight registry staff interviewed for this study comprised clerical staff working in the lands registry in Bungoma District. They are mainly charged with the custodial role or function of the land records.

(iv) Data from General Public Records' Users

A total of ten land records' users randomly drawn from the public who visited the Lands Office were interviewed by the researcher to determine how often they visited the lands office, reasons for visiting the lands office, whether they were ever referred to the lands registry and the type of records sought by them.

The respondents stated that they frequently visited the Lands Office. The researcher's primary focus was to determine from the General Public Records' Users the reasons for their visits to the Lands Office.

The General Public Records' Users stated that they visited the Lands Office because of the following reasons:

- 'Acquisition of title deeds.'

- 'Conduct official searches before purchasing land.'

- 'Approval of building plans before construction commences.'

- 'In case of land disputes for instance the piece of land was allocated to the sister through confusion.'

- 'Put caution on the piece of land.'

The General Public Records' Users were further asked whether they were ever referred to the land registry. The respondents stated that they were not referred to the land registry. Because of the need to ensure security of the records and eliminate high human traffic into the premises, the lands office in Bungoma District is organized in a way that the requests are dealt with at the main reception. Therefore whether a Public Records' user was referred to the registry or not is immaterial since the users were not familiar with the layout and functioning of the District Lands Office.

4.3.1 Types of Land Records Generated

As a result of the functions and activities performed in the Ministry of Lands, Bungoma County, various land records are generated as explained by the respondents:

(i)   Data from Registry Staff

In line with this custodial function, the registry staff are managers of the lands registry. Therefore, the registry staff mainly receive rather than generate land records. They receive land-related records from land owners, law courts and other agencies. Such land records included: transfer of land forms/documents; charge forms from various banks or organizations; caution forms; official letters e.g. circulars from the Ministry of Lands; power of Attorney forms; succession forms; discharge documents; transfer of lease forms; mutation (survey) forms; and charge forms.

(ii)   Data from Land Officers

The District Lands Officer, District Lands Valuation/Administration Officer, District Land Settlement Officer, District Physical Planning officer and District Lands Surveyor formed a homogeneous group often referred to as land officers. The land records arising from the functions and activities performed by the Land Officers include:

- 'Demand notices issued from the settlement office to allottees for those who owe the Settlement Funds Trustee (SFT).'
- 'Discharges for the owners who complete SFT in order to get title deeds.'
- 'Title deeds are issued to those who pay and complete what is owed to SFT.'
- 'Valuation reports'
- 'Green cards'
- 'White cards'
- 'Title deeds and lease certificates'
- 'Caution orders'

- 'Correspondence'

- 'Minutes of proceedings'

- 'Registers'

- 'Specialized registers called kalamazoos'

- 'Files'

- 'Legal statutes'

Table 4 summarizes the functions carried out by the land officers and the land records

generated.

Table 4: Functions Performed by Land Officers and Land Records Generated

Transaction/Function	Land Records Generated
Assess the market value of the land to ascertain the stamp duty	Valuation reports
Registering land transactions	Correspondence Registers
Issuing title deeds and leases to the public	Registers Kalamazoos Land files Lease certificates White cards Green cards
Resolve land and boundary disputes	Minutes of proceedings Caution orders Legal statutes
Allocation of plots to settlers	Registers, title deeds
Collection of Settlement Funds Trustee (SFT) funds from the settlers	Discharges for the owners who complete SFT in order to get title deeds Green cards

(iii)   Data from District Officers (DOs)

Following the above-stated functions, the DOs stated that the following records are generated: application form for consent for subdivision or transfer of land; Land Control Board registers; official searches to ascertain the true ownership; minutes of meetings of the District Land Tribunal and Control Board. The minutes are then sent to court to be used in determining the case.

Other land records generated include: copies of court decisions (which take precedence over any other record) are generated in case of arbitration and tribunal decisions and records of arbitration; land sale agreements and title deeds. Table 5 outlines the land-related functions carried out by the DOs and the corresponding land records generated.

Table 5: Land-Related Functions Performed by DOs and Land Records Generated

Transaction/Function	Land records generated
Authorization of transfer of land	• Application form for consent for subdivision or transfer of land
Sub-division of land	• Application form for consent for subdivision or transfer of land
Confirming mortgage of land	• Official searches to ascertain the true ownership
Arbitration in case of land disputes	• Minutes of meetings of the District Land Tribunal and Control Board
Overseeing succession processes	• Land control board registers • Title deeds
Demarcation of drainages, footpaths and water ways	• Land control board registers • Minutes of meetings of the District Land Tribunal and Control Board

(iv)   Data from Records users

The researcher asked the General Public Records' Users the type of records they sought from the lands office or registry. The records users stated that they visited the lands office to seek the following records: green card – this is the record that shows the history of the piece of land; title deed; official search and certificate of official search which is normally certified by the land registrar.

4.3.2 Formats of Land Records

The study sought to establish from the respondents the type(s) or formats in which the land records existed. Researcher's personal observation and responses obtained from the registry staff and land officers revealed that the land records existed in paper format. Further probing by the researcher on this question confirmed that the land records generated or received existed in paper format. This is attributed to non-computerization of the lands office and all the operations and processes are manual.

4.3.3 Categories of Land Records that Protect Citizens' Rights and Entitlements

The researcher sought from the respondents the specific land records that protect citizens' rights and entitlements.

(i)   Data from the Registry Staff

The registry staff were asked what categories of land records protected citizens' rights and entitlements. In response, the registry staff gave the following land records:

- 'Land title deeds.'

- 'Leasehold documents.'

- 'Allotment letters.'

- 'Caution forms.'

- 'Restrictions.'

- 'Transfer of land forms.'

- 'Charge forms.'

(ii)   Data from the Land Officers

When asked the specific land records that were vital in protecting citizens' rights and entitlements, the land officers in Bungoma District cited the following land records.

- 'Discharge - this is a record that confirms that an allottee has cleared the payment and therefore valid to be issued with the title deed.'

- 'Legal statutes'

- 'Green card',

- 'Title deed'

- 'Land policies'.

(iii)   Data from the DOs

The researcher sought from the DOs the categories of land records that were vital in protecting citizens' rights and entitlements. The DOs interviewed gave the following submissions:

- 'All these records form the basis for ownership of land. No one can claim ownership of land if such records are missing.'

- 'The minutes document the rights and entitlements.'

(iv)   Data from General Public Records' Users

The study sought from the general Public Records' users what they could use to claim their rights and entitlements. In response, they cited the following:

- 'Plot number.'

- 'Green card – without the green card no title deed.'

- 'Title deed'

- 'Official search'

- 'National identity card'

- 'Pin number'

4.3.4 Rights and Entitlements Derived From Land Records

The researcher sought to determine the specific rights and entitlements protected by the land records cited above. In view of this, the researcher posed the following question to the respondents (registry staff, land officers and DOs) – what rights and entitlements were derived from the categories of land records mentioned above?

(i)   Data from the Registry Staff

When asked the specific rights and entitlements derived from land records, the registry staff stated *'land ownership rights. From these land ownership rights, more rights and entitlements are derived. For instance the right to cultivate the land, subdivide the land, and so on.'* The registry staff further cited the following as the rights and entitlements

derived from accessing land records: absolute ownership to land; right of inheritance and right to use land for any purpose.

(ii)   Data from the Land Officers

The land officers interviewed stated the following rights are derived from land records: absolute ownership to land; right of interest to land; right of licensee; power of attorney; chargee; mortgage; leasee; leaser; and so on.

(iii)   Data from the DOs

The DOs who were interviewed stated the following rights are derived from accessing land records:

- 'All these records form the basis for ownership of land. No one can claim ownership of land if such records are missing.'
- 'The minutes document the rights and entitlements.'

(iv)   Data from General Public Records' Users

The study sought to find out from the general public records' users as citizens whether they were aware of any of their rights and entitlements in relation to land. The respondents demonstrated ignorance greatness in awareness of their rights and entitlements. The rights and entitlements included the following:

- 'Right to ensure that construction is done in the right plot and is the right plan.'
- 'Right to pay rates as a statutory requirement.'
- 'Right to own and use the land for farming.'
- 'Right to decent life.'

4.3.5 Responsibility of Creating Records

This question was specifically posed to the registry staff to determine whose responsibility it was to create land records. The following officers were cited as the creators of land records: Chief Land Registrar; Commissioner of Lands; The Principal Secretary in the Ministry of Lands; Land Adjudication Officer and Land Registrar.

4.3.6 Users of Land Records

Consequently, the researcher sought from the registry staff who the users of the land records were. In response, the registry staff cited the following as the typical users of the land records:

- 'Land owners.'

- 'Land buyers.'

- 'Banks for mortgage.'

- 'The general public who may wish to make reference.'

- 'The officials themselves in the Ministry of Lands.'

- 'The title deed/lease holders.'

4.3.7 Discussion of Findings

Any effective records management programme cannot be undertaken successfully in a vacuum. A sound records management programme must be approached with an understanding of the functions and systems that generate the records and the relationship of those records with all others created in the business process. According to Roper and

Millar (1999) such an effective records management programme forms the basis for effective appraisal, retention and disposal. Ideally, such control will be exercised centrally, even when the files themselves are held in local records offices, file stores or individual offices.

A business process is a set of logically related business activities that combine to deliver something of value (e.g. products, goods, services or information) to a customer (Cousins and Stewart, 2002). Similarly Roper and Millar (1999) define a Business Process Analysis as an analytical framework that involves analyzing organizations as systems or the process of systematically and objectively gathering information about business systems and subjecting that information to formal analysis. This includes identifying broad organizational goals and supporting business areas and processes, and business process definition and decomposition.

The BPA undertaken by this study identified various functions carried out by various stakeholders in land matters (the Registry staff, Land Officers, District Officers). The registry staff are involved in providing safe custody of land records and are responsible for the general management of the lands registry. The registry staff do not generate any land records per se.

The lands officers are involved in the following functions and processes: assessing the market value of the land to ascertain the stamp duty to be paid by the allotees; registering land transactions; issuing title deeds and leases to the public; resolving land and boundary

disputes; allocation of plots to settlers; collect Settlement Funds Trustee (SFT) funds from the settlers. The functions or processes in which the land officers are involved in give rise to the following types of land records: demand notices issued from the settlement office to allottees for those who owe the Settlement Funds Trustee (SFT); discharges for the owners who complete SFT in order to get title deeds; title deeds are issued to those who pay and complete what is owed to SFT; valuation reports; green cards; white cards; lease certificates; caution orders; correspondence; minutes of proceedings; registers; specialized registers called kalamazoos; files; and legal statutes.

The Provincial Administration through the representation of District Officers (DOs) participate in land matters. The various processes in which DOs are involved include the following: chairing or presiding over meetings of District Land Tribunal and Control Boards. This is a function designated to them by the District Commissioner. As the chairpersons of the District Land Tribunal and Control Boards, the boards are mandated to: authorize transfer of land; sub-divide land; confirming mortgage of land; arbitrate in case of land disputes either mutually or refer the matters to District Land Dispute tribunal; or arbitration through respective land registrars for interpretation; oversee succession processes through the chiefs i.e. by sorting out liabilities on land and administrators of land for eventual appointment of the court; and demarcate drainages, footpaths and water ways.

As a result of the involvement of the provincial administration in land matters, the following land records are hence generated: application form for consent for subdivision

or transfer of land; land control board registers; official searches to ascertain the true ownership; minutes of meetings of the District Land Tribunal and Control Board. The minutes are then sent to court to be used in determining the case; copies of court decisions (which take precedence over any other record are generated in case of arbitration) and tribunal decisions and records of arbitration; land sale agreements; and title deeds.

Of notable attention is the format in which the land records existed. Due to non-computerization of the Ministry of Lands, Bungoma County, the land records existed in paper format. Regardless of the format types, citizens' rights and entitlements are bound to be protected by all the land records generated as a result of the land transactions and processes. Specific examples of land records that are used to support the protection of citizens' rights and entitlements include the following: discharges; legal statutes; land policies; land title deeds; leasehold documents; allotment letters; caution forms; restrictions; transfer of land forms; charge forms; and minutes of land proceedings.

The specific rights and entitlements that are derived from accessing the various land records include land ownership rights; right to cultivate the land, right to subdivide the land, absolute ownership to the land; right of inheritance; right to use land for any purpose; right of interest to land; and the right of licensee, power of attorney, right of chargee, right of mortgage, right of lease and right of leaser.

The responsibility of creating land records is vested in the Chief Land Registrar; Commissioner of Lands; the Principal Secretary in the Ministry of Lands; Land Adjudication Officer; and the Land Registrar. Once the land records have been created, they stand to be accessed and used by the following: land owners; land buyers; banks for mortgage; the general public who may wish to make reference; the officials themselves in the Ministry of Lands; and the title deed/lease holders.'

These findings reveal that there is a clear link between the various functions or transactions undertaken by the various stakeholders in land matters; the land records generated and/or received and citizens' rights and entitlements. This is because records serve as the by-product or evidence of the land transactions. This finding concurs strongly with Roper (1999) which describes 'records' as those documents that institutions or individuals create or receive in the course of administrative and executive transactions. The records themselves form a part of or provide evidence of such transactions.

The role of records as evidence is also emphasized by ACARM, (2007) which asserts that records, in whichever form, provide the essential evidence governments and organizations need to function and be accountable to their citizens and stakeholders. According to the International Records Management Trust and The World Bank (2000) records can be used in documenting the work of employees; confirming pensions, leave, and health benefits; confirming or reviewing policies and procedures; confirming citizens' rights, such as benefits, or land ownership; and; providing information about past actions or decisions.

Of important significance of these findings is that the right to access land records forms the basis for other numerous rights and entitlements. People take better care of land and are more productive when they know they can prove their title or claim to the land and can buy, sell, or lease land with assurance that their rights to do so will be respected. All such rights, claims, titles, and so on are managed through land records. This finding is an indication of how land ownership is an important citizens' right.

4.4 HOW LAND RECORDS ARE MANAGED IN RELATION TO THE PROTECTION OF CITIZENS' RIGHTS AND ENTITLEMENTS

The second objective of the study was to determine how the land records were managed in relation to protection of citizens' rights and entitlements. In achieving this, the respondents were interrogated on various aspects of effective records management.

4.4.1 Records management units within the District Offices

The study sought from the DOs whether records management units existed for the management of land records. The following submissions were obtained:

- 'Land dispute and tribunal chairman is appointed to manage land records.'

- 'Land Control Board manages all land records available.'

- 'Each administrative division in the district has established records management facilities or units that maintain records related to land matters. Such records include – land disputes and family claims and dispute files.'

- 'Land settlement office exists to deal with government land and for those who have not cleared their loans.'

4.4.2 Availability of Records Management Manuals for the Management of Land Records

The study sought to establish the existence of records management manuals for the management of land records. The respondents stated that records management manuals existed in the lands registry. The researcher's personal observation confirmed the existence of records management manuals for the management of land records.

4.4.3 Availability of Records Management Policy for the Management of Land Records

(i).   Data from the registry staff

The study sought to find out whether a records management policy existed in Bungoma Lands Registry. The respondents stated that there exited no records management policy for the management of land records.

(ii).   Data from the DOs

When asked whether a policy on management of land records existed, the DOs who were interviewed stated that there existed no policy to govern management of land records, but instead what existed was the general national land policy.

4.4.4 Calibre of Personnel for the Management of Land Records

Well trained and knowledgeable persons responsible for care and management of land records throughout their life cycle are required in order to articulate pertinent records management issues. In this regard, the researcher sought to determine the calibre of personnel involved in the management of land records.

(i)   Data from the Registry Staff

The registry staff indicated that although are involved in the management of land records, they are not professionally trained in Records Management. Instead they have gained records management skills through on-job training.

(ii)   Data from the DOs

With regard to calibre of staff involved in the management of land records in district offices, the DOs interviewed stated as follows:

- 'At least two clerical staff have been employed to manage land records.'

- 'Land Control Board members, agricultural officers and environment officers are also trained in the management of land records.'

- 'The clerical staff and the DOs possess some knowledge in the management of land records.'

4.4.5 Arrangement and Classification of Land Records

The researcher sought to find out how land records are arranged and the suitability of that arrangement. The registry staff gave the following submissions:

- 'Not professionally arranged.'

- 'Land records and registers are kept in the archives.'

- 'Classified according to administrative locations.'

- 'The documents supporting the register are filed in parcel files and kept in the archives.'

- 'Parcel files and kalamazoos are used'

- 'Binders are used.'

The researcher's personal observation revealed that the land records in the lands registry are poorly arranged. This was evidenced by the large masses of land records and files heaped together in a manner that enhances wear and tear and does not enhance retrieval.

4.4.6 Retrieval Tools Used

The study sought to find out the retrieval tools used in the lands office when retrieving land records. The registry staff interviewed stated that the land records are retrieved manually using the following retrieval tools:

- 'Presentation books.'

- 'Protection of rights' register.'

- 'Boundary dispute register.'

- 'Inward and outward registers.'

- 'File movement register.'

4.4.7 File Requisitioning Procedures

The study sought to find out the procedures used for requisitioning files from the lands registry. The registry staff stated 'applying and then payment'. According to them, this was considered as a formal procedure used by requestors when they visit the lands office.

4.4.8   Equipment used for the Management of Land Records

(i)   Data from the Registry Staff

The study sought to find out from the registry staff the equipment or tools used for the management of land records. The respondents cited the following equipment as being at their disposal for use in managing land records: *wooden cupboards and steel cabinets'*.

(ii)   Data from the DOs

In relation to equipment used for the management of land records, the DOs cited the following equipment to be at their disposal for the management of land records:

- 'Steel cabinets.'
- 'Shelves.'
- 'Wooden cupboard.'

Personal observation made by the researcher confirmed the existence of the above-stated equipment. However, the wooden cupboards and steel cabinets available were not in good working conditions due to their old age.

4.4.9 Adequacy of Records Storage Equipment

In relation to records storage equipment, the study sought to establish the adequacy and suitability of these equipment for records storage in Ministry of Lands, Bungoma County.

The registry staff stated that the records storage equipment were not adequate. The researcher's personal observation confirmed that the records storage equipment were indeed inadequate in ensuring optimum protection of land records. From the researcher's observation, the scene was characterized by broken wooden cupboards; lack of indexes; files tied and piled together; broken metallic cabinets; poorly arranged carton boxes; tattered/worn-out files; and files stored together with motor tyres *(see appendix III)*.

4.4.10 Adequacy of Space Allocated for Land Registry

With regard to storage space, the study sought to find out whether the allocated space for the lands registry in the Ministry of Lands, Bungoma County was adequate. The registry staff stated that the space allocated for the land registry was adequate. The researcher's personal observation at the allocated space further confirmed that the space was adequate. However, the available space was not well utilized due to unsuitable and inadequate storage equipment.

4.4.11 Existence of Records Centre for storage of Semi-Current Records

On the existence of a records centre, the registry staff were asked whether the Ministry of Lands, Bungoma County had a records centre to provide a low cost storage for land records. The registry staff stated that there existed a records centre.

The researcher's extra probe and personal observation indicated that there exists no records centre in Bungoma lands office. The responses given by the registry staff are

based on the daily usage of the terms 'records centre' and 'registry' to refer to the land registry that exists.

4.4.12 Suitability of the Physical Environment in the Land Registry

The suitability of the storage equipment has an impact on the records storage conditions. In view of this, the researcher sought to establish the physical environment within which land records were kept.

The registry staff described the physical environment as inappropriate for the management of land records. This was confirmed by the observation made by the researcher and it was evident that the physical storage environment was not appropriate for the management of land records bearing in mind the urban setup of the lands office which exposed the records to various risks.

4.4.13 Potential Disasters to Land Records

The study further sought from the registry staff the potential disasters likely to affect the land records. The respondents cited the following as the potential disasters that were likely to affect the land records: dust, light, leakage of water from water pipes, fire, insects, wear and tear, and rodents.

4.4.14 Measures used to protect Land Records

Records are important because of the information they contain. Security of records therefore is an important component of a sound records management programme. This component is aimed at safeguarding the records from destruction and to recover those records that sustain damage. In relation to the potential dangers cited above, the researcher sought to identify the mechanisms or measures in place to protect the land records.

The registry staff cited the following as measures to protect land records in the land registry:

- 'Routine inspection'
- 'Fumigation'
- 'Filing in durable boxes and binders.'
- 'Employing professional qualified staff who maintain and keep records well.'
- 'Ensuring the roof is water proof.'
- 'Provision of fire extinguishing equipment.'

Researcher's personal observation further revealed that security guards were conspicuously present at the main reception of the lands office as a measure to protect land records from theft.

4.4.15 Availability of records Retention Schedule

The registry staff were about asked the availability of records retention schedule to govern land records. The registry staff indicated non-existence of records retention/disposal schedule.

4.4.16 Existence of a Planned System of Removing Semi-Current and Non-Current files from the land Registry

Closely connected to the retention schedule, the study sought to find out the existence of a planned system of removing semi-current and non-current files from the registry. In response, the registry staff stated that a planned system for transferring semi-current files existed for transferring such records to an archival repository.

4.4.17 Discussion of Findings

The research findings revealed that management of land records is not only done at the Ministry of Lands, Bungoma County but also accomplished at divisional offices. The following units have been established at divisional offices to support the management of land records: Land Disputes Tribunal; Land Control Board; land registry; and Land settlement office.

Records management manuals serve as training tools for the staff and they are reference materials as they contain guidelines on work procedures. The study revealed lack of records management manuals in the Ministry of Lands, Bungoma County. Lack of such

important documentation as reference tools negatively affect the management of land records as there are no guidelines for the registry staff to follow. Consequently, this undermines the protection of citizens' rights and entitlements.

Legislation or organizational policy establishes a framework for the management of land records. The study revealed that there existed a policy on the management of land records in Bungoma lands office. This was contrary to the divisional offices which are managed by the DOs where guidelines on the management of land records existed as part of the broader national land policy. Nevertheless, the availability of guidelines governing the management of land records supports proper management of land records which in turn promotes the protection of citizens' rights and entitlements. This is echoed by Roper and Millar (1999) who assert that the basis of all records management authority is comprehensive and up-to-date legislation or concrete and effective policies. Policies are important because they set out goals to be achieved as well as guidelines for implementing them. Sound management of land records requires well-spelt out policies to govern their systematic management.

The quality of any records management programme is highly dependent on the quality of staff managing such a programme. The study revealed that the registry staff manning the lands registry in Ministry of Lands, Bungoma County and divisional offices are inadequately trained but they have acquired the relevant skills and knowledge of managing land records through on-job training. Those personnel managing land records at divisional offices are mere clerical staff with minimum formal training. Lack of

adequately and professionally trained records staff impacts negatively on the management of land records. Ultimately, this undermines the protection of citizens' rights and entitlements.

Systematic categorization of records is important to enhance access and retrieval. However, there are various ways of classifying records and documents so that they can be accessed. Some of these ways are simple to use whereas others may pose some difficult. The important thing to note is that, a good classification should enhance order and hence speedy retrieval of information. The study revealed that the land records in the lands registry were poorly or unprofessionally arranged. The arrangement was characterized by large masses of land records and files heaped together in a manner that enhances wear and tear and does not promote speedy retrieval.

The study revealed that record retrieval was manually performed using the following retrieval tools: presentation books, protection of rights register, boundary dispute register, inward and outward registers and file movement register. The retrieval tools used in the Ministry of Lands, Bungoma County though manual, facilitate identification and retrieval of files. This is in accordance with the CADSS Model in which Pederson (2001) observes that accessibility covers all activities associated with determining, administering and facilitating access to and use of records/archives.

Accessibility may involve the acquisition or design and operation of specialist facilities, services, expertise and information sources to ensure that: laws, regulations, conditions

and terms of access to records/archives are suitable, authoritative, documented, disseminated and properly administered; information about the records/archives, about obtaining access to them and about using them effectively as accurate, understandable, timely and readily available to authorized users; prospective users and their uses are appropriate, authorized and documented; and; the records/archives are retrieved, used and returned to safe custody in a timely manner.

Records management controls the creation, maintenance, use, and disposal of records so that the right records are provided to the right person at the right time (International Records Management Trust and World Bank, 2000). The study revealed that a formal procedure existed for the requisitioning of the files from the lands registry. The procedure entailed applying and then making payment. According to the researcher, this formal procedure fell short of accountability since there was no signing off the file. This is because the file was not registered or recorded in any movement register. This requisitioning procedure could hardly support the protection of citizens' rights and entitlements.

The findings revealed that the equipment used for the management of land records included wooden cupboard, steel cabinets and shelves. The study further revealed that though such equipment existed, some of the available equipment were not in good working conditions due to their old age. The study also revealed that records storage equipment were inadequate in ensuring optimum protection of land records. The scene was characterized by broken wooden cupboards; lack of indexes; files tied and piled

together; broken metallic cabinets; poorly arranged carton boxes; tattered/ worn-out files; and files stored together with motor tyres. The inadequacy of some available equipment undermined the protection of citizens' rights and entitlements.

The findings revealed that the space allocated for the land registry was adequate. The availability of adequate space makes it possible for the management of the lands registry to accommodate more records to ensure the protection of citizens' rights and entitlements. Despite the adequate space present for the lands office, there exists no records centre for the storage of semi-current records. The lands registry is also characterized by inappropriate physical environment for the management of land records as it exposed the land records to various potential disasters such as dust, light, leakage of water from water pipes, fire, ants, wear and tear, and rodents.

Consequently, the study provided the following measures of safeguarding the records from the disasters: routine inspection, fumigation, filing in durable boxes and binders, employing professional qualified staff who maintain and keep records well, ensuring the roof is water proof, provision of fire extinguishing equipment and employing security guards. These measures are supported by Pederson (2001) in the CADSS Model who emphasized that storage function is largely concerned with the physical preservation and care of records and archives through the use of archivally sound and/or appropriate: recording technology and media, packaging components/supplies, storage equipment, facilities, macro- and micro-environments; handling procedures during retrieval/refile, use, copying, display, transfer and transport; macro-preservation actions including risk

assessment and minimization; preventative and protective intervention activities; disaster response and recovery planning; collection and environmental stability monitoring; informational copying/media migration; and; micro-conservation treatments to stabilize, repair, strengthen and/or protect individual documents or series.

The findings revealed the existence of a planned system of removing semi-current and non-current files from the lands registry. This planned system ensured the transfer of semi-current files to an archival repository. The findings also revealed that the Kenya National Archives and Documentation Service provides assistance to the Lands Office in all aspects of records management. This finding is supported by the Disposal function of the CADSS Model.

According to the CADSS Model, Pederson (2001) opines that disposal function incorporates all activities involved in: identifying and documenting/surveying organized activities and records making/keeping systems within a designated universe of recordkeeping responsibility; determining what documentation reflecting organized activity within a designated record making/keeping system should be retained and, conversely, what should be destroyed; authorizing when, where, how and by whom these decisions will be implemented and documented; and; providing advice, mechanisms, facilities and documentation for systematic, secure and accountable disposal processes and outcomes.

4.5 HOW EXISTING RECORDS MANAGEMENT PRACTICES AFFECT THE PROTECTION OF CITIZENS' RIGHTS AND ENTITLEMENTS

The third objective of the study was to determine how the existing records management practices in the Ministry of Lands, Bungoma County affected citizens' rights and entitlements.

(i) Data from the Registry Staff

The existing records management system in Ministry of Lands, Bungoma County was based on an outdated approach involving paper and filing cupboards. The study sought from the registry staff the extent to which the existing recordkeeping practices in the lands registry supported or undermined the protection of citizens' rights and entitlements. The registry staff stated that the existing records management practices supported the protection of citizens' rights and entitlements. The following submissions were obtained:

- 'The land records are better organized and located, and retrieved more quickly, thus facilitating ease of reference.'

- 'Because staff members have ready access to all necessary records, they are able to make decisions with reference to precedent, context and eventualities.'

- 'There is continuity even if staff members leave the employment.'

- 'Land records are efficiently created in the normal course of business for all functions sufficient to satisfy legal, fiscal, administrative, and other recordkeeping requirements.'

- 'Land records are retained and usable for as long as required for legal or business purposes, and then efficiently disposed of or preserved as archives.'

- 'There exists a planned system of removing semi-current and non-current files from the lands registry. This planned system ensured the transfer of semi-current files to an archival repository.'

- 'The Kenya National Archives and Documentation Service provides assistance to the Lands Office in all aspects of records management.'

- 'Land records are stored and maintained in a safe, secure, cost-effective fashion to support retention, access, and archival preservation.'

However, the researcher's own observation revealed that the records are in the open and exposed to dust, dirt, vermin, birds, mold, rodents or other environmental hazards, cupboards used for shelving are broken as well as not clearly labeled and identified by work function, the cupboards are not raised off the floor as a measure in case of flooding, the lighting does not have light filters to reduce glare and to protect records from damage caused by ultra violet radiation.

(ii)   Data from Land Officers

On how these land records were used to protect citizens' rights and entitlements, the Land Officers stated:

- 'Discharges were promptly and immediately sent or submitted for the title deed to be processed. There is no need to keep for long.'

- 'Citizens' rights and entitlements were appended on the green card and white card and are not lifted unless through a court process.'

- 'The land registry provided effective and efficient retrieval and access to land records.'

4.5.1 Discussion of Findings

Records management is a program to systematically manage recorded information whether manually or electronically through the life cycle of records; namely creation, maintenance, use and, disposition by the records office to ensure the effectiveness of the recordkeeping system or a set of standards and procedures that an organization follows to ensure that all of its documents of records are managed in accordance with legal, regulatory and business requirements.

The findings of the study revealed that the existing records management practices carried out in the Ministry of Lands, Bungoma County supported the protection of citizens' rights and entitlements. This was achieved by ensuring that the land records were better organized and located, and retrieved more quickly, thus facilitating ease of reference; ready accessibility by staff members to all necessary records for reference to make decisions, there was continuity even if staff members separated from employment, land records were efficiently created in the normal course of business for all functions sufficient to satisfy legal, fiscal, administrative, and other recordkeeping requirements, land records were retained and usable for as long as required for legal or business purposes, and then efficiently disposed of or preserved as archives, land records were stored and maintained in a safe, secure and cost-effective fashion to support retention, access, and archival preservation.

Further, the findings revealed that the existing records management practices in Bungoma District Land Office supported the protection of citizens' rights and entitlements by ensuring that discharges were promptly and immediately sent or submitted for the title deeds to be processed; citizens' rights and entitlements were appended on the green card and white card and were not lifted unless through a court process.

This is supported by the Government of South Australia (2005) which notes that there are a multitude of benefits that can be expected from agencies and authorities achieving adequate records management such as: ability to mitigate the considerable risks associated with inadequate records management practices, specifically, accountability, transparency, sound corporate governance, and public sector efficiency; compliance with statutory requirements; ability to provide enterprise-wide access to documents, records and information resources.

Similar observations are shared by (Kemoni, Ngulube & Stilwell, 2007; Ndenje-Sichalwe,2009) who observed that records and archives are vital sources of information which enable public officers to render efficient and effective services to the public, and governments use records for wide-ranging purposes including confirming the work of employees, pensions, leave and health benefits and formulating and reviewing policies and procedures, proving citizens' rights such as land ownership and providing information about past actions or decisions, and enhancing transparency and accountability.

However, the study also revealed that there are shortcomings in the existing records management practices undertaken at the Ministry of Lands, Bungoma County. There was evidence of poor records management practices observed on the fact that land records were stored in the open and exposed to dust, dirt, vermin, birds, mold, rodents or other environmental hazards, cupboards used for shelving were broken as well as not clearly labeled and identified by work function, the cupboards were not raised off the floor as a measure in case of flooding, the lighting did not have light filters to reduce glare and to protect records from damage caused by ultra violet radiation.

Where land records are exposed to dangers the image of the organization is not only tainted but also the citizens' rights and entitlements are undermined. This is because, records should exist for all major business activities, and where relevant, they should be disposed of in a timely manner. These findings are supported by University College Cork (UCC) which expounds that adherence to records management policies, guidelines, procedures and standards should help to ensure that organizations comply with the expectations placed on it. Such expectations include legislative, regulatory and audit requirements, and community expectations. It is essential that staff members recognize the significance of this aspect of information and records management.

According to UCC, it is evident that records provide key evidence of the activities and functions of organizations. In order that the achievement of accountability and transparency is feasible, information and records management, and more specifically, record-keeping, should satisfy the following criteria:

a. **Comprehensive -** document the complete range of the functions, activities and transactions carried out by the organization.

b. **Complete -** present adequate information about all business activities.

c. **Compliant -** adhere to record-keeping requirements based on the regulatory and legislative environment in which the organization operates, and comply with internal policies on record-keeping.

d. **Accurate -** reflect in an accurate manner those business activities that are documented.

e. **Authentic -** enable the provision of proof that they are what they purport to be.

f. **Inviolate -** securely maintained to prevent unauthorized or accidental access, alteration, damage or removal.

4.6 POTENTIAL APPLICATION OF ICTs IN THE MANAGEMENT OF LAND RECORDS

The fourth objective of the study was to investigate the potential application of Information Communications Technologies in the management of land records for enhanced protection of citizens' rights and entitlements.

(i)   Data from the Registry Staff

The ICT-enabled "electronic venue" has become a place and workspace that involves virtually all of society's organizational structures and processes including records management. In this respect, the registry staff were asked to state which areas of

management of land records could ICT be applied. The following submissions were made:

- 'ICT could be used for storage and retrieval of electronic documents.'

- 'Specialized filing equipment to improve the storage and retrieval of records.'

- 'Digital technology such as optical imaging and microform could be used to reduce the volume of paper on site and allow more efficient workflow.'

- 'Document indexing software could be used to allow for retrieval of documents in multiple ways.'

- 'Document tracking and control systems could be used to enable users track documents or folders from creation to final disposition'

- 'Specialized software could be used to allow one to automate specific aspects of records management such as records schedules or retiring records.'

(ii)   Data from the DOs

With regard to the application of ICTs in the management of land records, the DOs interviewed stated the following:

- 'ICTs could be used to access records when conducting official searches.'

- 'Communication –ICTs could be used to communicate official information informing the land registrar on land status and issues.'

- 'ICTs could be used by chiefs and administration officers to put restrictions on land.'

- 'ICTs could be used by individuals to put caution on land awaiting resolution.'

- 'Keeping or storage of land records.'

- 'Facilitate reference.'

- 'Internet – could help the registry staff to learn on how management of land records was done in other areas.'

- 'People and users in particular could register and transact online for instance pay online instead of traveling to the lands office.'

- 'Obtain instant answers or responses to inquiries or queries.'

(iii)   Data from the Land Officers

The study sought from the Land Officers which aspects of their functions could ICTs be applied. The Land Officers cited the following:

- 'Data mining.'

- 'ICTs could be used for the storage of records to enhance retrieval'.

- 'ICTs could be used to interlink the District Lands office to the headquarters to hasten communication.'

- 'ICTs could be used by those who need the service to query from home instead of traveling to the lands office.'

- 'The computer could be used to prepare various land documents needed to support transactions.'

- 'The computer could be used to word-process minutes.'

4.6.1 Discussion of Findings

The impetus for adopting ICTs in records management is due to the benefits attributed to automation. The study revealed that the lands office in Bungoma District was not yet automated. However, all aspects of management of land records were potential areas of application of ICTs as revealed by the study. In management of land records, the findings revealed that ICTs could be applied as follows: records filing; for access to records when conducting official searches; for communicating official information on land status and issues; used by chiefs and administration officers to put restrictions on land; by individuals for putting caution on land awaiting resolution; keeping or storage of land records; facilitate reference; e-learning via the internet; data mining and to facilitate easy retrieval.

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These findings are strongly supported by Roper (1999) who observed that almost any records-related activity can be automated in some fashion. For example, word processing can be used for correspondence, inventory development and report generation. Spreadsheets can be used to manage budgets or track personnel expenditures. Databases can centrally maintain information about staff or about records or archives.

On how ICTs can facilitate the protection of citizens' rights and entitlements, the study revealed that storage of records in the computers could enhance retrieval; people and users in particular could register online; pay online instead of traveling to the office; and people would obtain instant answers or responses to inquiries or queries. According to Roper (1999), ICTs thus permit the collection and aggregation of statistical information

which would be very time consuming, if not impossible, to assemble from manual systems.

Similarly, Millar (2009) opines that ICTs can be used for a wide range of records management functions. Potential records management related functions to which ICTs can be applied include the following: administrative tasks such as correspondence, statistics and accounting, or reporting; classification and listing of current records; printing file labels; scheduling of current records; location and tracking of current and semi-current records and boxes; information about authorized users of current and semi-current records; identification of records for disposal; management of physical space and storage for current records; production of management information about the records.

Manual systems encourage duplication of efforts and repetition of work since they are characterised by human errors, for instance folders being misfiled or lost. The computerised systems guard against misfiled, misplaced or lost documents. The automated systems have the ability to ensure greater accuracy and consistency in the performance of routine tasks, e.g. accuracy of information and calculations once data is input in the computer (Roper and Millar, 1999). ICTs assist in eliminating repetitious work, such as typing new file labels and index cards. Computers can print labels automatically; update indexes regularly, produce reports based on data already entered into the computer, and otherwise reduce time and increase efficiency. Personnel can then focus their work on more significant tasks.

Manual record keeping systems are costly and inflexible. Because of the flexibility of computer systems, there is increased ability to manipulate data once entered. The computerization of some tasks offers much more flexibility. In addition the computer simplifies searching for documents. For example, the computer makes it possible to organize and maintain an index with several searchable 'fields' or attributes of information. As a result, the computer provides increased points of access to information. This access can facilitate the location of items for users who may not be aware of the exact terminology for an item.

ICT integration also has financial implications; cost-effectiveness is one of the main aims sought and the worthiness of investment is examined. Organizations wish to adopt cost-effective methods of managing records in order to save on the storage space, staff numbers required to manage the records and the storage equipment (Cain, 1996). Space savings can be achieved through the use of ICTs. For example, computers can be programmed to remind users of retention and disposal deadlines, ensuring records are transferred or destroyed on schedule. In an archival setting, computers can also be used to make finding aids more consistent and available to users in remote locations as well as on the premises. Computers may also reduce the need for some office supplies and equipment, saving costs in the long run (Roper and Millar, 1999).

Further, Roper and Millar (1999) identify instantaneous updating as another benefit. The computer permits the maintenance and updating of finding aids, classification manuals, and indexes with relative ease. Changes can be input quickly into the database and can

be immediately reflected in a printout. As long as more than one computer is available, it is also possible for records employees to access the database simultaneously. Thus, staff members at remote storage locations can see new and revised information immediately and not have to wait until they are physically at the main records and archives institution office.

The findings are also supported by Roper and Millar (1999) that ICTs provide for multiple simultaneous accesses to information. Networked computers allow increased connectivity to other organization's departments and sections, as well as to records professionals throughout the world. Intranets connected even to governmental agencies enable records-related questions to be answered quickly. Through the internet, records professionals can locate professional resources and find model policies, procedures and manuals from other similar institutions to assist them in programme development. They can also communicate more easily with their colleagues, encouraging their professional growth.

According to Roper and Millar (1999) ICTs should be viewed as a tool to facilitate daily operations and planning in records management. If implemented well, ICTs can increase staff efficiency, perform routine tasks automatically and analyse data more quickly than could be done manually. Manual information systems may not be fast enough or sophisticated enough to meet growing user demands as well as the higher expectations and standards brought about in society by increased computerisation. If people find that they can access information in one office or agency using computers, they will soon come to expect other offices to provide the same level of service.

4.7 CHALLENGES FACED IN THE MANAGEMENT OF LAND RECORDS

The fifth objective of the study was to investigate the challenges faced in the management of land records.

(i)   Data from the Registry Staff

With regard to challenges encountered in the management of land records at the Bungoma Lands Office, the registry staff cited the following:

- 'Documents missing or lost due to ignorance of registry staff on where the folders are.

- 'The large quantity of land records.'

- 'Existence of a large backlog of documents to be filed.'

- 'Mix-up of active and inactive files in filing cupboards.'

- 'Inadequately trained registry staff.'

- 'Lack of policy on management of land records.'

- 'Inadequate storage.'

- 'Thenegative attitude of land officers to 'lay' records managers.'

The Land Officers in the Ministry of Lands were generally well aware of the value of land records. However, they tended to work under constant pressure and often felt they could do little to care for their records. Unfortunately, the Land Officers often believed that only someone who worked in the profession could advise them about any matter relating to their area of work.

Therefore, although many of the general principles and practices of records management could be applied to the management of land records, there may be reluctance on the side of the Lands Officers to accept this advice from 'lay' records managers.

Unqualified staff: there were no adequate qualified records staff to share the Ministry's collective responsibility to follow and reinforce records management practices. This ultimately led to inefficiencies such as missing or lost documents, backlog of documents to be filed and retention of unused files.

Non-existence of policy on management of land records: the non-existence of documented policies meant that staff members were unable to execute actions relative to records in a consistent manner. The findings revealed that there existed no policy on management of land records. This caused inconsistency in managing land records which could expose land records to dangers such as arbitrary destruction hence undermining protection of citizens' rights and entitlements.

With these issues in mind, the Ministry of Lands, Bungoma County faced fundamental hurdles in the management of land records which ultimately undermined the protection of citizens' rights and entitlements.

(i). Data from Land Officers

With regard to challenges encountered in performing their functions, the Land Officers cited the following:

- 'Time constraint in accessing and referencing farmers' data from the manual files.'

- 'Absence of competencies in the management of land records.'

- 'Absence of organizational plans for managing records.'

- 'Lack of records retention and disposal policies.'

- Low awareness of the role of records management in support of citizens' rights and entitlements.'

- 'Lack of policies to guide the management of records.'

- 'Inadequate budgets dedicated for records management.'

- 'Poor security and confidentiality controls.'

General inefficiencies in managing land records emanated from several related challenges such as absence of competencies in the management of land records, absence of organizational plans for managing records, lack of records retention and disposal policies, low awareness of the role of records management in support of rights and entitlements, lack of policies to guide the management of records, absence of budgets dedicated for records management and poor security and confidentiality controls. Overall, these inefficiencies not only interfered with service delivery but also undermined the protection of citizens' rights and entitlements.

(ii).   Data from the DOs

The challenges encountered by the District Offices in the management of land records included:

- 'Technologically-challenged administration officers who lack ICT skills that are vital these days.'

- 'Lack of training for the administrators on proper management of land records.'

- 'Lack of sensitization of the public on the role of land records in land ownership.'

- 'Manual filing leads to frequent file loses and misfiles.'

- 'Bulky manual files which are cumbersome and tedious in referencing when searching for data.'

(iii). Data from General Public Records' Users

The study sought to find out from the general public records' users any challenges they encountered or experienced in their quest for service from the Bungoma Lands Office. In response, the records users interviewed cited a number of such challenges as follows:

- 'Delay in retrieving the records.'

- 'Far distance'

- 'No transparency – not all information is disclosed from the office as even no receipt is issued. Just rely on trust.'

4.8 RESPONDENTS' RECOMMENDATIONS

Consequently, the study sought to find out from the respondents how the above-stated challenges could be resolved.

(i)   Data from the Registry Staff

The following submissions were made by the registry staff:

- 'Teaching or training employees about key aspects of records management such as retention, disaster recovery, access to information and service delivery.'

- 'Publicizing the benefits and virtues of effectively managing land records.

- 'Seeking endorsement of top management in matters related to the management of land records.'

- 'Collaborating with other members of staff working in the Lands Office to support the management of land records.'

- 'The Ministry of Lands to develop a Records Management Policy and simplify it in the form of regular circulars'

(ii)   Data from the DOs

The study sought from the DOs the possible solutions to the above-stated challenges. The DOs stated that 'ICTs would offer solutions to most problems.

(iii)   Data from General Public Records' Users

The following recommendations were submitted by the general public records' users:

- 'Need for a lands office to be established in the division.'

- 'ICTs to be used the same way MPesa was working so that one did not travel long distances.'

- 'More staff needed.'

(iv)   Data from Land Officers

- 'Need to modernize the records and information management programs.'

- 'Establishing control procedures limiting access to the files and require those who have access to use charge-out cards when files are removed.

- 'Original documents should never be removed from files.'

- 'Training employees on the basic aspects of records management.'

- 'Enlightenment and sensitization of the general public, on the importance of land records.'

4.9 SUMMARY

The chapter has attempted to present data on the role of land records in the protection of citizens' rights and entitlements in the Ministry of Lands, Bungoma District. The need to effectively manage land records cannot be overstated for enhanced protection of citizens' rights and entitlements.

CHAPTER FIVE

SUMMARY OF RESEARCH FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.1 INTRODUCTION

The aim of the study was to investigate the role of land records in the protection of citizens' rights and entitlements in the Ministry of Lands, Bungoma County with a view to coming up with a best-practice framework to integrate management of land records in the protection of citizens' rights and entitlements. This chapter therefore provides a summary of research findings of the study; conclusions and recommendations. The chapter also makes suggestions for further research and provides a best-practice framework for the management of land records in the protection of citizens' rights and entitlements.

5.2 SUMMARY OF RESEARCH FINDINGS

The section that follows provides a summary of the research findings based on the research questions formulated in chapter one of this study.

5.2.1 Research Question one: What functions are performed in the lands office and the land records generated from the functions?

The research revealed that there were various functions or activities undertaken by the Ministry of Lands. Some of these functions included land dispute dissolution, land valuation, documentation of claims, among others. Further, the research revealed that there was an obvious correlation between the functions, transactions and the land records

generated in the Ministry of Lands. Such records generated included demand notices, discharges, title deeds, valuation reports, green cards and white cards, among others.

5.2.2 Research question two: What role is played by land records in the protection of citizens' rights and entitlements?

The research revealed that land records were integral to human rights and entitlements. Well managed land records enhance the protection of citizens' rights and entitlements since the right to access land records forms the basis for other numerous rights and entitlements. This is because citizens' rights and entitlements are always appended on land records and well managed land records enhance easy retrieval of information.

5.2.3 Research question three: To what extent does the existing records management practices enhance or undermine the protection of citizens' rights and entitlements?

Availability of a planned records retention and transfer system; proper records arrangement; efficient and sufficient creation of land records; adequate retention of land records; as well as adequate records storage and preservation in the Ministry of Lands, Bungoma County supported the protection of citizens' rights and entitlements, but not satisfactorily. This is because the existing records management system in Ministry of Lands, Bungoma County was based on an outdated approach that was characterized by several inadequacies that undermined the protection of citizens' rights and entitlements.

5.2.4 Research question four: How can Information Communications Technologies (ICTs) be applied in management of land records to enhance protection of citizens' rights and entitlements?

Searching; communication; filing, storage, access and retrieval; referencing and e-learning; space saving; on-line payment and; user registration were identified by the study as aspects of management of land records where ICTs could be applied to enhance the protection of citizens' rights and entitlements.

5.2.5 Research question five: What challenges are encountered in the management of land records in the protection of citizens' rights and entitlements?

General inefficiencies in managing land records emanated from several related challenges such as absence of competencies in the management of land records, absence of organizational plans for managing records, lack of basic records management policies and tools, low awareness of the role of records management in support of citizens' rights and entitlements, absence of budgets dedicated for records management and poor security and confidentiality controls. Overall, these inefficiencies not only interfered with service delivery but also undermined the protection of citizens' rights and entitlements.

5.2.6 Research question six: How can the management of land records practices be improved to protect rights and entitlements?

In view of the challenges, the research recommended resource mobilization by the Principal Secretary and the Cabinet Secretary in-charge of the Ministry of Lands,

Housing and Urban Development to support the: development of a Records Management Policy (high level) and procedures manual to accompany it (operational level); acquisition of state of the art records storage equipment, staff training, organization of awareness campaigns on importance of land records; and; modernization the records and information management programme for instance digitization of land records.

5.3 CONCLUSION

The mission of the Ministry of Lands is to facilitate improvement of livelihood of Kenyans through efficient administration, equitable access, secure tenure and sustainable management of the land resource. This calls for an effective records management programme that ensures efficient, effective, and economical management of land records and information hence protection of citizens' rights and entitlements.

The study revealed that the Ministry of Lands undertook numerous land-related functions and that there was an obvious correlation between the functions, transactions and the land records generated. This logical relationship between the functions performed in the Ministry of Lands and the land records generated is a basis to more readily respond to accountability obligations, to manage land records efficiently and effectively as well as enhance the protection of citizens' rights and entitlements. This concurs with Roper and Millar (1999) who explain that BPA is a powerful tool that helps records managers and archivists to gain a deeper understanding of records in relation to organizational transactions, processes and sub-systems or functions. The understanding derived from a BPA exercise supports the effective management of organizational records and thereby

achieve records and archives management objectives by building record-keeping requirements into organizational processes.

Land records are vital to virtually every aspect of the Ministry of Lands. The Ministry's staff must have information to carry out their work, and land records represent a particular and crucial source of information. Land records provide a reliable, legally verifiable source of evidence of decisions and actions. Well managed land records enhance the protection of citizens' rights and entitlements since the right to access land records forms the basis for other numerous rights and entitlements. Conversely, badly managed land records adversely undermine citizens' rights and entitlements.

Millar, 2003, Ndenje-Sichalwe and Ngulube, 2008, and World Bank 2010 share similar sentiments that records of are an important and often crucial source of data for accountability processes. Lack of proper records management may compromise accountability, good governance and the protection of human rights. The loss of control of records has consequences for all citizens, especially for the poorest, who are least able to defend themselves. Relevant and accurate public records must exist if governments are to preserve the rule of law and to demonstrate fair, equal, and consistent treatment of citizens.

Manual information systems may not be fast enough or sophisticated enough to meet growing user demands as well as the higher expectations and standards brought about in society by increased use of ICTs. The study revealed that Information Communications

Technologies (ICTs) could be applied in various aspects of management of land records to enhance the protection of citizens' rights and entitlements. Well implemented ICTs would have the potential to facilitate processes and activities enhancing the protection of citizens' rights and entitlements as well as efficiency and effectiveness in service delivery.

This finding concurs with the International Bank for Reconstruction and Development/The World Bank, (2004) that information and communication technologies provide the opportunity to improve the delivery of information and services to citizens and businesses, to streamline public sector functions, and to increase participation in government.

5.4 RECOMMENDATIONS

Based on the findings and observations presented above, this study suggests the following recommendations be adopted and implemented by the Ministry of Lands, Bungoma County, to improve the management of land records.

5.4.1 Developing a Policy for Management of Land Records

The data revealed that the Ministry of Lands, Bungoma County was characterized with poor security and confidentiality controls, lack of policy on management of land records, lack of organizational plans for managing records, lack of records retention and disposal policies. This caused inconsistency in managing land records which exposed land records

to dangers such as arbitrary destruction hence undermining protection of citizens' rights and entitlements.

In view of the above, the researcher recommends that the Principal Secretary and the Cabinet Secretary in-charge of the Ministry of Lands, Housing and Urban Development should embark on a resource mobilization campaign to develop a Records Management Policy that is benchmarked against the ISO 15489 standard (high level) and a procedures manual to accompany it (operational level) to ensure consistent practices are followed in the management of land records. This will not only improve overall business practices and efficiency but also enhance the protection of citizens' rights and entitlements.

5.4.2 Training of Records Management Personnel

The findings of the study have revealed the following inadequacies in the Ministry of Lands, Bungoma County: inadequate staffing, unqualified staff, missing or lost documents and maintenance of valueless records, among others.

This study therefore recommends to the Principal Secretary and Cabinet Secretary in-charge of the Ministry of Lands, Housing and Urban Development to have all records staff in the ministry trained in conventional records management (on key aspects of records management such as retention, disaster recovery, access to information and service delivery), management of land records and Information Communications Technology (ICTs). This is very important for managing land records because, such

individuals will have knowledge on all records management processes and aspects and how they are being affected by technology.

5.4.3 Automation & Digitization of Land Records in the Ministry of Lands, Bungoma County

The study has revealed that the Ministry of Lands, Bungoma County is characterized with large quantities of land records, inadequate storage, long file/record retrieval time, pressures of work by staff. The data further revealed that the general public records' users travel long distances to the Ministry of Lands, Bungoma County to seek service; service delivery was compromised due to manual filing that led to frequent file loses and misfiles and bulky manual files which were cumbersome and tedious in searching for data. This ultimately undermined the protection of citizens' rights and entitlements. This study therefore recommends that the Governor of Bungoma County spearheads the computerization and digitization efforts in the lands office in Bungoma County.

5.4.4 Adequate Funding for management of Land Records

The study has also identified the inadequacy of budgets dedicated for records management at the Ministry of Lands, Bungoma County. This study recommends that the Government through the Cabinet Secretary and Principal Secretary in the Ministry of Lands, Housing and Urban Development should allocate and avail more funds for management of land records. The allocated funds will provide for staff training; creating awareness and other relevant requirements.

5.4.5 Outreach Programme

The data revealed low awareness of the role of records management in support of rights and entitlements by the records users and negative attitude of land officers to 'lay' records managers who manage land records. To make a greater and positive impact, this study recommends that the Principal Secretary in-charge of the Ministry of Lands to collaborate with media houses and other stakeholders to disseminate and publicize the benefits and virtues of effectively managing land records.

5.5 PROPOSED BEST-PRACTICE FRAMEWORK FOR THE MANAGEMENT OF LAND RECORDS AND PROTECTION OF CITIZENS' RIGHTS AND ENTITLEMENTS

This study proposes a best-practice model that could be used to ensure sound management of land records in the Ministry of Lands, Bungoma County to support the protection of citizens' rights and entitlements. The model comprises 6 (six) interrelated components namely; Control, Accessibility, Disposal, Storage, Sustenance and Recordkeeping Responsibility. Control, Accessibility, Disposal, Storage, Sustenance functions are adapted from the Ann Pederson (2001) CADSS model. However, the proposed model introduces a new aspect of recordkeeping responsibility that is missing in the CADSS Model.
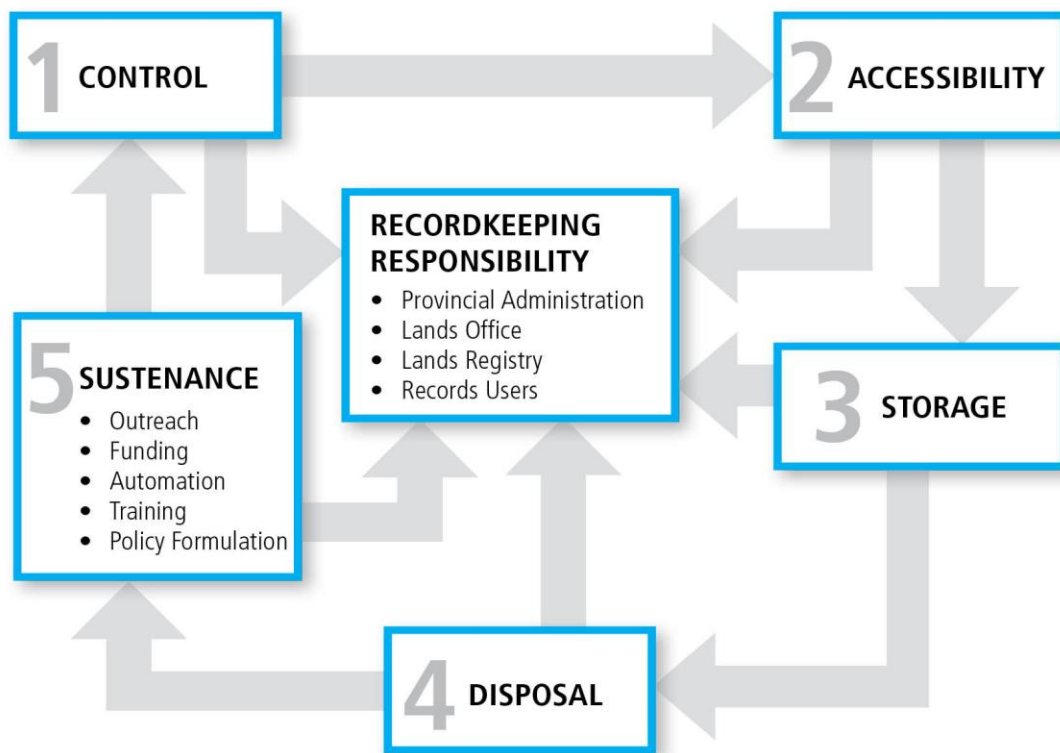
Figure 2: The Proposed Best-Practice Model

Adapted from Ann Pederson (2001) CADSS Model

C- CONTROL

Control includes all recordkeeping activities required to: bring a record into existence as complete, integrated entity that can serve as reliable evidence of the acts to which it attests; and; identify the physical and intellectual attributes of a record's content, structure and context.

A - ACCESSIBILITY

Accessibility covers all activities associated with determining, administering and facilitating access to and use of records/archives.

D - DISPOSAL

Disposal incorporates all activities involved in: identifying and documenting/surveying organized activities and records making/keeping systems.

S - STORAGE

Storage broadly concerned with the physical preservation and care of records and archives.

S - SUSTAIN

Sustain refers to the function that sustains the recordkeeping regime as a viable and effective component of its host organization. This will entail undertaking the following activities: outreach programme, adequate funding for management of land records, automation & digitization of land records in the Ministry of Lands, training of records management personnel and development of Policy for management of land records.

R - RECORD KEEPING RESPONSIBILITY

At the centre of the proposed model are the areas of responsibility for the management of land records – the provincial administration, lands office, lands registry and the land records users. The broad responsibility lies on heads of relevant government ministries and departments who in one way or another are involved in the management of land records under their control. Ultimately, these heads designate staff members at the senior management level to whom they can delegate the responsibility to ensure that sound records management practices are implemented and maintained. However, sound records management is a collective responsibility which all members of staff have an equal obligation to maintain.

More so, all users should be aware of the policies, procedures, and tools for managing records and they should be capable of applying them consistently to all records. The full co-operation of the users is necessary to file documents and to protect land records against loss and damage. Without this, there will be no land records to manage and hence compromising the rights and entitlements.

5.6 SUGGESTIONS FOR FURTHER RESEARCH

The right to access land records forms the basis for accessing more other rights and entitlements. Considering the weight and role played by land records in ensuring the availability of other rights and entitlements, the study recommends the following areas for further research:

5.6.1 Management of Land records and Anti-Corruption Strategies

Land is one of the crucial components of socio-economic development. Effective management of land helps communities and government organizations to plan and enjoy the benefits of the land. However, land management especially in developing countries, is not an easy task. This is because of the complexity involved in land issues in developing countries.

Among the complexities is the manifestation of corruption in the land sector. Unfortunately, ways to curb it have not been comprehensively discussed in the anti-corruption literature. It is therefore necessary to conduct a research on how management of land records can support anti-corruption strategies.

5.6.2 Research in other Counties

There are 47 counties in Kenya. This study was only confined to part of the Bungoma County. It is necessary to undertake a similar research in land offices in other counties with a view to benchmarking with the established best practices from leading organizations and associations such as the ICA, ARMA, International Records Management Trust and such like. The study will also serve as a key information resource from which other land offices in other counties can learn.

5.6.3 ICTs in the Management of Land Records

ICT has the potential to facilitate land management processes and activities. The Ministry of Lands (Headquarters) and the Kenyan Government in general have embarked on the computerization projects, through the spirit of digitization and e-government, which focus towards enhancing public service delivery in the country. Therefore, there is need for a research to be conducted with a view to establishing the contribution of ICTs in the management of land records.

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APPENDIX I (a): INTERVIEW SCHEDULE FOR THE REGISTRY STAFF AT THE MINISTRY OF LANDS, BUNGOMA COUNTY

A. Business Process Analysis and Types of Records Generated

1. What records are received into the lands registry?

2. In what formats are the land records received?

3. What categories of land records protect citizens' rights and entitlements?

4. What rights and entitlements are derived from the categories of land records mentioned in (3) above?

5. Who is responsible for the creation of the categories of land records mentioned above?

6. Who are the users of the land records created?

B: Management of Land Records and Protection of citizens' rights and entitlements

7. Are there records management manuals for the management of land records?

8. Do you have a records management policy to govern the management of land records?

9. Are the personnel working in the lands registry adequately trained to manage land records?

10. How are the land records arranged and classified?

11. What retrieval tools are used in the lands office?

12. What procedures are used for requisitioning files from the lands registry?

13. What equipment does the lands registry have at its disposal for use in managing land records?

14. How adequate are the storage equipment in the protection of land records?

15. Is the space allocated for the lands registry adequate?

16. Is there a records centre for the storage of semi-current records?

17. Is the physical environment in the land registry appropriate for the management of records?

18. What are the potential disasters likely to affect the land records?

19. What measures are taken to protect the records?

20. Is there a records retention schedule at the lands registry?

21. Is there a planned system of removing semi-current and non-current files from the registry?

C. Current Records Management Practices and Protection of citizens' rights and entitlements

22. To what extent do the current recordkeeping practices in the lands registry support the protection of such rights and entitlements?

D. ICTs in the Management of Land records

23. In what areas can ICTs be applied in the management of land records?

24. How can the application of ICTs facilitate the protection of citizens' rights and entitlements?

E. Challenges and possible solutions in the management of land records

25. What challenges do you encounter in the management of land records?

26. How do you cope with the challenges?

APPENDIX I (b): INTERVIEW SCHEDULE FOR LAND OFFICERS AT THE MINISTRY OF LANDS, BUNGOMA COUNTY

1. What function(s) are performed in your section?

2. What records are generated and received from the function(s) mentioned above?

3. In what formats are the records created?

4. What categories of land records protect citizens' rights and entitlements?

5. What rights and entitlements are derived from the categories of land records mentioned in (4) above?

6. How are these land records used in the protection of citizens' rights and entitlements?

7. In what areas can ICTs be applied in the functions that you perform?

8. Can the application of ICTs in the functions you perform facilitate the protection of citizens' rights and entitlements in any way?

9. What challenges do you encounter in carrying out your functions?

10. How do you cope with the challenges?

APPENDIX I (c): INTERVIEW SCHEDULE FOR THE DISTRICT OFFICERS IN BUNGOMA DISTRICT

A: Business Process Analysis and Types of Records Generated

1. What role do you play in matters related to land ownership?

2. What categories of land records are generated or received in the course of your role in the land ownership matter?

3. What categories of these land records are vital in the protection of citizens' rights and entitlements?

4. What rights and entitlements are derived from accessing these land records?

B: Management of Land Records and Protection of citizens' rights and entitlements

5. Which records management units have been established within the District office to support the management of these land records?

6. What equipment does the district office have at its disposal for use in managing land records?

7. Are there personnel within the District office trained to manage land records?

8. Do you have a records management policy to govern the management of land records?

9. To what extent do the current recordkeeping practices support the protection of citizens' rights and entitlements?

C: ICTs in the Management of Land records

10. In what areas can ICTs be applied in the management of land records?

11. How can the application of ICTs facilitate the protection of citizens' rights and entitlements?

D: Challenges and possible solutions in the management of land records

12. What challenges do you encounter in the management of land records?

13. How do you cope with the challenges?

APPENDIX I (d): INTERVIEW SCHEDULE FOR THE RECORDS USERS IN BUNGOMA COUNTY

Name (Optional)---

Division ---

1. Do you visit the lands Office?

2. If Yes, what reason(s) make you visit the lands office?

3. Do you ever get referred to visit the land registry?

4. If Yes, what land records do you usually seek from the land registry?

5. Do you ever meet or satisfy your needs following your visit to the land registry?

6. Do you ever experience any delay due to missing file or record?

7. If Yes, how do you normally address the issue?

8. Are you aware of your rights and entitlements as pertains to land ownership?

9. If Yes, what are these rights and entitlements?

10. As a citizen of this country, what can you use to claim your rights and entitlements?

11. Do you experience any challenges in relation to seeking assistance from the lands office?

12. If Yes, what recommendations can you make to solve the challenges?

APPENDIX II: OBSERVATION SCHEDULE

No.	ITEM	DESCRIPTION	REMARKS
1.	TYPES/FORMATS OF RECORDS RECEIVED IN THE REGISTRY		
2.	RECORDS MANAGEMENT MANUALS/POLICY DOCUMENT		
3.	STORAGE FACILITY – REGISTRY/RECORDS CENTRE/ARCHIVES		
4.	VOLUME OF RECORDS IN STORAGE		
5.	GENERAL ARRANGEMENT OF RECORDS		
6.	RETRIEVAL TOOLS USED		
7.	SPACE AVAILABLE FOR REGISTRY/RECORDS CENTRE/ARCHIVES		
8.	RECORDS STORAGE EQUIPMENT		
9.	FILE CLASSIFICATION USED		
10.	PHYSICAL STORAGE CONDITIONS/ENVIRONMENT		
11.	REQUISITION PROCEDURES USED		
12.	RETIREMENT SYSTEMS FOR SEMI- & NON- CURRENT RECORDS		
13.	ICTs IN MANAGEMENT OF LAND RECORDS		
14.	POTENTIAL DISASTERS		
15.	REGISTRY STAFF		
16.	USERS OF LAND RECORDS		
17.	CHALLENGES ENCOUNTERED		

APPENDIX III: TYPICAL RECORDS STORAGE EQUIPMENT USED IN KEEPING LANDS RECORDS IN ONE OF THE DISTRICT OFFICES

APPENDIX IV – CLEARANCE LETTER FROM NATIONAL COUNCIL OF SCIENCE AND TECHNOLOGY

REPUBLIC OF KENYA

NATIONAL COUNCIL FOR SCIENCE AND TECHNOLOGY

Telegrams:"SCIENCETECH", Nairobi
Telephone: 254-020-241349, 2213102
254-020-310571, 2213123.
Fax: 254-020-2213215, 318245, 318249
When replying please quote

P.O. Box 30623-00100
NAIROBI-KENYA
Website: www.ncst.go.ke

Our Ref:

NCST/RRI/12/1/INF-011/22

Date:

13th April, 2011

Juma Alphonce
Moi University- Nairobi Campus
P. O. Box 63050-00200
NAIROBI

RE: RESEARCH AUTHORIZATION

Following your application for authority to carry out research on **"Management of land records and protection of rights and entitlements: A study of Bungoma district, western province, Kenya"** I am pleased to inform you that you have been authorized to undertake research **in Bungoma District** for a period ending *31st December, 2011.*

You are advised to report to **the District Commissioner and the District Education Officer, of Bungoma District** before embarking on the research project.
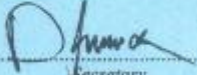
On completion of the research, you are expected to submit **one hard copy and one soft copy** of the research report/thesis to our office.

P. N. NYAKUNDI
FOR: SECRETARY/CEO

Copy to:

The District Commissioner

The District Education Officer

APPENDIX V: RESEARCH PERMIT

PAGE 2

THIS IS TO CERTIFY THAT:

Prof./Dr./Mr./Mrs./Miss... JUMA ALPHONCE

of (Address) ... MOI UNIVERSITY - NAIROBI
CAMPUS BOX 63050-00200 NAIROBI

has been permitted to conduct research in ....
....Location,
.... BUNGOMA ....District,
.... WESTERN ....Province,
on the topic.... "MANAGEMENT OF LAND RECORDS
AND PROTECTION OF RIGHTS AND
PROTECTION OF RIGHTS AND
ENTITLEMENTS: A STUDY OF BUNGOMA
DISTRICT, WESTERN PROVINCE, KENYA".

for a period ending.... 31ST DECEMBER ,20.11

PAGE 3

NCST/RRI/12/1/INFO-011/22
Research Permit No.......................
Date of issue.... 13/4/2011
Fee received.... KSHS.1000

Applicant's
Signature

Secretary
National Council for
Science and Technology