

OPPORTUNITIES AND CHALLENGES IN DELIVERY OF LAND RIGHTS UNDER CURRENT CENTRAL-LOCAL RELATIONS IN UGANDA

¹Mugisha David Begumya, ²Dr. Twinamatsiko Medard

¹Department of Public Administration, Kampala International University-Western Campus

²Department of Development Studies, Kampala International University-Western Campus

Abstract: This literature review highlights land policy implementation in Uganda. Land is a highly emotive subject in Uganda as in other developing countries. The literature review deals with contextual and theoretical underpinnings. Contextually the Uganda National Land Policy (UNLP) addresses historical injustices, colonial mistakes and contemporary issues. Theoretically the systems theory is discussed together with the bottom up approach. This review captures the perceptions and attitudes of the people towards the policy. It probes the meaning of the policy to Ugandans. It also exposes the gaps, opportunities and challenges the policy presents. Lastly conclusions are made based on the relevant literature reviewed.

Keywords: Land rights, Land policy implementation, Uganda National Land Policy 2013, Local-central relations, Decentralisation.

I. INTRODUCTION

Land policy implementation in Uganda, dates back to pre-colonial, colonial and post-colonial times. In pre-colonial Uganda indigenous administration recognized both individual and communal rights to land. Individual rights to land included access and use rights and not ownership rights. During this period no indigenous community in Uganda accepted individual ownership of land (Mwesigye, Matsumoto & Otsuka, 2014). After 1900, the British colonialists added to customary tenure, *mailo* land, freehold and leasehold. *Mailo* land came out of the 1900 Buganda Agreement in which the land of Buganda was given to the Buganda king and his notables. In the same year, 1900, the Toro Agreement established rents in cash and kind to landlords. Similarly, the 1901 Ankole Agreement, but it gave the Ankole king 800 square miles and the rest to his chiefs, strengthening the British central government and weakening the Ankole king's local government (Kafureka, 1992). In the then Ankole and Toro Kingdoms native freehold was negotiated in exchange for British protection under the British Protectorate (Bruce et al., 2010; Mwesigye, Matsumoto & Otsuka, 2014). The Crown Lands Ordinance of 1903 granted indigenous Ugandans the right to occupy land, which had not been granted to anyone else, through freehold or leasehold, in accordance with their customary law. It is during the colonial period that central-local governmental relations with regard to land emerged in Uganda (Foley, 2007).

In 1919 the colonial government set up local administration, through the African (Native) Authority Ordinance (Villadsen & Lubanga, 1996). In 1928 the Busuulu and Envujjo law was enacted that regulated landlords and tenants in Buganda. This was followed by comparable laws in Ankole and Toro by 1938 (MoLHUD, 2013). The Toro Landlord and Tenant Law of 1937 and the Ankole Landlord and Tenant Law of 1937 (MoLHUD, 2013b). In 1949 the Local Government Ordinance established the district as a local government unit with fairly autonomous administration (Ojambo, 2012). In 1952 Kazinga National Park was gazetted and later renamed Queen Elizabeth National Park officially displacing the Basongora (Matovu, 2012). In 1955 the publication of the East African Royal Commission Report recommended reform of customary tenure in British colonies. Rejected in other districts, Ankole, Kigezi and later Bugisu

embraced the conversion of customary to freehold tenure (Mugambwa, 2007). From 1955-1964 local administration was strengthened. Ironically during this time the post-independence Public Lands Act of 1962 confirmed the Crown Lands Ordinance of 1903 that curtailed the rights of customary tenants in case the state chose to sell or lease their land (Foley, 2007).

Then 1964-1985 featured recentralization and severe weakening of local administration. For instance in 1964 indigenous pastoral land was turned into state ranches in Ankole (MoLHUD, 2013). However the Public Lands Act of 1969 gave customary tenants a voice in the sell or lease of land they occupied. The Act also gave them rights to apply for lease over the lands they occupied (Foley, 2007). This was followed in 1975 by the Land Reform Decree. That made the state trustee of all land in Uganda through the Uganda Land Commission. This decree abolished freehold and mailoland and converted them into leaseholds for either 99 or 999 years (Obaikol, 2014). This also affected customary tenants who lost their limited protections given to them by the Public Lands Act of 1969. The right of Ugandans to occupy public land through customary tenure without central governments express permission became a criminal offence punishable by one year imprisonment. Customary tenants retained their right to sell or give away their tenure, provided this did not vest any title in the transferee. Any transfer that claimed to give such title became a criminal offence punishable by two years imprisonment. The Uganda Land Commission could lease land occupied by customary tenants without their consent. In practice most of the provisions of the Land Reform Decree of 1975 remained unimplemented until the 1998 Land Act repealed it (Foley, 2007).

From 1987 to date significant devolution of power and services from the centre to the locals has pertained but with trends to recentralization (Okidi & Guloba, 2006). The radical title to land under the 1975 Decree was abolished under the 1995 constitution which brought about fundamental reforms in ownership, tenure management and control of land in Uganda. Article 237 of the constitution provides that land in Uganda shall belong to the citizens of Uganda. This made Uganda the first State in Sub Saharan Africa to vest its radical title in its citizens (MoLHUD, 2013). As such, the 1995 Uganda Constitution espoused devolution which considerably shifted land policy implementation from the central government to the local government. The two most important issues covered by the Land Act are land rights and land administration (Foley, 2007). This is due to the colonial legacy which gave rise to the phenomenon of multiple and conflicting rights on one and the same piece of land (registered land) which has bedeviled Uganda up to today (Economic Commission for Africa, 2012). Therefore to operationalize the Land Act, the UNLP was made in 2013 to ensure that the management of the land sector contributes to democratic governance. As a consequence it is carrying out land reforms within the government policies of decentralisation and empowerment of the people (Bwogi, n.d).

Specifically, since the advent of decentralisation policy in Uganda, a number of political, fiscal and administrative reforms have taken place. Politically, the 1975 Land Reform Decree vesting land in the state was abolished by the 1995 constitution which vested land in the people. Administratively, the Land Act has decentralized land management and dispute settlement mechanism (The Republic of Uganda, 1998). Seven Land Administration Institutions (LAIs) have been established. They include the Uganda Land Commission (ULC), District Land Tribunals, District Land Office (DLO), District Land Board (DLB), Office of the Recorder, Area Land Committees (ALC) and Local Council (LC) Courts (Sebina-Zziwa, 2015). These institutions are meant to transfer emphasis of land administration to the local stage and ensure effective community participation in land administration matters. Financially the Land Sector Strategic Plan (2001-2011) was designed to provide the framework for land reforms. This has been done within the available and estimated resource envelope. However this financial plan does not capture financing of the land administrative structures leading to problems (Sebina-Zziwa, 2015).

Therefore these reforms have not been able to fully address the issues of secure land rights and land rights administration. This has led to land rights insecurity as a result of improper record keeping, inaccuracies in land registry process, fraud and forgeries in the land rights administration system (Obaikol, 2014). The roles of central and local government are not yet streamlined. Lack of funds to establish the different Land Administration Institutions has led to their absence in some districts. In other districts their creation has been slow hampered by finances. The lack of funds has led to the central and local governments competing and conflicting over financial resources (Byamugisha, 2014b, Sebina-Zziwa, 2015).

Thus to achieve success in land reform, the Uganda National Land Policy (UNLP) was developed using standards and guidelines with global, regional and national frameworks through national level processes and local dynamics (Odhiambo, 2015). Globally, Uganda agreed to the Voluntary Guidelines on the Responsibility Governance of Land, Fisheries and Forests (VGGT) adopted in 2012 in Rome by the United Nations Committee on World Food Security (Mugula, 2015).

Continently, Uganda adopted the Framework and Guidelines on Land Policies in Africa (F&G) (African Union Commission, 2010; Odhiambo, 2015). Nationally, the UNLP was developed through widespread consultations and was approved by Cabinet on February 2013. The UNLP 2013 draws its policy principles and strategies from the 1995 Uganda Constitution, Vision 2040 and the National Development Plan (NDP) 2010-2015 (The Republic of Uganda, 2010; Kabanda et al., 2015). Locally in tandem with the decentralization policy the UNLP was made using a bottom up approach.

Theoretical underpinnings:

The systems theory as conceptualized by Quade (1985) was adopted for this study. Quade states that, those studying goals and processes of implementing decentralisation often use a systems approach. Quade also posits that the system theory can be used to analyse organizations and programmes (Quade, 1985). The systems theory originated with the biologist Ludwig von Bertalanffy in the 1940s (Laszlo and Krippner, 1997 as cited in Jordan, 1998; Heylighen, 2000). Heylighen defines systems theory as a trans-disciplinary study of abstract organisation of phenomenon independent of their substance, type or spatial or temporal scale of existence (Heylighen, 2000). A system is a group of components which are interrelated such that changes in one component can affect some or all of the other components (Quade, 1968). The gist of system theory is to stress the fact that the various sub systems must not only be set in the right order, but that they must interact amicably and in a representative relationship to make the whole or the system function adequately. This is in tandem with Aristotle's Holism, for he claimed that knowledge is derived from the understanding of the whole and not that of single parts (Mele C., Pels J., & Polese F., 2010).

Therefore emphasis in central-local relations is on management of government so that the various parts of government are working in close cooperation and harmony with all sub governments in order to achieve the desired government objective of land policy implementation. The use of the systems theory is however limited by its highly general and abstract nature. It is largely silent on procedures and processes (Anderson, 1990). Also it is hard to study all facets of central-local relations for governments are humongous and government activities complex in a political system. As Easton (1957) suggests, the function of no one part of a political system can be deciphered without mention to the way in which the whole functions. Also systems theory considers the whole and not simply the sum of basic parts (Mel et al., 2010).

Accordingly a system is a complex of interacting components together with the relationships among them (Laszlo and Krippner, 1997 as cited in Jordan, 1998). There are three assumptions of the systems theory:

1. Each element in a system has an effect on the functioning of the whole.
2. Each element in a system is affected by at least one other element in the system.
3. All possible sub groups of elements in a system also have the first two properties.

By substituting 'element' for 'component' it is possible to arrive at a definition that pertains to systems of any kind. Therefore in the most basic definition a system is a group of interacting components that shows some identifiable set of relations with the sum of components (the whole) plus their relations conserving some identifiable set of relations to other entities (including other systems) (Ackoff, 1981 as cited in Jordan, 1998).

The systems theory has the following relevance according to Quade and Boucher (1968):

1. Many aspects of a region can be regarded as a system and system behavior can add to our knowledge of regional processes.
2. The second relevance is the control of regional processes. A planner must not only understand he must also be able to guide a regions development.
3. In order to aid decision making the planner will often marshal his information and understanding in form of a model. Models usually consist of components linked together and are therefore systems themselves. Therefore systems theory helps in modeling regional processes.

The applicability of the systems theory is derived from the above relevance. The word region can be severally interpreted including constituency, district, state or country. For the purpose of this article the word region has been taken to be central and local governments of Uganda. Therefore the applicability of the systems theory is:

1. Taking the aspect of central-local governmental relations as a system then the behavior of central government and local government officials can add to our knowledge of the process of land policy implementation.
2. The control of land policy implementation can be understood by taking the planner as the policy formulator. Hence the policy formulator must understand and be able to guide central governments and local governments in land policy implementation.
3. Lastly in order to aid decision making the policy formulator has ordered information and understanding on land policy implementation in form of the UNLP 2013. Therefore systems theory helps in understanding the implementation of the UNLP 2013.

Relatedly the understanding of systems can improve policy implementation as the Report of the European Committee on Local and Regional Democracy informs. The report revealed that the study of main areas of responsibility in governments shows that, in any single responsibility, concurrent functions correspond to different authorities, making necessary interaction between them. Some of those relations, due to their nature or intensity, might provide for a better understanding of the counterparts and facilitate a more effective implementation of policies to the benefit of citizens (Council of Europe, 2007). This implies that for effective land policy implementation there must be a better understanding between the local and centre and their relationship in the system of government.

Therefore emphasis in central-local governmental relations is on management of government so that the various parts of government are working in close cooperation and harmony with all sub governments in order to achieve the desired government objective of land policy implementation. The use of the systems theory is however limited by its highly general and abstract nature. It is largely silent on procedures and processes (Anderson, 1990). Also it is hard to study all facets of central-local governmental relations for governments are humongous and government activities complex in a government system. Also systems theory considers the whole and not simply the sum of basic parts (Mel et al., 2010).

Reference is also made of the bottom-up approach which originated from the work of Lipsky (1980, as cited in Roh, 2012) and his description of how front line staff whom he called 'street level bureaucrats' implement policies mandated by politicians. Lipsky defines 'street level bureaucrats' as public service workers who interact directly with the citizens in the course of their jobs, and have substantial discretion in the execution of their work. The bottom-up approach of implementation emphasizes the influence that front line staff have on the delivery of policies focusing on the weak control that politicians and administrative managers have to control front line staff (Winter, 2006). This approach also means that local actors participate in decision making about the strategy and in the selection of the priorities to be pursued in their local areas.

Bottom up theorists begin with the identification of actors involved in concrete policy delivery at the bottom of the politico administrative system. Analysis then moves upwards and sideways in order to identify the networks of implementing actors and their problem solving strategies. They are interested in the whole process of how policies are defined, shaped, implemented and probably redefined (Mohammed, Pisapia & Walker, 2009). They hold that the implementation process is political and that policies are shaped to a decisive extent at the local level. The focus lies on the decentralized problem solving of local actors rather than on hierarchical guidance. Elitist conceptions of representative democracy give way to participatory democracy which includes those affected by a particular decision like lower level administrative actors (Gildenhuys, Fox & Wissink, 1991). Chatiza Kudzai writes that citizens within their local governments wage struggles for space and identity and this struggle shapes central government attitudes to local governments (de Visser, Seytler & Machingauta, 2010). Therefore central-local relations will influence policy implemented or unimplemented.

Understanding of how and why public policy is put into effect is implementation theory (Schofield & Sausman, 2004). Researchers do not agree on the outlines of a theory of implementation or even on the variables crucial to implementation success (Cloete et al., 2006). There is lack of a well developed theory of implementation (O toole, 2000). Cloete et al., (2006) suggest that a universally accepted predictive theory is still considered unattainable. Bottom-up approach is developed from the main criticism of top down theory which ignored the behavioral aspect of implementation and the key role of local implementers (Schofield 2001).

The approach to identify appropriate conditions for use of either of the theories was based upon the parameters describing the policy context. A top down or bottom-up approach can be used to prepare the implementation plan as indicated below (Berman 1980 as cited in Cloete, et al, 2006). Land policy implementation easily fits the description of the bottom-up approach in the scale below.

TABLE I: FACTORS DECIDING WHICH APPROACH TO USE

FACTORS/APPROACH	TOP DOWN	BOTTOM UP
Scope of change	Incremental	Radical, large
Validity of technology	Certain	Uncertain
Goal conflict	Low	High
Institutional setting	Tightly coupled	Loosely coupled
Environment stability	Stable	Unstable , dynamic

Source: Berman 1980 as cited in Cloete, et al, 2006

Furthermore, O’Riordain (2010) demonstrates that in the case of central-local relations, subordination of central policy is possible. Here central policy direction will be limited as determination on policy direction and implementation comes from a shared policy arena. Also complete subordination of local policy making and implementation is limited albeit that the outcome is more likely to be informed by a negotiated agreement on policy objectives.

Policy implementation is assumed to occur at two levels (Matland 1995); macro implementation where the centrally located actors devise a government program and micro implementation where local level actors react to these plans and develop their own plans and implement them. In this article macro implementers include Ministry of Lands Housing and Urban Development (MoLHUD) officials in charge of land policy implementation that is the officials from the Land Sector Reform Coordination Unit and the Land Policy Implementation Unit. The micro implementers include district officials in charge of land policy implementation including officials from the District Land Office (DLO), District Land Board (DLB) and Area Land Committee (ALC) as well as local councilors involved in land policy implementation.

Implementation problems arise out of the interaction between macro and micro level institutions. Central actors can only indirectly influence micro level actors; and autonomy at the local level is necessary to allow adaptation of policy to suit contextual factors. Policy effect is a function of its effect on the street level bureaucrats and their ability to implement policy to suit local conditions. The criticism of the bottom-up approach is that it lays too much emphasis on the autonomy of local implementers yet it is possible to influence the goals and strategies of the local actors by determining their institutional structure, resources made available to them and their access to the actual implementation arena (Schofield 2001).

Perceptions and attitudes:

Policy design:

The National Land Policy is framed under a thirty year vision, which is “a transformed Ugandan Society through optimal use and management of land resources for a prosperous and industrialized economy with a developed services sector” (Kabanda et al., 2016). A national land policy describes what a government aims to do in administering the countries land (Adam, 2016). The Uganda National Land Policy 2013 seeks to reduce land disputes and conflicts. It deals with three key policy issues: colonial mistakes; current problems emanating from these mistakes; and challenges relating to land (MoLHUD, 2013). Kabanda et al. (2015) assert that land policy implementation involves systematically identifying and carrying out all steps needed for the realization of the aims and recommendations set out in the UNLP.

A major justification of the National Land Policy is a harmonised framework with a common horizontal denominator necessary to stem sectoral conflict regarding administrative decisions, regulations and laws that often overlap, leading to serious administrative conflicts and bureaucratic competition for responsibility and resources (Odhiambo, 2015). To ensure that the management of the land sector contributes to the democratic governance, the Uganda National Land Policy is carrying out land reforms within the government policies of decentralisation, divestiture and empowerment of the people including the private sector (Bwogi, n.d).

Uganda’s National Land Policy formulation process was highly consultative giving all stakeholder groups including CSOs, NGOs, Farmer’s Organizations, Universities, Research Institutions, Think Tanks and Media, Ministries and Government Agencies a significant role in advocacy on land reform primarily focusing on vulnerable groups. The policy formulation process took over ten years (Kabanda et al., 2016, MOLHUD, 2013). In contradiction, Sebina-Zziwa suggests that research and proposals from different interest groups preceding the UNLP 2013 were ignored in its formulation (Sebina-Zziwa, 2015). This may suggest that extensive consultations were indeed made but suggestions and input from these stakeholders may have been ignored in the formulation of the UNLP.

Policy gaps:

The land reform process often involves: formulation of statements of national policy; translation of national policy statements into legislative programmes; and actual enactment of the basic land legislation which may be followed by complementary series of instruments (Rugadya, 1999). On the contrary the 1998 Land Act was enacted before the Uganda National Land Policy 2013 creating challenges. Also the financial plan does not capture financing of the land administrative structures leading to implementation gaps (Sebina-Zziwa, 2015). As a result land conflicts are common throughout the country. Land cases are the most common disputes brought to local courts or legal assistance projects in many parts of the country (Levine and Adoko 2006). It is therefore necessary for land policy to address these disputes and conflicts and for the policy to be positively received by the people. In countries where the locals have embraced reforms as in Zimbabwe the land reforms have registered success (Osman, 2014; Scoones, Marongwe, Mavedzenge, Murimbarimba, Mahenehene & Sukume, 2011).

II. OPPORTUNITIES

The Uganda National Land Policy 2013 draws its policy principles and strategies from the 1995 Uganda Constitution, Vision 2040 and the National Development Plan (NDP) 2010-2015 (Kabanda et al., 2015). The 1995 constitution brought about fundamental reforms in ownership, tenure management and control of land in Uganda. Article 237 of the constitution provides that land in Uganda shall belong to the citizens of Uganda. This made Uganda the first State in Sub Saharan Africa to vest its radical title in its citizens (MoLHUD, 2013).

Uganda Vision 2040 (The Republic of Uganda, n.d) envisions a transformed Ugandan society from a peasant to a modern and prosperous country within 30 years. The vision acknowledges the important role of policies and institutions in improving productivity (The Republic of Uganda, n.d). One of the overall objectives of Vision 2040 is that it mandates government to make land reforms to facilitate faster acquisition of land for planned urbanization, infrastructure development and agricultural commercialization, among other developments (Kabanda et al., 2015). It notes that land holding is currently characterized by multiple tenure systems and multiple rights for the same holding. It proposes a systematic land demarcation and survey of the entire country to increase the proportion of titled land from the current 20%. Uganda shall also computerize the land registration system for more efficient and effective land management (The Republic of Uganda, n.d).

The NDP recognizes land tenure as a constraint to productivity. Divergent and overlapping rights are said to impact negatively on long-term investments. The same factors combine with high costs and cultural norms to restrict access to land by many landless potential farmers, particularly women. The fact that approximately 95% of land owners do not have titles weakens their tenure security and restricts opportunities for productive use of land. This is coupled by rising land fragmentation as a result of population growth. The interventions proposed by the NDP include land policy reform and implementation; and land registration and titling (The Republic of Uganda, 2010).

The Land Act, which is the legal framework of the National Land Policy, recognizes the right of people to hold communal land. It also recognizes customary tenure and bonafide or lawful occupants which provides security of tenure for many Ugandans. Also the Land Act in pursuance of the overall policy of government of decentralization has decentralized land management and dispute settlement mechanism (The Republic of Uganda, 1998). These have been designed to shift focus of land management to the local level and provide for effective community participation in land management decisions.

The 1995 Constitution and the 1998 Land Act redefined land rights, attempted to resolve old conflicts, and provided an institutionalized framework for land management with decentralization as a key feature of that framework (USAID, n.d). The National Land Policy aims at reform proposals supporting: registration of land rights under customary tenure; gender equality with regard to land rights and inheritance of land; measures geared at rationalizing and streamlining the land disputes resolution structures; and the role of customary institutions in making rules governing land, resolving disputes and protecting land rights (Zavenberg, Hilhorst & Nsamba-Gayiiya, 2012).

The main goal of the chapter regarding land and environment in the 1995 Constitution together with the 1998 Land Act is to improve tenure security of the nation as a whole, and start the work towards a formalized system. By recognizing all different systems of land rights in the country, the aim is a step by step process to implement a formal system of freehold and leasehold in Uganda over time (Batungi, 2008). As presented above, land owners under customary tenure can get a certificate for their customary ownership of the land, and later convert into freehold. It then looks like the governments plan is to softly unify the system by recognizing the nation's diversity in tenure systems, and over time convert the

systems into a formalized system of freehold. However, not much has happened since the 1995 Constitution and the Land Act of 1998, and it has been stated that it is because it is not yet the right time to implement such changes (Mwesigye et al., 2014). The recognition of customary tenure in the Constitution is increasing tenure security.

III. CHALLENGES

The UNLP was made in 2013 to ensure that the management of the land sector contributes to democratic governance. As a consequence it is carrying out land reforms within the government policies of decentralisation and empowerment of the people (Bwogi, n.d). This presents a major challenge in Uganda's land policy implementation. The conventional concept of decentralisation is the transfer of powers and functions to elected local authorities which exercise a significant measure of autonomy over their own affairs. The arguments for this relate to responsiveness and accountability, that local governments are closer to the citizens and are, thus, better able to make choices that reflect the needs and priorities in their areas of jurisdiction than is a remote central government, and that it is easier to hold local elected representatives accountable for their decisions (Devas, 1997). However, Byamugisha (2014a) observes, Uganda's decentralisation of land administration is basically a deconcentration of present land administration roles to district land offices with minimal attempts to devolve, with regard to land under custom which makes up the majority of land in Uganda. This essentially robs the local communities of decision making power over customary land.

The constitution of Uganda Article 163 (3) and the National Audit Act 2008 mandate the Auditor General to carry out audits in the public sector. An Auditor General's report revealed that the land administration system was inadequately resourced and performing poorly below expected standards (The Republic of Uganda, 2013). This position is supported by the former line minister who points to a lack/challenge in institutional, personnel and financial resources (Migereko, 2014). This is worsened by failure to build capacity in customary institutions and the vagueness in the relationship between formal and informal land administration and management institutions (Byamugisha, 2014a). This position is reiterated by Sebina-Zziwa who observes that the roles of central and local government are not yet streamlined (Sebina-Zziwa, 2015). Also Uganda's land management institutions are generally weak and have not facilitated rapid progress to the goals laid out in legislation and policy (USAID, n.d). Basheka et al. agree by positing that public policies are implemented by government institutions, although these institutions now take the blame for the failure of most policies (Basheka et al., 2012). Sebina-Zziwa, explains that lack of funds to establish the different Land Administration Institutions has led to their absence in some districts. In other districts their creation has been slow hampered by finances. The lack of funds has led to the central and local governments competing and conflicting over financial resources (Sebina-Zziwa, 2015). Again, the Land Sector Strategic Plan (2001-2011) was designed to provide the financial framework for land reforms. This has been done within the available and estimated resource envelope. However this financial plan does not capture financing of the land administrative structures leading to problems (Sebina-Zziwa, 2015).

Uganda's tenure system also poses a challenge. Land tenure can take a variety of forms, and 'registered freehold' (at the formal end of the continuum) should not be seen as the preferred or ultimate form of land rights, but as one of a number of appropriate and legitimate forms. The most appropriate form depends on the particular situation: customary rights, for example, may be superior to registered freehold in certain situations (UN-Habitat, 2014). Rugadya (1999) states, in Uganda it is not possible to identify a single land tenure system for the whole of Uganda in the pre colonial era. Gildseth explains that it is due to the varying practices of customary tenure that differed from one ethnic group to another (Gildseth, 2013). Others postulate that customary tenure which existed in pre colonial Uganda recognized both individual and communal holding of land. None of the communities in Uganda recognized individual ownership of land (Mwesigye, Matsumoto & Otsuka, 2014). The system of land rights in Uganda is as complicated with several different systems working on top of each other. Four different systems of land rights are recognized in Uganda today; freehold, leasehold, customary and mailo (Kamanyire, 2000).

In addition, access to and use of land in Uganda is underpinned by the patriarchal nature of traditional communities, according to which women and girls can only gain access to land through their male kin in their life cycle (Gibb, 2013). Girls and unmarried women can claim land through their fathers. When they get married, they can only claim land through their husbands (Garber, 2013). In South Western Uganda, for example, men cannot claim patrilineal land until they marry, and once married they get land from their father's group, but then it is passed on to their wives to manage and to farm (Rao, 2005). While, traditionally, this has worked well and women were always assured of access rights that were nearly as secure as those of men, this is no longer the case. With increasing population, scarcity of land and deepening poverty, men no longer fulfill their obligation of providing women with land and tools of production (MoLHUD, 2008).

As a result, any conflict over land impacts the households directly, and this impact is gender differentiated (Verma, 2001). Women's interests in land were eroded by colonial policies and agrarian change that never addressed the core issues of gendered accessibility and equity. For instance, processes of differentiation and individualization of land rights and land shortages have resulted in the concentration of land rights in men (Tshikaka, 2004; Verma, 2001). Also, maintaining harmony within the clan is often more important than doing what is just. If this means that a consensus in which a land grabber is given half of the land he has grabbed from his neighbor, then so be it. The fact that true justice is not done in that case is not the most important to them (Berns, 2009).

Nevertheless during the drafting of the UNLP, all the consultative meetings that were held required that women and women's groups are represented. Some women's organisations submitted written memoranda to the Ministry of Lands, which memoranda were carefully studied by the National Land Policy Working Group and the drafting team (Kabanda, et al, 2016). It was recommended that rights of vulnerable groups need to be protected under each tenure system through sensitization, facilitation with registration and ensuring that family land is held in trust (MoLHUD, 2009). The gender bias against women in land rights can be righted as Ethiopia and Rwanda have proven in their recent land legal reform and land certification programs (Byamugisha, 2014a). The entire course of the UNLP implementation has required a particularized emphasis on women's access and secure rights to land (MoLHUD, 2015).

IV. CONCLUSION

In conclusion, delivery of land rights in Uganda is still problematic under current central-local relations. Secure land rights and equitable land governance are vital in achieving poverty eradication, sustainable land use, reduced land conflict and social stability (Oxfam, 2018). Land policy implementation is a political issue at the centre of political debate and the cost in political terms of inaction is a great challenge in Uganda. The UNLP 2013 aims at democratic land use and distribution yet implementation remains problematic. Sebina-Zziwa suggests that research and proposals from different interest groups preceding the UNLP 2013 were ignored in its formulation in contradiction to Kabanda et al., (2016) and MoLHUD (2013) that claims thorough extensive nationwide consultations were conducted. Also administratively, the decentralized structure for land rights administration needs support, capacity and training. The capabilities of local courts to arbitrate disputes need to be strengthened. Financially tight fiscal relations between the local and central government in Uganda complicate central-local relations. The centre which appears to have devolved power over land to the local seems to have retained control over it through budgetary and financial responsibilities. There is lack of proper people participation in accountability. This has resulted in ineffective and inefficient delivery of land rights and land rights administration. The multiple rights on land and the dual nature of land administration still pose a challenge. Traditions and customs that are biased against the women and children may interfere in the effort to deliver secure land rights and land rights administration despite good political, administrative and financial relations between the central government and local governments.

REFERENCES

- [1] Adde, F. (2013). A critical review of central-local relations in Uganda. *Horn View* Retrieved from <http://hornview.com/2013/02/15/a-critical-review-of-central-local-relations-in-uganda/>
- [2] African Union Commission (2010). *Framework and guidelines on land policy in Africa: A framework to strengthen land rights, enhance productivity and secure livelihoods*. Addis Ababa: AU
- [3] Anderson, J.E. (1990). *Public policy making: An introduction*. Boston: Houghton Mifflin Company.
- [4] Batungi, N. (2008). *Land reform in Uganda: Towards a harmonised tenure system*. Kampala: Fountain Publications.
- [5] Berns, B.T. (2009). *The Uganda land issue: A comprehensive assessment of the current situation and the influence of long term trends on the future*. (Unpublished Masters Thesis) Public Administration, Nijmegen School of Management, University of Radboud, Nijmegen.
- [6] Bruce, J. W., Wendland, K. J. and Naughton-Treves, L. (2010). *Whom to pay? Key concepts and terms regarding tenure and property rights in payment based forest ecosystem conservation*. Land Tenure Center, Nelson Institute of Environmental Studies, USA.
- [7] Bwogi, J.L. (n.d). *Development of Uganda National Land Policy in Uganda*. Retrieved from http://mak.ac.ug/document/makfiles/ppt/ppp_Bwogi_JL_Uganda_DevOfNatLandPolInUganda.ppt.

- [8] Byamugisha, F.F.K. (Ed.). (2014a). *Agricultural land redistribution and land administration in sub-Saharan Africa: Case studies of recent reforms*. Washington D.C: The World Bank. doi.org/10.1596/978-1-4648-0188-4
- [9] Byamugisha, F.F.K. (2014b). Land reform and investments in agriculture for socio-economic transformation of Uganda. *Paper Prepared for Presentation at the National Development Policy Forum*. Kampala, Uganda: National Planning Authority
- [10] Devas, N. (1997). Indonesia: What do we mean by decentralisation? *Land Administration and Development*, 17, 3.
- [11] Easton, D. (1957). An approach to the analysis of political systems. *World Politics*, 9, 3, 383-400. Retrieved from <http://www.jstor.org/stable/2008920>.
- [12] Economic Commission for Africa (2012) *Natural resources and conflict management: The case of land*. Kigali, Rwanda: United Nations Office for East Africa.
- [13] Foley C. (2007). *A guide to property law in Uganda*. Nairobi UN-Habitat.
- [14] Gärber, B. (2013). Women's Land Rights and Tenure Security in Uganda. Experiences from Mbale, Apac and Ntungamo. *Stichproben. Wiener Zeitschrift für kritische Afrikastudien*, 24, 1 32.
- [15] Gibb, R. (2013). *The politics of land reform in Uganda*. (Unpublished doctoral thesis),
- [16] Heylighen, F., Joslyn, C. and Turchin, V. (Eds.) (2000). *Principia Cybernetica Web*. Brussels: Principia Cybernetica. Retrieved from: <http://cleamc11.vub.ac.be/REFERCP.html>.
- [17] Kabanda, N., Augustinus, C., Antonio, D., Mabikke, S., Burke C. and Rosales-Kawasaki (2015). Enabling reforms and measures for implementation of Uganda's national policy. *2015 World Bank Conference on Land and Poverty*, Washington D.C Retrieved from <https://www.google.com/search?q=en+land+confernaome+kabanda+world+bank+&ie=utf-8&oe=utf-8>
- [18] Kabanda, N., Iumba, H., Mabikke, S., Antonio, D., Rosales-Kawasaki, L. (2016). Land Rights from a Gender Perspective: Multi-stakeholder Actions to enhance Gender and Women's Land Rights in Land Policy Formulation and Implementation in Uganda. *2016 World Bank Conference on Land And Poverty*, Washington Dc.
- [19] Kafureka, B.M., (1992). *The Dynamics of the Land Question and its Impact on Agricultural Productivity in Mbarara District*. Centre for Basic Research, Working Paper No. 25
- [20] Kamanyire, M. (2000). *Sustainable indicators for natural resource management and policy*. Kampala. Economic Policy Research Centre.
- [21] Laszlo, A. and Krippner, S. (1997). Systems theories: Their origins, foundations and development In Jordan, J.S. (Ed.). (1998). Systems theories and a priori aspects of perception. *Elsevier Science*, 3, 47-74.
- [22] Levine, Simon, and Jody Adoko. (2006). Land rights and displacement in northern Uganda. *Humanitarian Exchange Magazine*, 34. Overseas Development Institute, Humanitarian Practice Network. <http://www.odihpn.org/report.asp?id=2813>.
- [23] Matovu, M. (2012). *Uganda: Land injustice for the Basongora*. Minority voices newsroom. State of the world's minorities and indigenous peoples. Retrieved from [http://www.minorityvoices.org/news.php/en/1140/uganda land injustice for the Basongora](http://www.minorityvoices.org/news.php/en/1140/uganda+land+injustice+for+the+Basongora)
- [24] Mele, C., Pels J. and Polese J. (2010) A brief review of systems theories and their managerial applications. *Service science*, 2(12):126-135.doi.org/10.1287/serv.2.1_2.126
- [25] Migereko, D. (2014, June 19). Time for land fraudsters is over. *New Vision*. Retrieved from [http://www.newvision.co.ug/news/656736 time for land fraudsters is over.html](http://www.newvision.co.ug/news/656736+time+for+land+fraudsters+is+over.html)
- [26] Ministry of Lands, Housing and Urban Development (2008). *Mainstreaming gender and HIV/AIDS issues into the draft national land policy: Draft issues paper*. Kampala.
- [27] Ministry of Lands, Housing and Urban Development (2009). *The UNLP: Issues and recommendations report from stakeholders consultations*. Kampala.
- [28] Ministry of Lands, Housing and Urban Development (2013). *The Uganda National Land Policy*. Kampala: Author.

- [29] Ministry of Lands, Housing and Urban Development (2015). *The Uganda National Land Policy Implementation Action Plan 2015/16-2018/2019*. Kampala: Author.
- [30] Mugambwa, J. (2007). A comparative Analysis of Land Tenure Law Reforming Uganda and Papua New Guinea. *Journal of South Pacific Law* 11(1)
- [31] Mugula, M. (2015, February 01). Uganda to apply global rules on land access. *The Observer*. Retrieved from <http://www.observer.ug/news-headlines/36211--uganda-to-apply-global-rules-on-land-access>
- [32] Mwesigye, F., Matsumoto, T. and Otsuka, K. (2014). *Population pressure, rural to rural migration and evolution of land tenure institutions: The case of Uganda*. Tokyo: National Institute for Policy studies
- [33] Obaikol, E. (2014). *Draft final report of the implementation of the land governance assessment framework in Uganda*, Uganda Land Alliance
- [34] Obeng-Odoom, F. (2012). Land reforms in Africa: Theory, practice and outcome. *Habitat International* 36, 161-171
- [35] Odhiambo, M.O. (2015). Land policies and their implications for smallholder agriculture in Africa: A review of policies in six countries. AGRA retrieved from <https://www.google.com/search?q=agra+odhiambo+land+policies+2015&ie=utf-8&oe=utf-8>
- [36] Ojambo, H. (2012). *Decentralisation in Africa: A critical review of Uganda's experience*, vol.15 n.2 Potchefstroom
- [37] Okidi, J.A and Guloba, M. (2006). *Decentralisation and development: Emerging issues from Uganda's experience*, Occasional Paper No.31. Kampala: Economic Policy Research Central.
- [38] Osman, J. (2014, December 06). *Land reform brings prosperity to Black Zimbabweans*. Retrieved from <http://www.channel4.com/news/land-reform-brings-prosperity-to-black-zimbabweans>
- [39] Oxfam (2018). *Policy & Practice: Our Work: Land Rights*. Retrieved from : file:///C:/Users/HP/Documents/LAND%20RIGHTS/Land%20rights%20_%20Oxfam%20Policy%20&%20Practice.html
- [40] Quade, E.S. (1985). *Predicting the consequences: Models and modeling: Handbook of system analysis*, Toronto: Bantam Books.
- [41] Quade, E.S and Boucher, W.I (1968). *Systems analysis and policy planning applications in defense*. New York: American Elsevier Co. Inc.
- [42] Schofield, J. and Sausman, C (2004). *Symposium on implementing land policy: learning from theory and practice*, Oxford: Blackwell Publishing Ltd.
- [43] The Republic of Uganda (n.d). Uganda Vision 2040. Kampala: National Planning Authority.
- [44] The Republic of Uganda (1998). *The Land Act*. Kampala: Author.
- [45] The Republic of Uganda (2010). *National Development Plan 2010/2011-2014/2015*. Kampala: National Planning Authority.
- [46] Scoones, I., Mahongwe, N., Mavedzenge, B., Murimbarimba F., Mahenehene, J. and Sukume, C. (2011). *Zimbabwe land reform: A summary of findings*. IDS: Brighton. Retrieved from <http://www.zimbabweland.net/zimbabwe's%20land%20Reform%20Booklet%20Web.pdf>
- [47] Sebina-Zziwa, A. (2010). *Land reform monitoring and evaluation: The case of Uganda*. MISR
- [48] USAID (n.d). *USAID country profile: Property rights and resource governance*. Retrieved from http://usaidlandtenure.net/sites/default/files/country-profiles/full-reports/USAID_Land_Tenure_Uganda_Profile.pdf
- [49] Villadsen, S. and Lubanga, F. (1996). *Democratic decentralisation in Uganda: A new approach to local governance*. Kampala: Fountain Publishers.
- [50] Zevenberg, J., Hilhorst, T. and Nsamba-Gayiiya, E. (2012). Increasing tenure security in Uganda: How to use external support for strengthening bottom up approaches. *Annual Conference on Land and Poverty*. Washington DC: The World Bank. Retrieved from http://www.landandpoverty.com/agenda/pdfs/paper/hilhorst_full_paper.pdf