

UGANDA

FOOD SECURITY AND LAND GOVERNANCE FACTSHEET

ABSTRACT	1
1 POLICY AND LEGISLATION	3
1.1 Regulatory land governance framework	3
1.2 Land tenure forms	3
1.3 Institutional land governance framework	4
1.4 Gender	5
1.5 Foreign and domestic direct investment.....	5
2 INTEGRATED WATER RESOURCE MANAGEMENT	6
2.1 Regulatory framework around Integrated Water Resource Management.....	6
2.2 Institutional framework around Integrated Water Resource Management.....	6
3 REALITIES ON THE GROUND	7
4 OTHER INFORMATION AND RESOURCES	8
4.1 Related country profiles.....	8
4.2 Laws, policy and regulations search engines.....	8
4.3 Maps and databases.....	8
4.4 Portals and other resources.....	8
4.5 Donor support programs.....	8
4.6 Civil society organizations working on land governance	8
4.7 References.....	9

ABSTRACT

Food security in Uganda is relies on access to land and tenure security. Land governance is marked by the contradiction between relatively progressive legislation and only partial implementation. Institutions that have to deal with land administration and land disputes, such as customary authority systems, local government, and special courts for land justice, have weakened in the last years. Women’s position with respect to land and inheritance also remains weak, both legally and in practice, undermining their livelihoods and status in society. Tenure insecurity in Uganda is a source of conflict: within families, between groups and between communities. Overall, land issues are increasingly politically sensitive. Specific issues are the landlord-tenant relations on mailo land; land tenure insecurity in post-conflict Northern Uganda; disputes over land expropriation by government; the implications of oil exploration and mining for local land tenure systems and rights, in particularly for pastoral livestock systems; and accusations of land grabbing in rural and urban areas. To tackle these issues, a new land policy is being proposed and now at the level of government to be discussed.





This country factsheet was prepared under auspices of LANDac – The IS academy on land governance - and compiled by the Royal Tropical Institute (KIT – Thea Hilhorst and Nicolas Porchet) at the request of the Ministry of Foreign Affairs – The Netherlands.

About IS Academy on Land Governance for Equitable and Sustainable Development

LANDac, the IS Academy on Land Governance for Equitable and Sustainable Development, aims at bringing together researchers, policy makers and practitioners in the field of land governance and development. It is a partnership between several Dutch organisations and their Southern partners involved in development-related research, policy and practice. LANDac is one of the IS Academies for International Cooperation sponsored by the Netherlands Ministry of Foreign Affairs.

About KIT

The Royal Tropical Institute (KIT) in Amsterdam is an independent centre of knowledge and expertise in the areas of international and intercultural cooperation, operating at the interface between theory and practice and between policy and implementation. The Institute contributes to sustainable development, poverty alleviation and cultural preservation and exchange.

Country expert contribution:

We acknowledge and thank Mr. Mathijs van Leeuwen, University of Nijmegen, for his insights and comments on the latest development impacting land governance in Uganda.

1 POLICY AND LEGISLATION

1.1 Regulatory land governance framework

Land policy is characterized by the government as the “most emotive, culturally sensitive, political volatile and economically central issue in Uganda” (GOU, 2011). Uganda undertook a series of ambitious legal and policy reforms with regard to property rights and resource governance, towards a fundamental reform in rights and tenure management of land. Examples are the Land Reform Decree of 1975, the 1995 Constitution of Uganda, and the Land Act in 1998. These reforms did not result, however in “politically and socially acceptable and technically feasible solutions” according to the Government, partly because of the delay with respect to implementation. The application of the certificate of customary ownership only started in 2011, for example.

A national land policy (NLP) has been drafted through an internal consultative process within the government. The final draft of the NLP was presented to Cabinet in March 2011 and in April 2012 was still at that level. Once adopted, it will guide the legal reforms in the land sector. The draft NLP support the registration of land rights under customary tenure and contains a number of important reform proposals to cause gender equality with regard to land rights and inheritance of land. The draft includes also measures geared at rationalizing and streamlining the land dispute resolution structures and recognizes the role of customary institutions in making rules governing land, resolving disputes and protecting land rights (Zevenbergen and al., 2012). This call for efficiency and in the same time the reinforcement of local/customary institutions is not without creating ambiguities. These ambiguities are setting the ground for land-grabbing practices (see more: 1.6).

Law	Content
1995 Constitution (amended in 2005)	Every person has a right to own property either individually or in association with others.
1998 Land Act Amendments 2001, 2004, 2007, 2010	Recognizes the four forms of land tenure (customary, leasehold, freehold, and mailo); Grants all lawful and bona fide occupiers (legally defined) property rights; decentralizes land administration; Establishes land tribunals. 2004 Amendment improved women’s rights and 2007 Amendments specifically dealt with land evictions.
2008 National Land Use Policy	provides guidelines on effective land use for socio-economic development and on minimizing land degradation
The Land Sector Strategic Plan (2001-2011)	developed to implement the Land Act
Draft Land Policy (30 th of March 2011)	Ensure efficient, equitable and sustainable utilization and management of Uganda’s land and land-based resources for poverty reduction, wealth creation and overall socio-economic development

(Tumushabe 2003, GOU, 2005, GOU, 2011)

1.2 Land tenure forms

The 1995 Constitution recognizes the following different land tenure systems: customary; freehold; mailo and leasehold.

Tenure type	Description
State land	All land vested in or acquired by the government, which is held and managed by the Uganda Land Commission.

Customary land	Between 70% and 80% of land in Uganda is under customary tenure, particularly in Northern Uganda. There is much variation as there are more than 60 ethnic groups. The 1998 Land Act recognizes that occupancy of customary land and conveys legal rights without documentary evidence. It introduces the “ <i>certificate of customary ownership</i> ”. Although possible from 1998, the first certificates were only issued in 2011. Critics have been raised as these titles are individual and not collective, which does not always fit with local realities. Moreover, people don’t know well how it works.
Freehold	The proportion of land under registered freehold tenure is much smaller and mainly located in Kampala, and in former Ankole, Toro, Kigezi, and Bugisu Districts. Transactions involving freehold land (as well as <i>mailo</i> land registration) are governed by the Registration of Titles Act.
Mailo	Central and southern Uganda is dominated by <i>mailo</i> land. This is a kind of customary form of freehold that was created under British colonial rule when mile-square blocks of land were allocated to Baganda notables in exchange for political cooperation. Today <i>mailo</i> land is largely confined to Buganda and Bunyoro, but can also be found in other parts of the country. The land is owned by (often absentee) land lords and worked by tenants, who can be evicted. This system is currently a major cause of conflict between land lords and tenants (Green 2005; Place and Keijiro 2000).
Leasehold	Either landowners and the Uganda Land Commission can provide a lease to freehold, customary or <i>mailo</i> land for a period of 49 or 99 years. The grantee of a lease is entitled to a “certificate of title”. Leases of private land often have conditions of payment of rent, while leases over public land are accompanied by conditions of use.

1.3 Institutional land governance framework

In a region (), 18 different institutions to resolve land conflict and also for land administration. The **Uganda Land commission** is responsible for the allocation of public land to the private sector for investment purposes and maintains records of leases on state land. Other ministries and government agencies, like the **Uganda Wildlife Authority** and the **National Forestry Authority**, are responsible for specific types of lands, such as protected areas.

Within the Ministry of Water, Lands and Environment, the **Uganda Land Registry** is responsible for registering land, issuing title deeds, and maintaining records of land transactions. The government **Surveyors’ Registration Board** is charged with the professional registration of surveyors.

The **District Land Boards** hold and allocate land that is not owned, and facilitate the registration and transfer of interests in land, and determine the annual ground rent. They are also to issue certificates of customary ownership.

The 1998 Land Act introduced District **Land Tribunals** as a specific dispute resolution system for land issues. After longstanding coordination problems between the Ministries of Lands and of Justice, the District Land Tribunals were moved to the Ministry of Justice in 2004, which closed them down in 2006 due to problems with staffing, coverage and funding. The proposed alternative to land tribunals, **local land courts**, were never set up; their duties continue to be performed by the general local courts. To some extent these local courts operate in competition with the customary dispute resolution mechanisms, without a clear hierarchy between them (Zevenbergen et al., 2012).

There is a big vacuum in the land dispute resolution system, particularly after the Land Tribunals stopped operating in 2006. By that time, the caseload was as follows: registered cases: 6,900; completed cases: 2,468; pending / partially heard cases 4,432 (Zevenbergen et al., 2012).

Customary institutions in land management and dispute resolution, and other forms of alternative dispute resolutions, have so far not been legally accepted and mandated to execute their functions officially. The draft Land Policy notes how the dual system of land administration (statutory vs. customary) breeds conflict, confusion and overlaps in institutional mandates (GOU, 2011).

The new draft of the National Land Policy proposes the legal recognition of the dual operation of both customary and statutory systems in land rights administration, land dispute resolution and land management by empowering customary authorities to undertake these functions. The Ministry responsible for lands will continue to perform only residual roles including policy formulation and implementation, resource mobilization, standard setting, quality control, and monitoring and evaluation. Some of the land administration and management functions will be delegated to district local governments (GOU, 2011).

1.4 Gender

Uganda has a progressive policy, constitutional and legal frameworks regarding gender. However, when it comes to women's land rights both implementation and enforcement mechanisms are lacking. As a result, customs and practices which impede women's land rights continue to dominate. With respect to inheritance, women's rights to land remain weak despite the constitution and other pieces of legislation. The 1995 Constitution calls for making legislation to protect the rights of widows and widowers to inherit the property of their deceased spouses (chapter 4, Article 31.2). the Succession Act of 1906 (Cap 162) provides that 15% of the estate is granted to the widow, and accords equal rights to all children, irrespective of sex, but leaves it at the discretion of the deceased how he actually distributes the family property (see ULA & UMWA (2010) 'Women's Gains from the Implementation of Succession Law in Uganda: Voices from Wakiso and Mpigi Districts').

Spousal co-ownership of land is not covered in the 1998 Land Act, but forms part of the Domestic Relations Law which is split into the Marriage and Divorce Bill, 2010 and the Administration of Muslim Personal Law Bill. Though sections of the Marriage law and Succession law were disqualified as a result of test-case litigation on the grounds of their discriminating against women; they are yet to be altered in the books. The 2004 Land Act Amendment gives women the right of consent about land transaction of household property.

The largest problem for women is that existing customary and statutory laws which grant them rights over land are not consistently implemented. Their position within households and towards institutions remain weak.

1.5 Foreign and domestic direct investment

Foreign private investors and entities can access land through leasehold but are restricted from owning land (Tukahirwa 2002). The common procedure for acquiring customary land used by domestic investors for their projects is to approach first the land holder, next ensure recognition of the transaction by the customary authorities, and subsequently apply for registration with government.

The priority for the Government is to create an enabling environment for Foreign Direct Investment (FDI) in agro-industry. However, the new Draft Land Policy expresses concern that an increase in FDI may lead also to alienation of land from smallholders, increased tenure insecurity, and land conflicts. It calls for mechanisms to deliver the right balance between improving livelihoods, protecting vulnerable groups, and enhancing opportunities for

investments and development. The policy suggests the earmarking of sectors open to FDI; the amount of land to be allocated for such investments depends on how the land will be used.

The new policy also urges caution when attributing public land to private investors, noting how compulsory acquisition by government provoked opposition among ordinary people and was in some instances “not based on any criteria” (GOU, 2011 see also the case highlighted by OXFAM of the land licensed by the Government to the New Forest Company for carbon offset – OXFAM- 2011). The land matrix from the International Land Coalition (ILC) indicates 4 major land deals over 76,512 ha, mostly for agricultural purposes. The validity of these findings still need to be verified but this gives an indication of the extent of the transactions.

2 INTEGRATED WATER RESOURCE MANAGEMENT

2.1 Regulatory framework around Integrated Water Resource Management

Law	Content
The 1995 Water Act of 1995 (amended in 2000)	Provides for the use, protection and management of water resources; the constitution of water and sewerage authorities; and the development of water supply and sewerage undertakings
The 1999 National Water Policy	Aims “[t]o manage and develop the water resources of Uganda in an integrated and sustainable manner, so as to secure and provide water of adequate quantity and quality for all social and economic needs of the present and future generations with the full participation of all stakeholders”
The 2003 National Forestry and Tree Planting Act	provides for the: 1) conservation, sustainable management and development of forests; 2) declaration of forest reserves for purposes of protection and production; 3) the enhancement of the productive capacity of forests; 4) promotion of tree planting; 5) consolidation of law; and 6) establishment of the National Forest Authority and the District Forestry Office (under the Forestry Inspection Division).
The 2001 National Forestry Policy	established the goal of an integrated forest sector that achieves sustainable increases in the economic, social, and environmental benefits from forests and trees

The government has developed an action plan for both water and forest resources. The Uganda Water Action Plan (1995) provides the overall guidelines and strategies for the management, development and protection of water resources.

2.2 Institutional framework around Integrated Water Resource Management

The **Directorate of Water Development** within Ministry of Water, Lands and Environment, established in 1993, is responsible for water resources management; water supply in rural areas and urban centers; and support to districts, towns, lower local governments and other service providers (Syngellakis and Arudo 2006; GOU 2009b). This Directorate and the National Environment Management Authority both ensure that water resources are not over-exploited or polluted (Syngellakis and Arudo 2006).

The **Ministry of Agriculture, Animal Industries and Fisheries** is responsible for water resources management in relation to irrigation, the prevention of soil erosion; and fisheries.

The management of transboundary water bodies and water ways falls under the responsibilities of The East African Community, the **Nile Basin Initiative**, and other regional bodies.

The **National Forestry Authority**, established in 2004, is an autonomous body with a mission to manage Uganda's Forest Reserves. The National Forest Plan (2002) objectives are to: 1) raise the incomes and quality of life of poor people through forestry developments; 2) increase economic productivity and employment in forest sector; and 3) achieve sustainable forest resource management.

3 REALITIES ON THE GROUND

Land conflicts are common and can appear as trans-state boundary disputes, boundary disputes or conflicts between districts, ethnic land conflicts, conflicts between pastoralists and agriculturalists and within families; and most of these are on the rise (GOU, 2011). Intra-familial land conflicts (between husbands and spouses, between sisters and brothers, between generations), are increasing notably as result of land scarcity and contribute also to land fragmentation. Land cases are the most common disputes brought to local courts or legal assistance projects in many parts of the country (Levine and Adoko 2006).

Land grabbing by domestic actors is a growing policy concern too (see new land policy and constitution). In particular community land and public land are subject to elite land grabs and illegal land deals. There has been well-documented illegal appropriations of public land by the elite from the 1960s until today. With the high level of land fragmentation in Uganda, cases of intra-familial land-grabbing are also augmenting, with violence.

The land administration system is performing below expected standards with tendencies of **fraud, corruption, and political interference**, which hinders progress in land service delivery. Decentralized services have as yet lacked presence and capacity (GOU, 2011). The capacity of the Ministry responsible for lands, the Justice Law and Order Sector institutions, administrators in the districts and politicians, to tackle land conflicts is stretched.

The provisions in the Land Act of 1998 were not effective in resolving the land use deadlock on *mailo* land, resulting in mass evictions of occupants by registered owners. The Amendment of 2007 strengthened the position of tenants but sparked off new controversies (Rugadya *et al*, 2008 – JLOS study). The amendment has adversely affected the land and credit market as owners refuse to rent out land, and financial institutions are not keen on taking tenanted land as collateral. Possible eviction is a source of insecurity for tenant farmers on *mailo* land.

Another source of tension is the position of **pastoralists and the conversion of grazing lands** into fields (Hetz *et al*. 2006; Rugadya *et al*. 2005; Markakis 2004). Conflicts over pasture and water access have occurred in central and Northern Uganda. Some landowners have fenced their holdings and excluded herders who had access rights under customary agreements. Expropriation by the state of customary grazing areas is another point of contention and conflict with pastoralists' communities (USAID, 2010).

The government is increasingly eyeing public land for economic development purposes. **Land-grabbing and land speculation** are on the rise in some parts of the country, including in the oil regions in western Uganda, in the mining areas in Karamoyo and in Northern Uganda. Moreover, the Uganda People's Defense Forces, individual officers and soldiers as well as the institution, have been implicated in extensive land grabbing in the north (USAID, 2010).

The problem of refugees and **Internally Displaced Peoples** originates from the conflict in northern Uganda when the government ordered civilians into camps for many years. Now that security improves, people are trying to leave these camps and return to their homelands, but which creates new conflicts. The customary lands of many of these displaced peoples are occupied and claimed by others (Locke 2006, ASN, 2004).

Priority issues with respect to land governance institutions are improving consultation mechanisms over the use of customary land; increasing the capacity of decentralized institutions, including customary institutions; improve recognition of customary institutions

and strengthen capacity to deal with land-related court cases (USAID, 2010). There is also a need to encourage and acknowledge local demarcation and administration practices, to prevent disputes over land.

4 OTHER INFORMATION AND RESOURCES

4.1 Related country profiles

- USAID: <http://usaidlandtenure.net/usaidltpproducts/country-profiles/uganda>
- FAO: <http://www.fao.org/countryprofiles/index.asp?lang=en&ISO3=UGA>
- FAO/Gender: <http://www.fao.org/gender/landrights/report/en/>
- IMF: <http://www.imf.org/external/country/UGA/index.htm>
- World Bank: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/UGANDAEXTN/0,,menuPK:374871~pagePK:141159~piPK:141110~theSitePK:374864,00.html>

4.2 Laws, policy and regulations search engines

- FAO Lex (Land & NR search engine): <http://faolex.fao.org/faolex/index.htm>
- Water Lex (Water laws search engine): <http://faolex.fao.org/faolex/waterlex.htm>

4.3 Maps and databases

- Land and soils databases/information systems: <http://www.fao.org/nr/land/databasesinformation-systems/en/>
- Water database/information systems: http://www.fao.org/nr/water/infores_databases.html
- Land and water maps and graphs: <http://www.fao.org/nr/solaw/maps-and-graphs/en/>
http://www.fao.org/nr/water/infores_maps.html

4.4 Portals and other resources

- http://landportal.info/search/apachesolr_search/uganda
- <http://www.landesia.org/search/?q=uganda>

4.5 Donor support programs

- Land Sector Strategic Plan (LSSP) and support to modernizing land titling (part of PSCP) as part of Private Sector Competitiveness Project: rehabilitation of existing land records; upgrade un-surveyed mailo titles; establish a Land Information System; strengthen the capacity of public institutions (World Bank supported since 2005)
- USAID initiative to help resettle displaced people in the north in 2008, 2012 start of SAFE
- JLOS –support to land law Government of Uganda DANIDA, Austria, Irish Aid, Netherlands, USAID, World Bank, Germany, Norway, Sweden, ICRC, Unifem, UNDP, UNICEF, UNFPA, (see inventory NL-Moa, 2011)
- Democratic Governance facility (DGF)- Government of Uganda, DANIDA, Netherlands Norway, Sweden, Austria, Irish Aid, DfID, European Union, UNDP
- DANIDA: start research on land governance in 2012 (Makarere University and DIIS)

4.6 Civil society organizations working on land governance

Members of International Land Coalition from Uganda:

- Uganda land alliance- <http://www.ulaug.org>
- Resource Conflict Institute (RECONCILE), , <http://www.reconcile-ea.org/> legally based in Kenya, active in Uganda (working a.o. with pastoralist civil society and on the management of common lands)

- The Eastern Africa Farmers Federation (EAFF) participates actively in national and international discussions on land governance. They also published in 2010 *The Entebbe Declaration on Large Foreign Land Acquisitions* <http://www.eaffu.org/go/downloads/EAFF%20Position%20on%20Land%20Grab.pdf> EAFF covers the following countries: Burundi, Democratic Republic of Congo, Djibouti, Eritrea, Federal Democratic Republic of Ethiopia, Kenya, Rwanda, Uganda and the United Republic of Tanzania. General website: <http://www.eaffu.org/go/>

Members EAFF in Uganda:

- Uganda National Farmers Federation (UNFFE) <http://www.unffe.org/>
- Uganda Cooperative Alliance (UCA) - <http://www.uca.co.ug/>

Other CSOs:

- LEMU – Land Equity Movement Uganda - <http://www.land-in-uganda.org/>
- Norwegian refugee council - <http://www.nrc.no/?did=9167953>
- Northern Uganda land platform
- Refugee Law Project / Makerere University - <http://www.refugeelawproject.org/>

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