Reforming Land Management in Uganda: The difficult path towards harmonized institutional mechanisms and arrangements for land tenure security

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Abstract

Land is probably the most invaluable asset for the citizens of Uganda. With more than 80% of the population rural and directly deriving livelihoods through subsistence agriculture, land access, ownership and use are core to economic, social and environmental drivers of land reforms in Uganda. It is against the central role of land and its resources in Uganda's economic development agenda that successive political regimes sought to reform land tenure relations. But Uganda’s sluggish move from difficulties of land tenure administration complete with cumbersome policy delivery and ineffective land-use management partly stem from the troubled colonial legacy, complete with unfair policies. Yet we must stop before we uncritically attribute all land management problems facing the country to Uganda's past. Since 1995 fundamental legal, policy, and structural institutional changes were made to streamline paradigm shift in land management. Article 237 of the 1995 Constitution provided a landmark change, and directly bestowed the ultimate ownership of land to the people of Uganda; vested in them in accordance with freehold, leasehold, mailo land and customary land tenure system. The government obtained the residual authority to control land use in the public interest; and may “under laws made by parliament and policies made from time to time to regulate the use of land.”

The national government strove to address technical challenges to wrestle land administration from ineffective and non-transparent traditional systems, in which land information was acquired, stored, updated, collated and retrieved manually. These problems attracted high risks of duplication and distortion land information, leading to unreliability and loss of land records, duplication of land ownership certificates over the same pieces of land, poor handling and permanent loss of records due to old age; leading to escalation of land conflicts and rampage degradation of natural resources. The government of Uganda thus embarked on modernization of land services delivery through enabling land information system (LIS). This was hoped to discourage fraud, and informal and unregistered land transactions.

In reality, implementation has shown a mismatch between fundamental land reform objectives and practice; shown in part by the difficulty in the citizens’ assumption of the radical title due to devastating and unfettered degradation of natural resource base. Land grabbing has and continues to intensify throughout the country. The overarching challenges involve instituting multiple reform processes run by institutions operating in silos. Other challenges include lack of coordination between technocrats and politicians, and between policy makers and the primary land-users at the local level. Besides, most of the land and land laws are either outdated or do not address the current situation and therefore require urgent reviews and revision to make them consistent with other laws and above all the 1995 Constitution. Therefore, the necessity for building synergies between and within institutions responsible for land management is clearly as good as entrenching the desired harmony between land related laws to ensure a sustainable land management system. Building synergies however requires that all land related institutions have the
requisite financial and logistical capacities and adequate staffing to effectively execute their respective mandate. The decentralized land management framework tampered with the difficulty of the Local Governments to recruit and retain technical officers, coupled with limited access to adequate resources for policy implementation continues to undermine coordination between the districts and the central government.

Against this backdrop, some reforms have slowed down and others clearly stalled and it is the rural poor facing the blunt of a difficult policy environment. Therefore, quick technological fixes are necessary but they will/may not magically provide lasting solutions in such a complex operating environment. This paper seeks to address the following questions; what reforms land tenure reforms have been initiated in Uganda? What are the underlying drivers of the challenges in land management reform? And how can the synergies be built to streamline sustainable land management?

The paper is written through a comprehensive process of primary and secondary data collection and analysis. A survey of secondary literature through desk review, and use of primary data collected through key informant interviews particularly guides the assemblage of factual and scientifically defensible information. The paper collects view from different actors from the central government and local government agencies responsible for land management. The study uses case study of Kibaale District to explain some of the critical evidence of reform challenges due to the prevalence of issues from colonial legacy, insecurity of land ownership. However, more examples of land grabbing are picked from areas outside Kibaale District.

**Key Words:** Land tenure reform, land administration, land rights

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**List of Acronyms**

MFPED: Ministry of finance, Planning and Economic Development

MPS: Ministerial Policy Statement

ULC: Uganda Land Commission

SD: Systematic Demarcation

MZOs: Ministry Zonal Offices

DLO: District Land Office

DeSILISOR: Design, Supply, Installation and Implementation of the Land Information System and Securing of Land Records
1. Introduction

Land in Uganda like other agrarian societies is the only primary means of survival; to generate a livelihood, accumulate wealth and transfer it between generations (Okuku J., 2005). Land is therefore the basic source of food, employment, key agricultural input and is also a major determinant of the farmers’ access to other productive sources (ibid) and an essential part of the national patrimony (RoU, 2013). Hence, land is an emotive issue, most particularly with regard to issues of land access, ownership, and utilization. Whereas Uganda has undergone successive land tenure reforms since the colonial era, no single political regime has succeeded in holding Ugandans together under a universally acceptable single land tenure system that enjoys both social and legal legitimacy.

During the colonial era, the newly individualized forms of land tenure mainly mailo land, freehold and leasehold tenure systems were superimposed to either supersede existing autochthonous land rights systems or formally confirm pre-existing land rights as was the case in areas under the kingdoms. In other areas outside the kingdoms, customary tenure was left to continue existing with moderation but without a chance to evolve properly (RoU, 2013). Hence, Uganda Protectorate Government implemented a dualist system of land tenure through which parts of the country were brought under statutory system and in the remainder, traditional customary systems were maintained (Bosworth, 2002 as cited by Kamusiime et al., 2005). This duality of property rights systems resulted in land tenures whose maintenance has become confusing in the current social, economic and political circumstances (RoU, 2013).

While not denying that the current distribution of land rights, together with the system of land administration and management are rooted in the past (Kamusiime et al., 2005) we must stop before we uncritically attribute land tenure issues to the past regimes alone. True, the colonial legacy in Uganda is tied with introduction of the individualized ownership of property rights against the historically grounded system of customary system that dominated Uganda, in which the rules governing land access and utilization varied from place to place. Ideally, most of the intricacies involving land tenure reform were created by past land policies, both colonial and post colonial (Okuku, 2005). To attribute the enduring impasse in reforming land tenure today to the colonial regime alone, is therefore to misunderstand the full extent of the problem.

Since the early 1990s, the government of Uganda initiated forward looking land reforms to correct the wrongs through disentangling multiple, conflicting and often overlapping land rights. The 1995 Constitution and the Land Act, 1998 bestowed land ownership in the citizens of Uganda according to the four land tenure systems, i.e.; freehold, mailo land, leasehold, and customary tenure systems, and restructured land administration systems, among others. Despite these fundamental policy shifts, the reinstatement of a multi-layered system under the mailo land tenure was an act of formalising than resolving historical injustices. Genuine public expectations were betrayed, and attempts to address the dual interests of ownership between the registered owner and the lawful or bonafide tenant under the Land Act, Cap 227 became confusing. Therefore, the opportunity to overturn Uganda’s land tenure issues was squandered because the reformers diverted from the original reform objectives by omission or commission.

This paper discusses the evolution of land reforms in Uganda and critically discusses relative successes and failures. Section introduced the paper and section 2 discusses the conceptual framework. Section 3 entails the methodology. In section 4, the paper presents the historical context of land tenure reforms in Uganda between 1900 and 1950s, and inherently analyses the opportunities and challenges. Section 5 presents land reforms since 1995, and particularly discusses the legal and structural reforms as well as the reform activities under the Land Sector Strategic Plan. Section 6 critically assesses the underlying reason for land tenure reform failures since early 1990s to date and section 7 entails conclusions and recommendations.
2. The conceptual framework

Land reform ensures the reallocation of rights to establish a more equitable distribution of farmland (Boyce, Rosset, & Stanton, 2005) and serves to achieve wide environmental and economic goals. The ingredients of land reform such as land consolidation, restitution, redistribution are often highly political but sustainable success of land reform is hinged on active participation of all stakeholders that must own the reform process. However, genuine land reform objectives can also be suffocated by lack of political accountability especially when land issues are integrated into negative power games – Some of the very conditions that drive the need for the reform process in the first place.

The structure of the land reform process is dictated by the typical character of the land problem in a particular area and national development goals that normally rotate around poverty alleviation through linking land reform with environmental goals, social and agrarian transformation. This view is consistent with Kariuki (2009), that land reform should form part of a policy of poverty reduction within a framework of rural development. Land reform problems may include unequal distribution of land whereby property rights to land enjoyed by land occupants are limited to crop agricultural utilization or settlement while the landlords possess full ownership rights. Reform processes can therefore take different form; to strengthen the rights of tenants and prohibit eviction without fair and timely compensation or even put the ceiling on rent. Alternatively, radical reforms may embrace the “land to the tiller” reforms to expropriate landlords and transfer land titles to the landless poor. In addition, land reforms can be structured to respond to the issues of gender disparity by improving women’s land rights during the land redistribution exercises to ensure joint land titles for couples instead of the exclusive rights traditionally preserved for male household members.

The process of the land tenure reform is as important as the reform outcomes. Setting the reform process on paper is one thing and implementation to translate reform objectives into action is quite another. Therefore the drivers of the reform process must put the genuine public concerns and expectations at the core of the process to ensure public ownership of reform outcomes and adherence to the rule of law.

3. Methodology

The paper is written through a comprehensive process of primary and secondary data collection and analysis. The paper utilized the primary data collected through face-to-face interviews from key informants. These included some officials from the institutions responsible for land management. The use of secondary was underscored by a survey of literature through desk review. Major sources of secondary literature included textbooks, institutional archives, online sources, journals, and print media and others.

Primary data was collected through use of interview guides and structured questionnaires. Simple random sampling of respondents was conducted from villages selected through multi-stage sampling. Key informants from the public institutions at the central and Local Government levels and the private sector were purposively sampled. An assemblage of factual and scientifically defensible information was obtained and analyzed. Whereas little quantitative information is presented in this paper, a comprehensive quantitative discussion of findings different actors from the central government and local government agencies responsible for land management.

The study uses case study of Kibaale District to explain some of the critical evidence of reform challenges due to the prevalence of issues from colonial legacy, overlapping rights and insecurity of land ownership. However, more examples of land tenure reform programs or challenges are picked from areas outside Kibaale District.
4. Evolution of land tenure reform in Uganda

The history of land tenure points out the customary system as the autochthonous tenure system which governed access, ownership and use of land resources long before Uganda was defined geographically or administratively as a country by the colonial government. Within the customary system, regional and local variations still existed related to ethnicity, farming systems and agro-climatic conditions (Bosworth, 2003/3; Kamusiime et al., 2005). For instance, a form of feudalism dominated areas of Buganda, Toro, Bunyoro, and Busoga, whereby access to land was predominantly controlled by an oligarchy, and security of land tenure for land users was derived from assured loyalty to the oligarchy (Rugadya, 2003). Another form of land tenure system was inherently enshrined in a complex network of reciprocal bonds within families, lineages, and larger social units that protected and governed access to land resources and guaranteed secure land rights in line with the customs (ibid).

To explain land reform initiatives in Uganda, one must understand the evolution of land tenure. Moreover, even where a revolutionary change occurs, its rationale neatly lies in the past and chances of success of the change will be determined by the past and the extent to which path dependent patterns of development can be overcome (McAuslan, 2003). It is abundantly clear that the current distribution of land rights, together with the systems of land administration and management, are rooted in the past, and any attempt to resolve Uganda's land problems requires an appreciation of past policies and their impacts (Bosworth, 2003/3; Kamusiime et al., 2005). Uganda’s land tenure reforms begun in 1900 and introduced new forms of land tenure including freehold, leasehold, mailo land, based on the western idea of individual forms of land ownership. Customary rights to land were subsumed by the crown lands regulations under the colonial administration as customary users became tenants of the crown (Kamusiime et al., 2005). By its existence today, the customary system was partly transformed but not replaced. This is consistent with the view that despite centuries of purposeful dismantling of the customary tenure ideology supported by legal provisions, the tenure not only persists, but is still by far the most widespread (Willy, 2000 as cited by Kamusiime et al., 2005). In common with most colonial regimes, the Protectorate Government in Uganda implemented a dualist system of land tenure, through which parts of the country were brought under a system of statutory controls while in the remainder traditional customary systems were maintained (Bosworth, 2003/3).

This reform initiative was neatly tied with the property rights paradigm based on the neoclassical economic theories; arguing that traditional African land tenure systems induce inefficient allocation of resources, because property rights are not well defined, costs and rewards are not internalized, and contracts are not legal or even enforceable (Johnson, Barrows & Roth 1990:266, as cited by Rutten, 1997). Whereas private estates known as mailo land tenure system in Buganda and native freehold in Toro and Ankole were equated to the English freehold, these were granted to the traditional rulers and their functionaries through numerous agreements (Rugadya, 2003). The mailo land tenure through the 1900 Buganda Agreement technically dispossessed the indigenous population in Buganda and Bunyoro-Kitara Kingdom of their ancestral landholdings. In fact while Sir Harry Johnstone, the author of the 1900 Buganda Agreement between the British and Baganda thought that he was formalizing and preserving traditional rights and privileges in land, the rights under the agreement represented a fundamental shift from the traditional system (Mukwaya, 1953 & West, 1972 as cited by Okuku, 2005).

Under the provisions of the Agreement, land owners were automatically turned into tenants and continued to utilize their land but as tenants to absentee landlords with an obligation to pay nominal ground rent. In Bunyoro however, the rights of landlords were never recognized and landlords never occupied the land (Bosworth, 2003/3). For the rest of the country, all land was declared to be crown land and all land users became tenants of the British crown
(Rugadya, 2003; Okuku, 2005). Thus, Uganda's initial land tenure reform was founded on discriminatory policies than actual market forces. Meanwhile, the Torrens system of land registration was introduced in the country in 1908, resulting in the introduction of a registry to administer land. The land registry started out with mailo land tenure system and the Ankole, Toro Native Freeholds, but was later rolled out to include Freehold and Leasehold tenure systems throughout the country (Gabindadde-Musoke, 2013).

It was through the 1975 Land Reform Decree under President Idi Amin that Uganda moved closer towards creating a uniform land tenure system. The Decree declared all the land public and vested in the State to be held in trust for the people of Uganda. Absolute titles were converted to leasehold of 99 years for individuals and 999 years for public agencies, religious and other charitable bodies; to be administered by the Uganda Land Commission (Okuku, 2005). Tenants turned into customary owners with no obligation to pay rent. When the Decree was promulgated, even the laws that had been set to regulate mailo land tenure in Buganda, Toro and Ankole (such as the 1928 Envujju and Busulu laws) were abolished (Rugadya, 2003), but vigorous land invasions occurred, and some people like the Banyoro interpreted its provisions (abolition of Mailo land tenure) as returning land to them (Nsamba-Ngayiya, 2003:7). The Decree was not enforced and failed to achieve its underlying objectives; facilitating the use of land for social and economic development. Instead, it expressly opened way for land grabbing and land speculation. State bureaucrats and agents including army officers used power to consolidate land grabbing (Okuku, 2005).

4.1. Land Reforms in the 1950s

Uganda moved to individualize customary land tenure and set mechanisms for smooth land tenure administration by the central government in the 1950s following East Africa Royal Commission’s recommendations concerning modernization of peasant agriculture and the desirability of creating a middle class just before independence (Kamusiime, 2005:24). Some of these recommendations included:

i. Policy concerning the tenure and disposition of land should aim at the individualization of land ownership and mobility in the transfer of land which, without ignoring existing property rights, will enable access to land for economic use;

ii. Land tenure law cannot be simply left to evolve under the impact of modern influences. A lead must be given to governments to meet the requirements of the progressive elements of society by applying a more satisfactory land tenure law;

iii. Existing property rights must not be arbitrarily disturbed, exclusive individual ownership of land must be registered and governments must not dispose of land without an established legal process of adjudication and registration of interests in land.

iv. Local land Boards should be established to assist in interpreting and guiding local views and actions concerning land tenure.

According to Kamusiime et al. (2005), the Government of Uganda embraced recommendations and expressly submitted its land tenure reform proposals on the basis on the following objectives:

i. Redefine the status of land in Uganda and to afford greater local control over land administration subject to general directions of the then central government;

ii. Redefine the process of law by which land may be disposed of by central and local governments,

iii. Encourage individual land ownership in such a manner as not to annihilate the good will of traditional authorities; nor to prejudice good husbandry; nor to abandon such safeguards as are essential for future progress of the people. This will involve the provisions of machinery for the registration of individual title when described, but on a district basis and in so far as is possible in accordance with local customs affecting tenure.
4.1.1. Adjudication of customary land

Adjudication of customary land was core to land reform initiatives in the 1950s, based on the third recommendation of the East Africa Royal Commission which holds that “…exclusive individual ownership of land must be registered and governments must not dispose of land without an established legal process of adjudication and registration of interests in land” (see sub-section 4.1(iii)). As the government of Uganda embraced EARC’s recommendations, it moved to concretize mechanism of land adjudication but in accordance with local customs affecting tenure. Firstly, Crown Lands (Adjudication) Rules 1958 were formulated to guide the pilot systematic demarcation scheme with defined principles and procedures.

Secondly, the actual process of land adjudication was operationalised. Kamusiime et al., (2005) note that adjudication was by application and the first pilot scheme was taken in Nyakeina Parish, Rujumbura County in Kigezi, soon after the Kigezi District Council embraced the land tenure proposals. Still in Kigezi District, Bumumbira Pilot Consolidated Scheme, 1959 was further undertaken. Subsequently Ankole and Bugisu Districts respectively followed Kigezi District to embrace the land tenure proposals. This promptly resulted in Sheema Pilot Scheme, 1959 in Ankole District especially the Shuuku and Kagango Sub counties; and Bubirabi Pilot Scheme, 1960 in Bugisu District.

4.1.2. Opportunities and challenges of land adjudication

The attempt to individualize customary tenure was crucial in Uganda’s history towards formalizing the autochthonous tenure system and more importantly the majority of the rural poor who subscribe to customary land ownership. This fundamental step increased tenure security for the individual and poor land owners who would ordinarily fail to afford the costs of adjudication. Implicitly, this was a veiled transformation of customary tenure system towards freehold tenure and could be seen in equal measure as core to the evolution of land market.

Despite the implied and real benefits associated with the adjudication of the customary land, several challenges prevailed. As a result, there is little, if any literature suggesting that this important initiative progressed beyond the pilot phase. Some of the inherent challenges included the following:

a) Local opposition and implementation problems

The districts of Kigezi, Ankole and Bugisu embraced the land tenure proposals against a background of population pressure, multiplicity of boundary litigations and disputes. However, this undertaking was not without critical challenges. Hostility and suspicion towards land tenure proposals was evident based on local assumption that the British Protectorate harbored a hidden agenda to grab land (Kamusiime et al., 2005). In addition, it became difficult during the land adjudication process to correlate several applications, adjudication certificates and surveyed plots. The assiduous office struggled to cope up with up to 700 applications against 800 adjudications and 750 surveyed plots, some plots were actually adjudicated in duplicate and others not at all, yet with names mixed up.

b) Weak institutional capacity

The administrative capacity of the adjudication committee was lacking, complete with low educational standards. As a result, administrative paper work was simply kept at absolute minimum. Meanwhile, the committees worked voluntarily and adjudication was free of service. The committee was soon overwhelmed by increased number of free applicants for the free service. Whereas a solution was swiftly sought in varying the adjudication rules in 159 to allow for election of committee members for a parish or part of the parish, and by increasing the numerical strength of the adjudication committee from 10-20 members to 15-25 members (Kamusiime et al., 2005), low motivation of the staff was a considerable challenge.
c) Low local knowledge of land adjudication

While land adjudication was vital with clear-cut socio-economic benefits, local understanding of the process and these benefits were as important as effective implementation of this fundamental initiative. As a result of limited knowledge of the benefits of the certificates of title, the registered proprietors actually collected less than 30% of the prepared certificates at the time. According to Kamusiime et al., (2005), a feeling of land tenure security ensued and land disputes drastically reduced following adjudication of land boundaries. Therefore, there was little incentive to for registered proprietors to pay for a “sheet of paper giving details of what they already knew.” Kamusiime and others argue further that systematic adjudication needed follow-up explanations on the merits of the certificate of title.

d) Unresolved concerns of the poor

Whereas the land adjudication was pro-poor in approach, more challenges persisted which failed the poor registered proprietors from accessing certificates of titles. Kamusiime et al., (2005) argue that for security reasons, the certificates were moved to Kabale Land Office which translated to high costs in terms of transportation by the poor owners. Meanwhile, much as the cost of certification was low, it became high for ordinary people. In fact most of the titles that were unsold belonged to small plots of land that were too small to enable security for the poor’s access to loanable funds. Ironically, other unsold titles belonged to poorer land owners and if they had to pay fees in advance, they would have never applied for adjudication in the first place.

5. Land Tenure Reforms in Uganda since 1995

5.1. Land legal reforms

Against the background land reforms under the national government took deliberate steps in mid-1990s to resolve historical land tenure problems by defining and entrenching land rights of the citizens of Uganda, and to streamline sustainable land-use and natural resource management. Land reform initiative was theoretically informed by the land tenure study in 1983 by Makerere Institute of Social Research (MISR) and the Land Tenure Centre (LTC) of the University of Wisconsin –Madison, USA (MISR-Wisconsin Study 1989 as cited by Okuku A., 2006). In early 1990s, Uganda embarked on a Constitutional making process, resulting in the formulation of the 1995 Constitution, which was subsequently operationalised by the Land Act, 1998. The Land Act sought to reform land tenure relations by ensuring land tenure security and sustainable land-use for a vibrant land market and orderly development. The 1995 Constitution repealed the 1975 Land Reform Decree and provided for radical changes that among others include;

- The four land tenure systems; freehold, leasehold, mailo land, and customary systems of land ownership were reinstated.
- Formalisation of the customary tenure system was especially critical as one of Uganda’s legally recognised land tenure systems. Customary land owners may acquire a certificate of customary ownership for their land as a documentary evidence of their rights.
- In addition, Article 237 of the 1995 Constitution bestowed the ultimate ownership of land to the people of Uganda, vested in them according to the four land tenure systems above.
- The Constitution Article 237(1) (b) defines the fiduciary relationship between the State and citizens of Uganda, for the management and protection of natural resources. The government or a local government holds forests in trust and for the common good of the citizens of Uganda.
Protection of the vulnerable groups especially the women and children. The Act provides that spouses and children must consent to any form of transactions in the land on which they live, occupy and derive sustenance. For the land transactions involving orphans, the Land Committee must give consent first.

A Land Fund was provided for, to assist people to acquire registrable interests in land, and to facilitate the resettlement of the landless by the government.

In addition, reforms sought to create functional synergies between environment and land administration sub sectors. The National Forest and Tree Planting Act, 2003 mandates the DLB to register contractual arrangements with private land owners for the transaction or management of the forest produce against the title of that owner or occupier in line with the Registration of Titles Act, Cap 230 and the Land Act Cap 277. Under the Forest Act, the DLBs are to register owners of private natural and private plantation forests, as well as contractual or other arrangements on private forests against evidence of ownership or separate folio on the register book.

By the year 2001, the implementation of the Land Act, 1998 had become very difficult. There was a dramatic mismatch between the theoretical needs of the Land Fund and the resources likely to be available (RoU, 2011) to address land inequality by compensating the landlords as a precursor for land redistribution. Another challenge was rooted in the direction of the reforms. It became clear that after many years of land reforms and counter reforms, the new framework of land tenure systems was only a replica of the land ownership systems defined by the colonial government, complete with land inequality and less practical regard for the customary tenure system.

5.2. Restructuring of Land Administration System

The land reform process further needed to streamline cost-effectiveness of existing systems of land administration and management. Moreover, the principal features of these systems were centralized and inefficient land management and a costly and inaccessible system of land administration (Bosworth, 2003/3). The government sought to overturn colonial legacy, improve effectiveness, professionalism, subsidiarity and transparency in land administration in particular and public sector management in general. The restructured land administration system (Figure 1) was aligned with decentralised system, mainly constituted of the Local Government (the District (LC5) and Sub-County (LC3) levels) and lower levels defined by local administrative units (Oosterveer and Vliet, 2010). This system of governance initially projected Uganda as a positive example of decentralisation in Africa for radically shifting responsibilities along with considerable human and financial resources to the local level, with environment and natural resource management integral to this policy (Oosterveer and Vliet, 2010).

The Land Act mandates District Land Boards (DLBs) to hold and allocate land that is not owned by any person or authority, facilitate the registration and transfer of rights in land, cause surveys, plans, maps, drawings and estimates to be made by or through its officers or its agents, among others. DLBs also have the mandate from the laws outside the mainstream land sub sector, such as the National Forest and Tree Planting Act, 2003. DLBs are supported by the District Land Office with technical land management services, the Cartographer, Recorder and Area Land Committees formed to advice the Board on matters of land with respect to ascertaining rights in land.

Following the review of the Land Act 1998 and subsequent drafting of the Land Sector Strategic Plan (LSSP), the Land Act was amended to move the Land Committees from the parish level to the Sub county level. Following the difficulties in implementing the Land Act, several amendments to Act resulted in minor changes in the land administration structures at the local level. The Land (Amendment) Act, 2001 was enacted to mainly to enable Magistrates’ Courts and Local Council Courts to continue handling land disputes pending the establishment of the dispute resolution mechanisms. Subsequently, the Land (Amendment) Act, 2004 was enacted purposely to
streamline administrative structures of the land administration systems. Among others, it provided that the Local Council II Courts are the courts of first instance to replace the Sub county Land Tribunals, while Area land Committees replaced the Parish/Ward Land Committees.

Figure 1: Organogram of Land Administration Institutional Framework

One of the primary challenges is that while customary land tenure systems remained unregulated and completely outside the statutory framework of land law of the country, the system of land administration was itself in no way integrated into the country’s land tenure framework (Rugadaya, 2003). Meanwhile building synergies between different agencies responsible for land administration has been a steep learning curve. Practice has also shown that there are very limited if any synergies between land administration and natural resource management institutions. Oosterveer & Van Vliet, (2010) concur that complex relationships and tensions abound among; a) the technocrats and political elites, b) between different levels of government (district level & national level) and, between environment and natural resource management and other policy domains such as agriculture, education, economic development, and others.

5.3. Land reforms and the Land Sector Strategic Plan of Uganda 2001-2011

5.3.1. Land Tenure Reform Project

The project was built on three main components; a) creation of awareness of the provisions of the Law by the general population to reduce resistance to it, b) set up of effective and least cost by institutions for implementing the law, c) development of a medium and long-term strategic plan to guide the implementation process, with an investment program to guide the allocation of resources for the implementation process.

The land reform project is comprised of; a steering Committees, an Implementation Advisory Panel, Various Working Groups (Land Regulations, Sensitization, Land Fund) and a Coordination Unit purposely to give coordination and secretarial support, to operationalise the reform project. The project has registered numerous achievements
including; translation of the law into numerous local languages as well as the integration and facilitation of Non Governmental Organisations to train sensitizers at the district level as well as land tribunals (Rugadya, 2003).

**5.3.2. The Land Sector Strategic Plan**

Under the 1995 Constitution and the Land Act 1998, the Government of Uganda sought to address contentious land tenure issues with important provisions for secure and equitable access to land. For the Government of Uganda to determine potential implementation priorities, the Land Act Implementation Study (LAIS) was carried out purposely to examine institutional, financial and technical needs for the implementation of the reforms in the 1995 Constitution and the Land Act. The study further assessed the social, economic and environmental implications of the reforms and its recommendations resulted in the formulation of the Land Sector Strategic Plan.

The Land Sector Strategic Plan (LSSP) of Uganda 2001 -2011 provides the implementation framework for execution of sector wide reforms in the land sector. It was meant to guide the government, the private sector, the civil society and other stakeholders in the administration and optimal utilisation of land resources(Oput, 2013). Thus, land reforms pursued under the LSSP prioritise protection of the land rights of the poor; ensure improved land access, equitable distribution of land and tenure security (Kamusiime et al., 2005). The LSSP is complete with numerous strategies to review the policy and legal framework, protect rights of vulnerable groups, improve Land Services delivery through modernization of the Land Registry, support decentralized Land Administration institutions, remove barriers to increase land utilization, strengthen the land rights of the vulnerable groups and especially women, provide an appropriate and supportive framework for sound environmental and natural resource management among others (Oput, 2013; Kamusiime et al., 2005). It entails a framework for the contribution of the land sector to government policies and programs through a sector wide approach to address the need for reforms in the land sector(The Global Mechanism, 2007) through the following strategic reform activities;

a) Development of a National Land Policy and Land Use Policy  
b) Review of the Legal Framework  
c) Survey of some Government Land  
d) Implementation of the Land Fund  
e) Provision of Public Information on Land Rights  
f) Development of Strategies for Protection of Rights of Vulnerable Groups  
g) Alternative Land Dispute Resolution (Land Tribunals, Local Council Courts)

As a result of the LSSP, several activities have been undertaken with relative successes. Some of the reform strategies targeted specific land tenure issues. For instance, regulations for the management of the land fund were drafted to govern land acquisition in Kibaale District for redistribution to tenants in the “Lost Counties” on willing buyer-willing seller basis (Rugadya, 2003). This provision is however yet to be translated into practice to date.

**5.3.2.1. Systematic adjudication since 1995**

As earlier noted, Systematic adjudication and demarcation of land rights was one of the core strategies of the Land Sector Strategic Plan. As a technical approach for demarcating all land rights in a given administrative area, systematic demarcation (SD) is seen to be cheaper and more cost effective (Oput, 2013) than demand driven sporadic demarcation. Based on the inherent principle that once an area is selected all the rights including of those people who would ordinarily be unable to afford the inherent costs of the services are covered, SD was popularized as a pro-poor approach and a platform to ensure good governance in Uganda. Systematic Demarcation was first
piloted in Rukarango Parish, located in Western Uganda, followed by Masaka, Soroti and eventually Kibaale and Mbale districts.

The presumption was that systematic adjudication will eventually result in certification of customary land and generally increase land access and transfer through the market, increase investment opportunities, increase access to financial services and promote more sustainable investment in land management (Kamusiime et al., 2005). Meanwhile, the LSSP entails a number of principles designed to ensure that SD does not undermine the rights of the affected persons and provides for the participation of stakeholders including politicians to ensure smooth achievement of desirable outcomes. Hence, the success of SD could only be determined by not only the speed at which the data would be captured, processed, plotted and incorporated into the National Land Information System (NLIS), but also public acceptability (see Oput, 2013).

That SD avails an opportunity for a uniform and integrated land information system, it implies potential for smooth land title registration which promotes security of land tenure, reduced likelihood of ownership or boundary disputes, simpler and less costly land transactions, greater access to credit and increased market value (Kamusiime et al., 2005). To the government, development of a comprehensive land information systems will facilitate efficient land administration and management through facilitating land-use planning and/or management, property tax collection, stimulate sustainable land development and social stability through reduced incidence of land boundary disputes.

However, the substance of SD towards improving good governance and setting a vibrant land market in place has increasingly become blurred. In fact the Ministry of Lands which allocated 20% of its budget to systematic demarcation, estimates that at its current capacity, it would take about 1,000 years to complete the whole country; even if resurveying due to land subdivision is ignored (LEMU, 2009).

5.3.2.2. Uganda Government Land Inventory

The Uganda Land Inventory (ULI) project seeks to rescue the land held by government institutions including district and Sub-County headquarters, and farm institutes (Kitaka, 2011), but almost all projects under this arrangement are incomplete. This project was designed to compile comprehensive information/data on all land with the Uganda Land Commission, review and internalize the data collection checklist, carry out sensitization program at the grassroots, carry out Cadastral survey of all the Un- Surveyed Government land parcels, carry out a Cadastral re-survey and open up boundaries of all the surveyed Government land. In addition, it was meant to carry out a full documentation of any encroachment on all the Government land, follow up the registration of all Government parcels and subsequently develop an Inventory of Government Land for each district in Uganda.

Practice in Kibaale District has shown that implementation of multiple reforms such as Systematic Demarcation, Inventoring of the Government Land and operationalisation of the Land Fund in the same area causes considerable confusion among land occupants and land owners among other stakeholders. Moreover, there is little if any coordination between these projects as platform for joint sensitization of the local inhabitants about the reform activities and potential outcomes.

5.3.2.3. Uganda Land Information Project

The design and implementation of the Land Information System and Securing of Land Records was set against the background that less than 18% of all land in Uganda is registered(Orlova, 2013). Right from its inception in 1908, the Land Registry has run on a manual system of record keeping, but this was not an issue up until the 1960s when service delivery was efficient(Gabindadde-Musoke, 2013). Of interest is whether LIS will make Freehold tenure more
attractive to progressively cause voluntary transformation of customary tenure system as provided for under the Constitution. What is clear is that property registration procedures have been relatively inefficient, non-transparent, expensive (GIM International, 2010) and with poor data storage conditions because of the growing demand for titling and increase in transactions that accumulated pressure on the less motivated, ill equipped understaffed land sector.

Figure 2: Distribution of Land Information Offices I the first phase of cadastral districts

In line with recommendations from the 1996 study by Swede Survey, the government started the ambitious project to rehabilitate and preserve paper-based documents, and scanning in 2002. The comprehensive program for computerization of the Land Registry was introduced into the second Private Sector Competitiveness Project located in the Private Sector Foundation of Uganda that focused on easing of doing business – as a land component. Improved Land Information System would the efficiency of the Land Registry regarding storage, access, and retrieval of land information to eliminate the “back-door” transactions, forgeries, and graft. The project sought to establish a National Land Information Center as well as Storage and Archival Center for Land Records. In addition, it sought to ensure the construction, rehabilitation and modernization of 21 land offices, of which 13 land offices including Kampala, Wakiso, Mukono, Mbarara, Masaka, etc (Figure 2) were to be completed in the first phase(Oput, 2013;
Gabindadde-Musoke, 2013). The LIS System has already been deployed in 6 Ministry Zonal Offices including Kampala, Wakiso, Masaka, Mukono, Jinja and Mbarara, to test the efficacy of the LIS and will be rolled out the entire country. In addition, a total of 492,000 land title records have been converted into digital copies.

5.3.2.4. Critical analysis of opportunities and Challenges of the Land Information System

a) Efficiency in service delivery

Improvement of the land registry will increase efficiency especially with regard to storage, access, and retrieval of the land information. It is anticipated to increase transparency in the land sector by effectively reducing or even eliminating the tendencies of corruption through “back-door” transaction, forgeries and graft, rampant subdivisions, multiple allocation plots, alteration of land records, amendments and falsification of survey information of land titles, and land-use abuses (Gabindadde-Musoke, 2013) that have been rampant in, or facilitated by the land sector. This is likely to elevate the integrity of the Land Registry and serve to restore public confidence in the institution. Despite the inherent benefits in the computerization of the Land Registry, several challenges are likely to persist. This is because some of the information captured such as certificate of mailo land is already obsolete and may not reflect the current situation on the ground. Moreover, the Land Registry was suspicious (GIL, 2012a) manual records to be digitized were rampant with forgery and duplication of land titles, damaged records from poor storage and others that could undermine the integrity of the archived records. GIL (2012b) notes the difficulty to bring together relevant documents within a title, i.e.; the risk to scan only part of the title files because some instruments could be missing.

b) Managerial capacity

More importantly, experience in the operationalisation of the 6 pilot Ministry Zonal Offices (MZOs) is only a pointer to the huge list of challenges likely to be faced when services are rolled out countrywide. Some of the challenges included a barely computer-literate registry staff that could not operate the system, lost data and network configuration challenges(Kaaya, 2013). Staffing is likely to be a big challenge. The DeSILISOR project entailed the rehabilitation and reopening of the school of Surveying and Land Management. This is expected to produce the required quantity and quality of land professionals required for the enormous task of reducing the 80% unregistered land parcels among other tasks. Whether or not there would be staff with the right competencies at the time of launching the remaining MZOs is not clear. Additionally, the MZOs have been established near existing District Lands Offices (DLOs) and in some cases, DLOs have been rehabilitated and refurbished to suit the new MZO standards. In fact, the staff of these DLOs have been trained and equipped to temporarily undertake MZO functions.

c) Land valuation

The decentralization of valuation services to the Ministry Zonal Offices will bridge the gaps hindering property tax collections in terms of timely property valuations. This however will require formal systematic capture of land and property values and integrate them into the LIS to facilitate other land management functions such as physical planning and development through enabling fair compensation for planned physical infrastructural developments.

d) Economic benefits

Easy and fast access to land information online by real estate dealers, courts, and financial institutions such as banks, Savings and Credit Cooperatives among others will increase the volumes and speed of transactions. The cost of doing business will be substantially reduced, which coupled with potential improvement in revenue collections, will improve economic competitiveness of the country. The overriding challenge is that 80% of the total land area is under
customary rights that are not registered, which leaves a small proportion of the total land area in Uganda under potential coverage of these services.

e) **Potential benefits to the surveying industry**

Reestablishment of Geodetic Control Points, utilization of aerial photography and generation of orthophotos are critical with fundamental benefits to the surveying industry. Today, land surveyors as well as planners are able to access land information from the Ministry Zonal Offices including grid referenced images of the areas of interest.

6. **Underlying drivers of land reform problems**

6.1. **The birth of alliances**

It is clear that after the land tenure reforms in the early 1990s, the nature of the land question Uganda was no different from what it was during the era of the British Protectorate Government. Salient components of the land question evaded the ambitious land reform process during the Constituent Assembly that led to the formulation of the 1995 Constitution, and are resistant to the Land Act. The overriding challenge arose with the birth of alliances between the reformers and big landlords during the reform process. New alliances were particularly born between the National Resistance Movement (NRM) Government and Baganda landlords. The government’s willpower was degraded by some state agents and government elites who turned into some of the largest land owners and used state power to access loans to acquire leases to large tracts of land they are eligible to transform into freehold (Okuku, 2005). Consequently, NRM and the landlords’ representatives in parliament walked together, hand in hand, out of common interests against the enactment of a Land Act to resolve conflicts over their acquired land. Okuku (2005) notes that concerns for justice, equity, and social change in land relations were deliberately sacrificed at the altar of power politics and narrow class interests.

6.2. **Restoration of the old order**

In 1994 when the delegates were voted to draw up Uganda’s new Constitution, the president vowed to eliminate the “mailo land” tenure system that robbed the Baganda and non-Baganda, lands of their birth, and would “…not rest until this injustice is resolved” (The NewVision, 12/7/1994 cited by Green 2006). This added impetus to the elected reformers dedicated efforts and further heightened public expectations of historical wrongs. However, in 1995, the problematic land tenure systems that had been outlawed by the 1975 Land Reform Decree were restored by the new Constitution. Subsequently, the Land Act 1998 reinstated the old relationship between occupants and the absentee landlords requiring the occupants to pay nominal ground rent and/or acquire registrable interests from landlords at will, for the land they had been unfairly dispossessed of. Even if land occupants were willing to pay nominal ground rent, they would still not have had access to absentee landlords. Therefore, the outcome of the reform process betrayed the genuine expectations of the public.

6.3. **Uncertainty over customary land**

One of the fundamental outcomes of the land reform process was the formalisation of the Constitution 1995 as one of the four legally recognised land tenure systems in Uganda. Because customary tenure system has evolved and is varied in nature from one part of the country to another, it was formalised without defining a clear structure of customary land administration. In most parts of the country, customary authorities are almost inexistent and people
often opt for formal courts for dispute resolution\(^1\) just like the statutory system of land administration. The primary challenge is that customary tenure covers over 80% of land but avails no formal documentary evidence of land ownership to the majority of the country’s population (WRI, 2011). However, customary norms and evidences are subordinated to statutory rules and forms of evidence which frustrates the citizens under the customary system (ibid). In addition, that The Land Act grants a greater status to Area Land Committees and land tribunals than customary authorities in decision making (Mwebaza, 1999) further questions the legal legitimacy of the customary system. Meanwhile, customary tenure is viewed as an impediment to modernization and development because of the inherent multiple, overlapping and conflicting rights.

In addition, the Land Act provides for the acquisition of the customary certificate and certificates of occupancy which, ostensibly, would increase the security of tenure for the customary land owner or tenants respectively. However, this provision has never taken off to test its practical relevance, because individuals or families under the customary system are already guaranteed security of tenure minus any form of documentation defining their entitlements.

### 6.4. Impact of the budget ceiling

**6.4.1. Institution capacity**

A Land Fund was provided for under the Land Act, primarily to purchase the interest of the registered landowner in the land occupied by the lawful or bonafide occupants and redistribute land to the tenants. However, a dramatic mismatch between the theoretical needs of the Land Fund and the resources likely to be available (RoU, 2011) was soon identified. The Land Act Implementation Study estimated that full implementation of the Land Fund required Ushs 700bn (Nsamba-Gayiiya, 2003). While the government may lack sufficient resources to facilitate land reforms, it has through the Ministry of Finance, Planning and Economic Development (MFPED) put the land sector under budget ceiling and degraded the sector’s capacity to implement the reforms.

<table>
<thead>
<tr>
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<tbody>
<tr>
<td><strong>MLHUD</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wage Ceiling</td>
<td>2.133</td>
<td>2.133</td>
</tr>
<tr>
<td>Non-Wage Recurrent Ceiling</td>
<td>8.99</td>
<td>8.99</td>
</tr>
<tr>
<td>Domestic Development</td>
<td>5.036</td>
<td>5.036</td>
</tr>
<tr>
<td>Total</td>
<td>16.159</td>
<td>16.159</td>
</tr>
<tr>
<td><strong>Uganda Land Commission</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wage Ceiling</td>
<td>0.270</td>
<td>0.270</td>
</tr>
<tr>
<td>Non-Wage Recurrent</td>
<td>0.226</td>
<td>0.226</td>
</tr>
<tr>
<td>Domestic Development</td>
<td>3.680</td>
<td>3.680</td>
</tr>
<tr>
<td>Total</td>
<td>4.176</td>
<td>4.176</td>
</tr>
<tr>
<td><strong>Total Budget Ceiling for LHUD Sector</strong></td>
<td><strong>20.33</strong></td>
<td><strong>20.33</strong></td>
</tr>
</tbody>
</table>

Source: (MLHUD, 2010)

For FY 2010/11, the total wage requirement was 2.757bn for the ministry structure, implying that an extra 0.624bn would be required above the wage ceiling of 2.133. The Ministerial Policy Statement (MPS) cleared a total of 179.6

vacancies for filling in FY 2010/11, and 199 posts to be filled in 2011/12, but filling the vacant posts requires additional costs above the budget ceiling. However, even if the sector had the ability to mobilise funds from the donor community, the budget ceiling would hinder it from accessing these funds. It is therefore difficult for the ministry to facilitate the implementation of reforms.

6.4.2. Problems of the Land Fund

Of particular note is the fact the budget ceiling of Ushs 4.176bn slapped on Uganda Land Commission (ULC) which is responsible for the implementation of the Fund reflects a declining commitment on the part of the government. Budget ceilings are determinants concerning the actual finances allocated to a sector by the Ministry of finance, Planning and Economic Development (MFPED) on the basis of resource envelopes made available for macro-economic stability to qualify for debt relief (Kamugisha-Ruhombe, 2009; 2010). The Officials of the Commission to revealed to the inhabitants of Kibaale District, that ULC has an annual budget of 3bn but requires at least 300bn to handle land compensations. In fact, about Ushs 1.7 trillion is required to sort out the district of Kibaale as well as some areas of Isingiro, Buganda, and Kasese (Daily Monitor, 2012).

Thus, when implementation of the Fund was commenced, the government paid off some absentee landlords and a bigger portion of the mailo was not purchased due to limited budget allocations (RoU, 2011). The number of absentee landlords already compensated is not clear, and the government established Commission of Inquiry shows that of the 3,636 absentee landlords in Kibaale District, only 360 were compensated by the government since the absentee landlords already compensated is not clear, and the government established Commission of Inquiry shows that of the 3,636 absentee landlords in Kibaale District, only 360 were compensated by the government since the Land Fund was operationalised in 2003.

6.5. Complexities of Mailo land tenure

It was abundantly clear from the start that the government’s obligation to compensate registered landlords was prone to failure due to the complex character of the mailo land.

Figure 3: The Degree of Land Tenure Security on Different Systems of Land Tenure

Source: Rukundo (2013)
Among landowners to be compensated are those whose land was resettled under a government scheme in 2003 (in Kibaale District), and all absentee landlords. However, the study by Nsamba-Ngayiiya, (2003) found that while mailo land tenure should be surveyed and registered, most land owners are absentee landlords that have never physically accessed their land. Meanwhile, for some landlords, land was never surveyed and titles issued. In fact about 700 of the original mailo land titles in Kibaale District alone are still kept with the Fort Portal Land Office because the owners have never collected them. Worse still, most of the uncollected titles lack proper addresses of the owners and probably most of the absentee landlords are dead. As a result, the reform initiative has stalled and as a result, land occupants are condemned to different levels of land tenure insecurity with varying levels of formality. Figure 3 shows different levels of land tenure security in Kibaale District.

6.6. Inadequate Planning and vested interests

Implementation of the Land Fund was affected lack of negotiated arrangement among the reformers about the priority areas to benefit from the Fund. For instance during the Constituency Assembly (1993-1995), it was argued that Kibaale land question could not be dealt with in isolation as similar situations including Nyabushozi, the president’s home Sub-County merited similar attention. To Kibaale inhabitants, their case lost priority attention in favour of Nyabushozi much as the Fund was ordinarily created for their cause (Okuku, 2005:30). Coupled with strong opposition from the landlords, reform initiatives associated inequitable land distribution were relegated to the bottom of national development priorities and they remained theoretical with limited impact on the land relations. More still, a mechanism of land redistribution was never defined from the start, and it is not clear today, how the government will address itself to the issue incase sufficient resources to operationalise the Fund are made available.

6.7. Transparency in land management

Transparency in land management would attract public confidence in the responsible institutions. As a result of low levels of transparency, even genuine land reforms are treated with suspicion. In addition, lack of local ownership of reforms prompted the public to view them as a plot of the government and elites to grab land (Green, 2005). During the Constituent Assembly, the debate on the land question was greeted with suspicion and mistrust (Okuku, 2005). The situation has been made even more complicated by the slow, cumbersome and expensive land registration process, complete with tendencies of corruption. The East African Bribery Index 2011 of the Transparency International (TI) ranks the ministry of lands the 6th most corrupt institution out of 30 institutions in Uganda. The ministry slipped from No.11 in 2010 to Number 1 in bribery, and the average size of the bribes paid at the institution increased tenfold from Ushs 133,055.56 in year 2010, to 1,375,833.3 in 2011 (TI, 2011). In such difficult circumstances, it is very difficult for the majority land owners to convert customary tenure to Freehold tenure at will, as provided for under the Constitution

6.8. Conversion to Freehold tenure system

Land tenure reforms granted Freehold tenure system an elevated status due to the perceived relative advantages it has over mailo land, leasehold and customary tenure systems, including the highest degree of tenure security, universal acceptability as security for collateral, the bundle of rights enjoyed by the owner and others. As a result, the Land Act provides mechanisms for the conversion of customary (S.9), leasehold system (S.11) and Mailo land tenure systems to Freehold system. The provision for conversion to Freehold “at will” means it is an exception than a rule. This way, the Land Act gives affordable alternative choices to land users but in the process, it fails to provide a robust mechanism for guiding the country to a universal land tenure system.
In addition, security of land tenure is abstract and transcends the possession of the certificate of land title. For instance, a survey of 213 respondents in Kibaale District in 2010 possessed informal land purchase agreements, of which 25 felt secure, 137 partially secure, and were 51 insecure. Their sources of tenure security included; certificate of land title (0.3%), community recognition (77%), possession of informal written agreement (72%), duration of land utilisation (59%), legal certainty (1.4%), formal evidence (land offer letters, payment receipts, executive order) (7.4%), Land Fund (5%) and Others (graveyards, family support, testament, etc) (21%). Admittedly, Freehold land owners enjoy security of tenure and a host of other benefits, but practice has shown that bad governance conditions complete with title fraud can expose Freehold system to severe levels insecurity. In addition, the prohibitive costs of land registration automatically excludes a great majority of poor customary land owners in the country from enjoying access to the legally preferred system of land ownership.

6.9. Abuse of public trust

The 1995 Constitution vests natural resources including natural lakes, rivers, wetlands, forest reserves, game reserves, national parks and any other land to be reserved for ecological and touristic purposes for the common good of all citizens of Uganda. This is supplemented by the Land Act which prohibits leasing and alienation of natural resources. The Land Act only allows the grant of concessions or licenses or permits. Under these legal provisions therefore, the stake is granted the legal title or “corpus” to the trust property but exercises fiduciary duties as entrusted by the citizens – the real beneficiaries of the trust (RoU, 2011). In Kibaale District, practice shows that the State breached the public trust doctrine due to the failure to institute stringent mechanisms to safeguard the precious biodiversity rich natural forests from politically influenced encroachment. Table shows the modes of access to land with entry to “protected” forests enable by quasi open access conditions.

Table 2: The state of land-use at the time of the respondent’s access to land

<table>
<thead>
<tr>
<th>Modes of access to land</th>
<th>Year of access to land</th>
<th>The primary state of land at the time of purchase by the household</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Tropical Forest (private)</td>
</tr>
<tr>
<td>Land Purchase, Land Allocation, Forest Clearance, Land Inheritance, Land Donation</td>
<td>Pre-1986-1987-1990</td>
<td>35</td>
</tr>
<tr>
<td></td>
<td>1991-1996</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>1997-2000</td>
<td>33</td>
</tr>
<tr>
<td></td>
<td>2001-2006</td>
<td>28</td>
</tr>
<tr>
<td></td>
<td>2007-2010</td>
<td>18</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>161</td>
</tr>
</tbody>
</table>

7. Conclusion and recommendations

7.1. Conclusions

It is abundantly clear that the land question has evaded successive land reform initiatives since Uganda gained her independence in 1962. The Land Reform Decree, the 1995 Constitution of Uganda, and the Land Act, 1998 effectively failed to address the historical complexities and fundamental issues surrounding difficult land tenure relations. Inherent challenges notwithstanding, the Land Reform Decree, 1972 was perhaps Uganda’s only legal instrument that attempted to bring the country under a universal land tenure system. While the 1995 Constitution repealed the Decree and vested the residual authority over land in the Citizens of Uganda, it further created
considerable ambiguities in how land as property is dealt with (RoU, 2011). Instead, it restored the land relations to the post independence era.

On the other hand, the Land Act that was designed to operationalise the Constitution did not exhaust all the critical aspects regarding the content and viability of property rights under various forms of tenure to streamline land ownership in a manner appealing to individuals, communities and institutions with own land (RoU, 2011). Despite the Amendments to the Land Act, implementation has remains a huge challenge.

Sustainable land management is a phenomenon of functional synergy with complex relationships and changes. Practice in Kibaale District has shown that coordination between different land management institutions is either weak or non-existent. Despite the difficulty to measure the synergy, what matters is that sustainability is about things working together, about integration rather than separation and about synergy being a secret of that (Jurgens, 1994). The coordination between land administration and environmental conservation agencies is long overdue.

Technical interventions including computerisation of the Land Registry and reform activities such as Systematic Demarcation are vital in the short and long run. These however cannot musk the complex land relations that remain unresolved since the colonial era. It will be very difficult to realise the actual benefits of technical interventions in the face complex land tenure relations. The land question is however not resistant to resolution with political will, legal clarity and general adherence to the rule of law.

7.2. Recommendations

Operationalisation of the Land Fund: The government must secure the requisite financial resources for the Land Fund to purchase land and redistribute it to occupants through an all inclusive transparent approach. This will halt the identifiable disillusionment among the land users concerning the progress of the Land Fund. The government should restructure the District Land Boards, and strengthen Area Land Committees to control against graft, clientelism, and illegal land allocation in public and private forests.

There is need for a full land inventory to establish who owns/occupies what, how much, and where. Where possible, a Social Tenure Domain Model (STDM) should be designed to guide the implementation of the Land Fund. This information will ease rigorous and coordinated planning for the protection of habitat linkages through t, there is need to control against or halt incessant influx of migrant settlers in many parts of Bunyoro as an initial step towards finding workable solutions to the problem.

There is need to redefine land relations under the Land Act to promote land tenure relationships on mailo land. The provision for the nominal ground rent far below the rental market value is very ambiguous at best. Even more ambiguous is the provision for acquisition of the certificate of land occupancy with the certificate of land title intact with absentee landlords. It is therefore paramount that overlapping land rights are disentangled to enable long term investments in land management.

The government should lift the budget ceiling on the Land Sector as a platform for improvement in staffing levels and logistical capacity. Unless the budget ceiling on Uganda Land Commission is lifted and the requisite resources mobilised, the relevance of the Land Fund is questionable. Given the central role of land in the national development process and the livelihoods of the population, there is need to prioritise the land sector in budget allocations and streamline accountability in search for a lasting solution to the current impasse in land relations.
List of references


