



Large Scale Land Acquisitions and Land Governance in Uganda: Implications for Women's Land Rights¹

Research Brief

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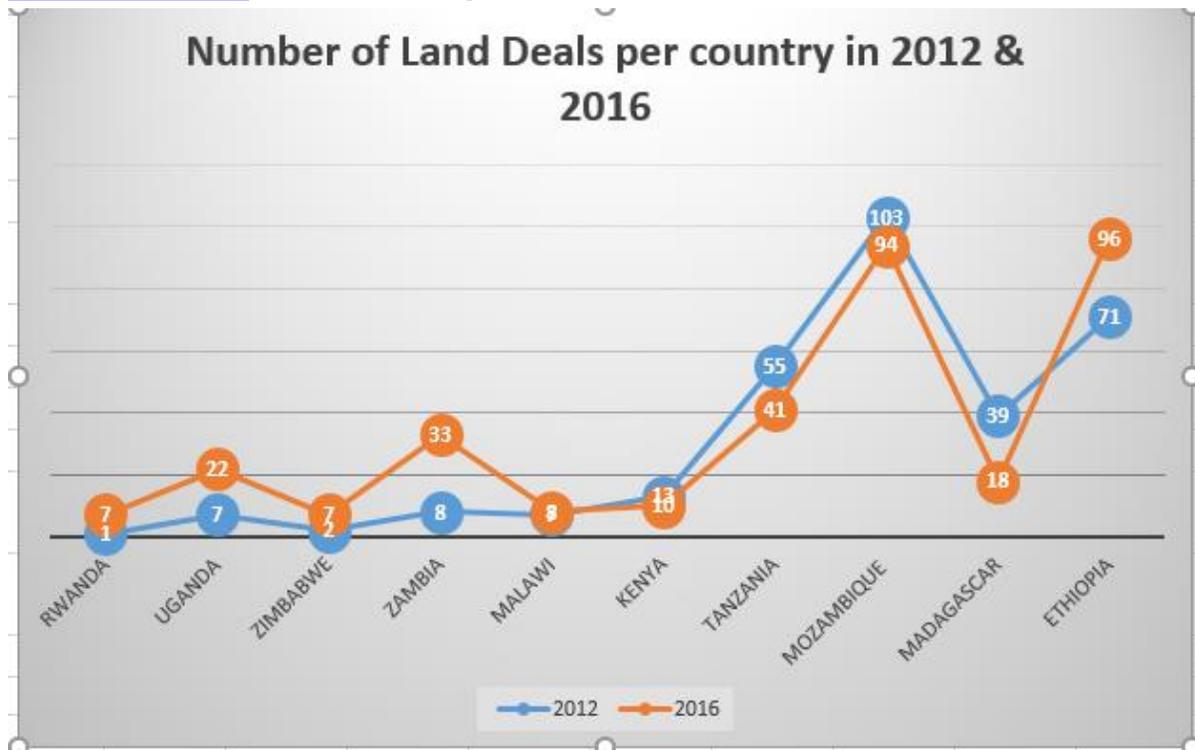
Preamble

Over 90 percent of Uganda's population is dependent almost exclusively on agriculture for their livelihood which makes land a vital resource and in the same vein land governance then becomes a significant political question. Over the last two decades or so, there has been a relative land rush by foreign companies as well as national companies and individual investors and speculators. The phenomenon of LSLA in Uganda is quietly on the rise. In 2012 the officially recorded land deals in Uganda stood at 7 which by 2016 had risen to 22 (see table 1).

Table 1: Large Scale Land Acquisitions in East and Southern Africa

| Target Country | No. of Deals | | Total ha | |
|----------------|--------------|--------|-----------|-----------|
| | 2012* | 2016** | 2012* | 2016** |
| Rwanda | 1 | 7 | 3,100 | 111,130 |
| Uganda | 7 | 22 | 121,512 | 153,155 |
| Zimbabwe | 2 | 7 | 201,171 | 354,449 |
| Zambia | 8 | 33 | 273,413 | 1,163,596 |
| Malawi | 7 | 8 | 310,147 | 75,952 |
| Kenya | 13 | 10 | 633,500 | 213,387 |
| Tanzania | 55 | 41 | 1,324,475 | 504,483 |
| Mozambique | 103 | 94 | 2,190,473 | 3,093,785 |
| Madagascar | 39 | 18 | 3,779,741 | 757,264 |
| Ethiopia | 71 | 96 | 4,748,753 | 2,639,632 |

Source: * Land Matrix Portal 2012; ** <http://www.landmatrix.org/en/get-the-idea/global-map-investments/> accessed on August 18, 2016



Officially, Uganda is yet to see rising LSLAs in comparison with say Tanzania and Mozambique but it is also worthy to note that there is much more unrecorded acquisition particularly by national companies and individuals. Hence this is the opportune time to amplify the knowledge on the terrain of LSLA and thereby inform accountable, legitimate and equitable acquisition processes, now and in the periods to come.

This research study sought to interrogate large scale land acquisitions (LSLA) in sub-Saharan Africa and its implications for women's land rights. The main research question was how and under what conditions can women be empowered to effectively engage with processes of LSLA to ensure that the legal and policy frameworks foster better accountability and legitimacy in land governance. The study covered Amuru one of the districts forming the Acholi sub region in Northern Uganda and Mubende District in Central Uganda. The two cases are also indicated in the land Matrix for Uganda (http://www.landmatrix.org/en/get-the-detail/by-target-country/?starts_with=U). These two sites were intended to provide the differing experiences of the land governance as well as the women's positioning in processes of acquisition.

The Context

The Constitution of the Republic of Uganda provides that land belongs to the people, to the citizens of Uganda, vested in them in accordance with the land tenure systems provided for in the Constitution (Art. 237). These are: Mailo, customary, leasehold, and freehold. Beyond the

constitutional provisions, land governance in Uganda is wrought with inherent gaps. The case of Mailo land tenure, for example, brings out the perpetual dilemma of multiple and overlapping interests in land between lawful and bonafide occupants all of which are legally recognized in law. There is also the dilemma of customary tenure where rights are allocated and sanctioned following the customs of a given community which then makes land rights more contextual than factual. When it comes to LSLAs these dilemmas work to limit the otherwise highly technical procedural processes of determination of rights and compensation over land.

Within the whole modernization imperative, large scale land investment on land, especially by foreign companies has been constructed as largely desirable and developmental with no adequate mechanisms for public interest protection. The current trends on LSLAs mostly in sub Saharan Africa illuminate the fragile nature of rights and governance systems characterized by disregard of the legal and institutional frameworks as well as impunity by those who wield power. In perceiving land as a primary tool for economic development, the state has prioritized the rights of investors over its larger populace, with ghastly dispossession of the poor without adequate protection. In one instance the state has leashed terror on its citizens without any compensation in favour of investment. In contrast the people perceive land as a social right core to their identity enjoyed since time immemorial. The specific case of Uganda demonstrates the fact that LSLA is taking place within a contest of complex and incomplete land governance. Critical analysis is pointing to very fragile situations that are fueling community tensions and land losses, with dire consequences for majority poor and especially by women whose land rights are rather fluid and who, at the same time have the primary responsibility for food production. The inherent cracks adversely affect the poor and more so women whose land rights are rather fluid and dependent on multiple factors.

Amuru District

In 2008 Amuru Sugar works under Madhivani group of Companies applied for lease and was granted 10,000 hectares in Amuru Sub County, by the District Land Board (DLB). This was supposed to be a joint venture with government with 49% of the shares. The granting of lease was on the basis that the land in question was gazetted public land. However, the process of surveying and establishing the Project could not proceed as it met with stiff resistance by the community. The community outrightly rejected the project at the start because they felt that the DLB had no mandate to giveaway their land, which, to them, was governed under customary tenure. They argued that the land was vacant because of the war and not because it was public land. Women were very visible in this resistance. For example, on many occasions when they met with government officials they stripped naked and also instigated their children to cry.



Above: *Face to Face with Power: Women in Amuru demonstrate as a sign of resistance to proposals by government officials*

On January 6th 2015, a deed of settlement between the government of Uganda and the Amuru community was signed. Indeed, resistance by the community has engendered a process of relative inclusiveness in the acquisition process, but the situation is still uncertain. The lingering uncertainty generates undue suspicion and anxiety among the community.

Mubende district

Land in Buganda, where Mubende District is located, is governed under Mailo land tenure and the majority of the people are tenants on land owned by landlords. This kind of tenure system is volatile since it entails conflicting (legitimate) claims over the same piece of land i.e. the lawful owner as the landlord and bonafide occupants as tenants. In The land in question was acquired in the year 2000 by the Uganda Investment Authority (UIA) from a private mailo owner and leased to Kaweri Coffee Limited a Germany Company for a coffee plantation for a period of 99 years. There are conflicting claims on this land because while those involved in acquisition (UIA and Investors) said the occupants were illegal and had no claims on that land, the locals remarked that they had tenancy rights stipulated in the 1998 Land Act. *“Ffe twali kukibanja nga tumazeko emyaka ekisuka mumakumi abiri. Bajaaja baffe era twabazika wano. Twali tumanyi nti teli muntu yena ayinza tusenga”*. (We had stayed on this land over 20 years and it is the same land where we buried our grandparents. We knew no one would evict us). Later on, thousands of people were evicted from the major four villages- Kijjunga, Kiryamakoobe, Kitemba and Luwunga accordingly, with the help of armed forces. Houses, gardens, businesses, coffee plantations were destroyed with bulldozers. People became displaced and families fell apart and this increased vulnerability of the affected communities. Children died of pneumonia and malaria, people died of snake bites. The manner in which evictions were done was inhuman. As according to the views raised in one of the dialogues in Kitemba:

The way we were evicted was inhuman and since then we have never been compensated. They never notified us to move out of the land and never promised that we would be compensated. We were taken as if we were not Ugandans (December 1, 2014).

In the fight for what they considered their land rights, the displaced people as a community, with the help of organisations such as FIAN and Action Aid, filed a case with the High Court, in 2001. The Court ruled in their favour in 2011 but 10 years on, no compensations have been made. As opposed to the situation in Amuru where the local community resisted and impacted on the acquisition process, the situation in Mubende is that the organizing happened after they had been evicted.



Crossing the Iron Bar: A woman approaches a barrier at Kaweri Coffee Plantation (land formerly occupied by the community) across the main road connecting the area to main public services

Key messages

i) Government has the Primary responsibility to respect protect and fulfill land rights especially for the poor, women inclusive

There is need to distinguish between legality and legitimacy and for government to ensure that rights of the poor are respected, promoted and fulfilled. Not everything that is legal is legitimate. There is need for a concrete policy dialogue on land governance to guide acquisition processes, especially, given the inherent gaps with regard to the dilemma of overlapping claims. While majority people resort to forum shopping in the case of normal situations of land claims choices are limited in the case of large scale displacement. communities are at great risk of mass dispossession. The absence of tribunals leaves a very big lacunae in land governance and the lacuna at the local government level is extremely inimical to accountable land acquisition. Government should revive and revitalize local council courts. There is need to create incentives for communities through legitimate and accountable models. Good models include joint investments, gender fair out grower schemes and transparent valuations.

ii) On women's land rights and customary land Governance

The 1998 Land Act PART II on land holding section 3 defines Customary tenure as a form of tenure applicable to a specific area of land and a specific description or class of persons; governed by rules generally accepted as binding and authoritative by the class of persons to which it applies; applicable to any persons acquiring land in that area in (d) (e) accordance with those rules; characterized by local customary regulation; applying local customary regulation and management to individual and household ownership, use and occupation of, and transactions in, land; providing for communal ownership and use of land; in which parcels of land may be recognized as subdivisions belonging to a person, a family or a traditional institution; and which is owned in perpetuity.

There are many variations in as far as women's land access and control in customary tenure is concerned. For example, under the Acholi traditional land management system, land is governed by the Clan (and sub-clans). Traditionally, land was seen as a collective asset and no clan or men as individuals would be allowed to sell land. This land is passed on from generation to generation and within this system women acquire land rights through marriage, by way of gift and inheritance. Each family is allocated a portion of land which has specified boundaries. Women are allowed to use the land for cultivation of crops and access common property resources such as grazing, hunting, water, wild fruits, mushrooms and medicines, on designated community land as long as they are part of that clan. Although customary arrangement has been indicted for limiting women land rights in terms of ownership and control, women had guaranteed access and use rights which enabled them survive with their families. One key informant had this to say:

In Acholi, the issue of ownership by men and women is generally misleading. There is no individual who owns land, we have the clan which is the sovereign authority and sets rules which must be followed by everybody.

The most worrying aspect is the diminishing authority of the traditional leaders who were custodians in terms of setting rules and regulations governing the land due to increased individualization. In the new wave of LSLA, the issue of collective rights as general pattern for land management has drastically been undermined with individual rights taking prominence in the current land regime in Amuru district. The diminishing collective rights as it is emerging has led to increased individual land sales which have negative implications for women's land rights and general livelihood of communities.

LSLAs have added a new dimension to the challenge of fluidity in women's land rights. LSLAs tend to further complicate the terrain of women's right to land when displacements, evictions or even compensation are based on collectives. In the face of LSLAs there is need to rearticulate women's land rights so that they are substantively structured in the negotiation and compensation processes and in this, the question of marriage needs to be addressed since majority people are living under undocumented unions, since this hurts women more in cases of acquisition and compensation. Furthermore the increased individualization of land has tended to diminish collective rights with negative implications for women's land rights and general livelihood of communities. The question of women's land rights requires re-articulation beyond the Consent clause (section 40) in the Land Act (1998).

iii) Poor people's land rights are largely unprotected hence collective citizen action is crucial

Poor people are subjects of the whims of the powerful. While current wisdom is that people require sensitization to embrace development, the solution seems to be a more politically committed process that first and foremost addresses the historical injustices. Civil society organisations should embrace more activism in land governance, and intensify social mobilisation to buttress the citizen's voice. The voice on women's land rights, without doubt still requires a systematic approach on the concrete conditions and the solutions to the critical barriers thereof.

iv) Revise the Compensation Policy and resettlement policies

The Uganda Investment Authority should adopt guidelines and approaches that regulate LSLAs to ensure protection of the tenure systems and putting into consideration the women's land rights in investment. Compensation plans need to be clearly handled and adequately done for the benefit of the affected communities. Hence there is need to revise the compensation policy. Compensation should, as a matter of legitimacy, make people lead better lives.

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