

Policy pointers

Macro policy has stimulated rapid increases in market-based land access transactions and now needs to enable the slower-changing traditional and state-based local organisations to catch up and govern these transactions.

Land policy is in transition and the opportunity should be seized to strengthen measures to prevent land evictions and dispossession of poor rural people.

Smallholders should be supported to negotiate fair terms and participate in commercial investments that sustain and improve their access to land.

The impact of commercial investments on land access should be anticipated, and routinely and rigorously monitored.

Catching up with the fast pace of land access change in Uganda

The ways in which people obtain land in Uganda are changing fast. Land that used to be secured through inheritance, gifts or proof of long-term occupancy is now more commonly changing hands in the market. Those with wealth and powerful connections are frequently able to override local rules and gain access to land at the expense of poorer individuals. Government-backed agribusiness investors receive large areas of land with benefits for some local farmers who are able to participate in the schemes, while other smallholders see their land access and livelihoods degraded. Land governance systems in Uganda should be modified to catch up with this rapid change and to ensure fair access and productive land use. Here we summarise a more detailed analysis and set out suggestions for responses in policy and practice.¹

Access to land is fundamental to the life of the majority of Ugandans. About 73 per cent of Uganda's population of almost 35 million depend on farming, with some 83 per cent of Uganda's women, and some 66 per cent of employed labour, engaged in agricultural activities.² The way people access land — and the extent to which they face constraints and changes in doing so — is a critical issue for millions. Many sense that the scale and pace of change in land access is increasing rapidly, but solid evidence of this has been weak.

Exploring reality on the ground

ACODE and IIED, with support from IFAD, sought to improve understanding of how access to Ugandan land is changing. We reviewed literature and developed case studies based on fieldwork in two sites (see Figure 1). A working group of key experts also helped optimise our approach.

We selected Kalangala district in southern Uganda for a case study because it offers a context in which large-scale commercial land

use is developing. Kalangala hosts a major palm oil agricultural development project, which began in 1998.

We chose Amuru district in northern Uganda as a context where more locally driven factors are likely to govern land access. For over 20 years, an insurgency affected northern parts of the country, including Amuru, leading to the movement of the bulk of the population into camps for internally displaced people. More recently, post-conflict resettlement has brought about changes in land access. The discovery of oil, and a proposal by a sugar company for large-scale land acquisition, may further exacerbate these changes. Reports of violence between individuals and different groups have emerged.

We developed a semi-structured questionnaire for household surveys and interview guides for focus group discussions. We selected three sub-counties from each of the two districts and randomly chose three villages in each of the sub-counties. In Amuru district we randomly

Commercial interests have shifted the modes of land access from traditional means to market modes

selected 130 households; in Kalangala district, 152 households. Focus group discussions were conducted in each of the selected sub-counties, with a minimum of 12 participants to include active representation of women and youth.

Law and policy on land access

The 1995 Constitution attempted to provide the core framework for land access by prescribing four distinct forms of land tenure: freehold tenure, *mailo* tenure, leasehold tenure and customary tenure. *Mailo* tenure is a form of freehold tenure unique to Buganda region, introduced through the 1900 Buganda Agreement. Under this arrangement, the Kabaka of Buganda and feudal landlords received freehold rights over large tracts of land, often inhabited by poor subjects who instantly became tenants. The Constitution guarantees security of occupancy of tenants who have occupied, used or developed land unchallenged by the owner for at least 12 years.

The 1998 Land Act sets out procedures to enable holders of customary land to acquire

certificates of customary ownership. It also enables tenants to acquire certificates of occupancy and, together with land lease-holders, to convert their certificates to the freehold tenure system. A comprehensive Land Sector Strategic Plan in 2001 and a National Land Use Policy in 2013 followed the Land Act. More broadly, macro policy frameworks, including the Uganda Vision 2040 and the National Development Plan, have put land centre stage.

Yet the debate continues between macro policies that embrace the growing individualisation of property rights on the one hand, and the protection of livelihoods and subsistence rights of small farmers in customary communal tenure systems on the other.³

Winners and losers at the local level

Processes taking place at the local level look set to overtake national reforms aimed at strengthening tenure security for rural households (see Box 1). Powerful individuals in a community can effectively constrain reforms of how land is governed, the capacity of customary institutional arrangements to deliver clear land rights, and resistance to unlawful evictions. Meanwhile, many poor people face severe land access challenges. These include the high cost of processing certificates of customary occupancy, the cost of processing land titles, difficulties in securing compensation for their land, and poor protection from illegal evictions.

Decentralisation policies and the creation of new districts have triggered many legal cases between communities, districts and border counties. Poor land valuations and compensations between government and landowners also create tensions among different ethnic groups. For example, a 40 km² tract of land in Apaa parish in the Amuru area is at the centre of a power struggle between the Uganda Wildlife Authority, Amuru district and Adjumani districts. Local people claim these government agencies want to evict them from their ancestral lands.⁴

Commercial agriculture and other large-scale land developments are creating opportunities for some Ugandans, including smallholders. Yet those who cannot participate in emerging land markets or production schemes may lose out, especially because implementation of government policies to support smallholder farming is weak. The land available to the less fortunate smallholders is thus on the decline. This pressure on land availability is exacerbated by demographics and rising environmental stresses. Responding to such stresses by

Figure 1. Map of Uganda showing Amuru and Kalangala Districts



Source: based on map supplied by ACODE

Box 1. How land access is changing – some local features

In **Kalangala** district, population pressure and commercial palm oil production have increased competition for land and stimulated market-based transactions. Although the traditional *mailo* form of tenure is still predominant, these transactions are enabling freehold and leasehold tenure systems to spread. Investments in infrastructure and agricultural services related to palm oil development have increased the impetus for commercial production. The area dedicated to perennial crops is gradually increasing compared to the area dedicated to annual crops. This shift towards commercial agriculture is evident also in the increased use of micro-irrigation, improved inputs and hired labour. Some features of changing land access include:

- Enhanced levels of infrastructure, notably better roads and reliable electricity, creating further incentives to engage in commercial agriculture
- Opportunity for people born in distant areas to purchase and own land in the district, stimulating increased in-migration
- The Kalangala Oil Palm Trust and the Kalangala Oil Palm Growers Association are now playing important roles in the allocation of land and protection of members from exploitation
- Nonetheless, there are conflicts between smallholders and new land owners, who gain the land under leasehold or freehold terms after lawful tenants and illegal squatters occupying *mailo* and public land are unable to secure certificates of occupancy. Powerful elites are more likely to evict vulnerable groups from their land, without meaningful compensation.⁵

In **Amuru**, the influx of immigrants (including people relocating from camps for internally displaced people), conflicts over protected areas and emerging large-scale investments in agriculture and oil exploration have also increased pressures on and competition for available land. Although the vast majority of the land is under communal customary tenure, in the last five years acquisitions of parcels under leasehold and freehold tenure have increased against the desires of the traditional institutions, as have market-based transactions. Features of changing land access include:

- Increasing economic development and progress in the area, stimulating investment in land, including in commercial agriculture and real estate businesses, and new public and administrative offices
- Business opportunities along the borders with Sudan and Democratic Republic of Congo, resulting in local business profits being invested in land assets in the district
- Migrants to the area who can afford to buy land and displace poorer local residents
- Increasing incidence of land conflicts stemming from the high demand for land and perception of unfair processes and
- Breakdown of family values and the role of clans in regulating land rights transfers, in part due to increasing mutual suspicion created by the pressure under new land law to register all land, and in part to the opportunities to make money and increase consumption.

increasing productivity may not be possible for smallholders who lack resources.

Economic growth and investment policies appear to outweigh land sector-specific policies as drivers of land access change. The development of infrastructure has the direct effect of opening up previously marginal areas, triggering fresh competition for land. As more land changes hands through the market, high prices and weak bargaining power may exclude the poorest and marginalised groups in rural as well as urban areas.

Increasing commercial interests have shifted the modes of land access from traditional means (inheritance, gifts and squatting) to market modes. This change hits some segments of the population hard, such as the youth that previously benefitted from traditional means of land access.

In conclusion, three main phenomena are driving significant transitions in land tenure in Uganda.

First is the changing policy narrative that has dominated the public policy discourse over the last decade. Policies on poverty eradication, investment and agricultural transformation have elevated land issues to the top of Uganda's national policy agenda. Second, the pursuit of large-scale agricultural investment projects has changed the overall economic landscape. As the two case studies indicate, changed economic landscapes have triggered actual and perceived high returns from land, thus increasing demand and driving up prices. This phenomenon is significantly altering modes of access across the country. Third, local pressures on land availability are increasing fast, with traditional governance means unable to address situations typified by increasing income inequality, social tension and new conflicts over land.

Implications for public policy

Uganda's macro policy makes land access change inevitable but inconclusive. The

commitment to invest in commercial agriculture to achieve faster socioeconomic transformation means that the impact of this situation goes beyond specific locations. Yet, across the country, land ownership can become threatened, and remains insecure for many. Land markets are emerging throughout the country, although these are considered by some to be narrow in scope, segmented and unpredictable due to a wide range of influences.⁶

As demand for land grows, market-based land transactions increase. Stimulated by these macro policy drivers of change, the demand for land is rising across Uganda. Where there is a relative abundance of land, low population density and weak infrastructure, land transactions appear to be generally fair. In areas where development projects are mooted or underway, many people, including those from beyond the neighbouring communities, are arriving in anticipation of potential windfalls. Consequently, the amount of land that is held speculatively and unutilised is increasing. More local people are choosing to settle in nearby trading centres in anticipation of economic growth.

Impacts of investments on land access are not being anticipated and monitored. Large-scale land investments have a poor record to date of anticipating and monitoring their impacts on the social, economic and land tenure landscape. In the investments analysed in the two case-study areas, we saw little evidence of effort to forecast the nature of transitions of land tenure, land use change and land governance. Future large-scale investment projects should focus on anticipating such changes, developing longitudinal data to monitor such impacts and designing appropriate responses.

Land disputes reduce agricultural production. Land disputes are on the increase in both case-study areas. For example, in both Kalangala and Amuru, there are court cases contending land ownership or the process of land dispute adjudication. This increase is likely to

constrain land productivity. Estimates suggest that Uganda as a whole loses 5-11 per cent of agricultural production due to land conflicts. In areas where the system of *mailo* land tenure is predominant, losses due to land conflicts are estimated to be even higher (up to 25 per cent).⁷

Land governance institutions struggle to cope with the scale and pace of change.

Evidence from the case studies demonstrates the incapacity of existing land governance institutions to cope with the scale of change, particularly in areas with existing or proposed investments. Similar challenges are evident in other areas with large-scale land acquisitions, even when they are not agri-business related. In the Albertine Rift, for example, the rush for land, stimulated by oil development, is overstressing the capacity of local institutions to cope and therefore increasing tenure insecurity.

Land policy is in transition, presenting an opportunity for strengthening land access for poor rural people.

Land policy reforms over the last 20 years have generally aimed at strengthening tenure security, with land market development in mind, including in areas dominated by customary and *mailo* tenure systems. Yet these reforms have not been completed. Meanwhile, land tenure has tended to become more insecure in many areas, with changes in the way land transfers are carried out, increasing investments in commercial agricultural production, real estate development in many urban areas and land accumulation for speculation. There is opportunity in this time of flux to marshal evidence about the negative consequences of insecure land access and to redirect national policy to improve access security for the poorest.

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Investing in rural people

Notes

¹ Tumushabe, G and Tatwangire, A (forthcoming) Understanding changing land access issues for the rural poor in Uganda. IIED, London. / ² Ministry of Finance Planning and Economic Development (2015) Background to the Budget 2015/16 Fiscal Year; Uganda Bureau of Statistics (UBOS) (2016) Maintaining Infrastructure Investment and Promoting Excellence in Public Service Delivery; UBOS (2014) The National Population and Housing Census 2014. / ³ Holden, S *et al.* (2013) Land Tenure Reform in Asia and Africa: Assessing Impacts on Poverty and Natural Resource Management. Palgrave Macmillan, London. / ⁴ Ocungi, J (9 September 2015) Uganda: Five Residents Shot Over Amuru Land Wrangle. *Daily Monitor*. www.monitor.co.ug/News/National/Five-residents-shot-over-Amuru-land-wrangle/688334-2863166-2ke50az/index.html; Okello, C (19 April 2015) Angry women strip bare in ongoing north Ugandan land dispute. RFI. http://en.rfi.fr/africa/20150419-women-strip-north-uganda-unresolved-land-conflict / ⁵ Fallon, A (25 July 2015) Uganda's farmers battle palm oil Goliaths for land. *Business Insider*. www.businessinsider.com/afp-ugandas-farmers-battle-palm-oil-goliaths-for-land-2015-7?IR=T / ⁶ World Bank (2015) Economic Overview of Uganda. www.worldbank.org/en/country/uganda/overview#1 / ⁷ Deininger, K and Ali, D (2008) Do Overlapping Land Rights Reduce Agricultural Investments? Evidence from Uganda. *American Journal of Agricultural Economics* 90(4) 869-882.