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**LAND PRIVATISATION, SECURITY OF TENURE
AND AGRICULTURAL PRODUCTION:
THE UGANDAN EXPERIENCE**

Nsabagasani Xavier

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c/o Publications Office - Institute of Social Studies - P.O. Box 29776
2502LT The Hague - The Netherlands**

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ABSTRACT

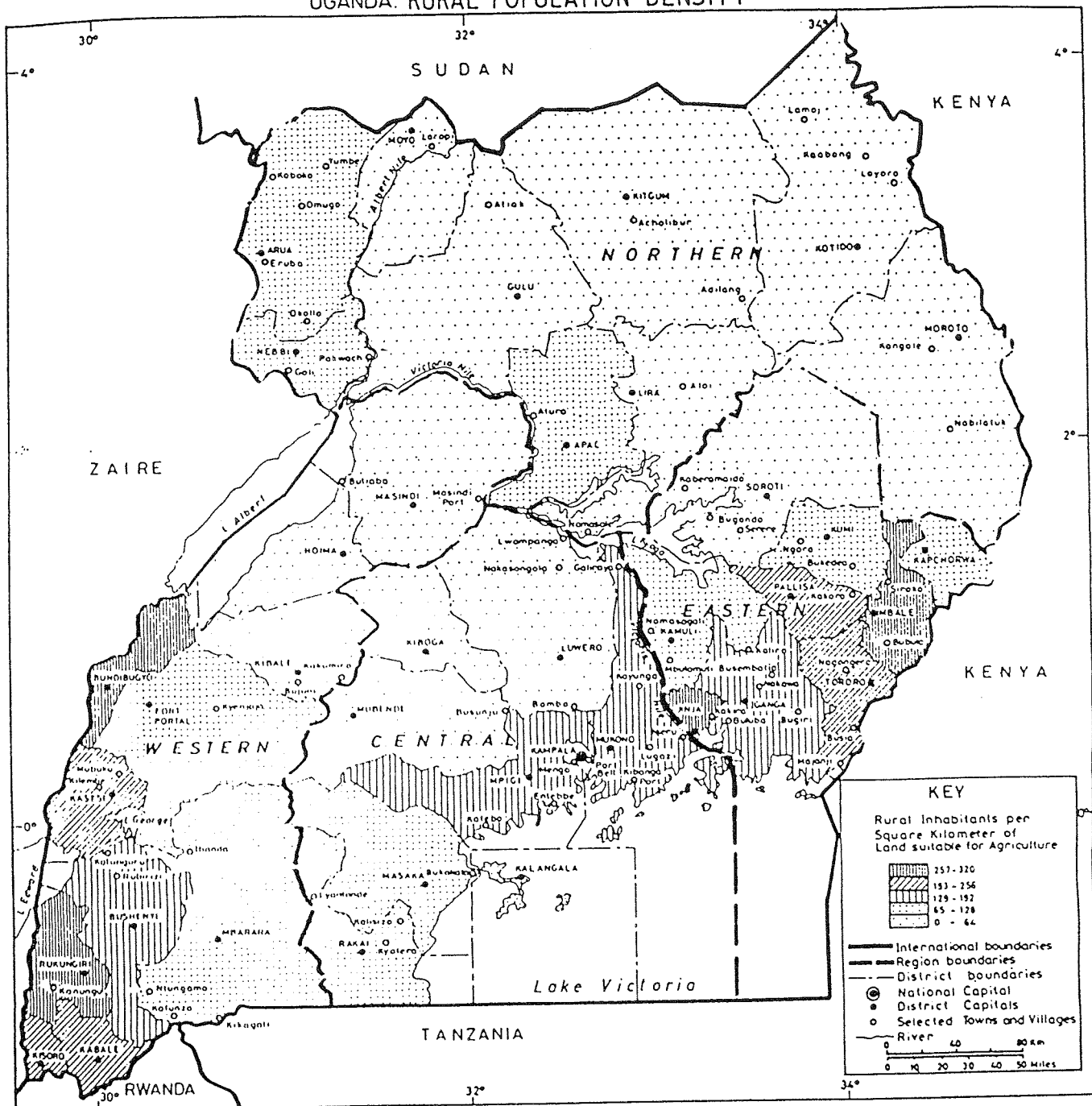
This paper examines the **efficiency** and **equity** debate on the land question in Africa and situates it in the Ugandan context. In reference to the issues raised in the debate, the paper concentrates on four areas that are inter linked ie land titling/privatization and (i) security of tenure, (ii) land markets, (iii) investment in agricultural production, and (vi) environmental conservation. Although we are able to show with some empirical evidence, the limitations of the efficiency and the contributions of the equity views respectively, we nevertheless reach a final conclusion that the two debates do not exhaustively analyse the land question in Uganda thus calling for the need for an alternative or at least supplementary approach.

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UGANDA: RURAL POPULATION DENSITY



1. INTRODUCTION

Background

Despite the global concern to eradicate famine and hunger the problem of food insecurity remains unsolved. Today some 800 million people suffer from chronic malnutrition and as many as 88 nations are considered low income food deficient countries (Rural Development 1996). Several approaches to food insecurity eradication have been suggested; some advocate for market liberalization, others emphasize enforcement of entitlement, while others accentuate increased production through investment in improved technology and yet others contend that there is need to diversify the rural economy both within agricultural and non-agricultural activities (IFAD cited in Rural Development 1996).

In most of the developing countries the majority of the population depends on land for employment. In which case food security has much to do with land being available to producers (Dorner 1972, Ghose 1983). FAO (cited in Rural Development 1996) maintains that a decline of ratio of land per person may have disastrous effects on the poor, especially those who can not afford to buy food and are highly dependent on subsistence farming. Access to and control of land as an important aspect of agriculture has been given particular attention in recent years (FAO 1984, Besteman 1994, Andre and Platteau 1996, Platteau 1996).

Worth noting is the way the question of land ownership is addressed. Currently, there is an overwhelming emphasis on market led economy in land allocation. The dominant view is that traditional forms of tenure including common ownership of resources are retrogressive and tragic (Hardin 1968). Private property rights are considered as the only panacea to the problems of rapidly increasing population, the demands for the commercialization of agriculture and conservation of the environment (Andre and Platteau 1996, World Development Report 1992, Migot-Adholla et al 1991).

Consequently, governments in the Third World have tried to replace the customary tenure systems by emphasizing freehold individual ownership¹ and leasehold on state owned land; a tendency that aims at private ownership. One aspect worth considering is the way privatization affects property rights. The argument behind privatization is rooted in the neo classical school and is based on the premise that privatization among other things enhances security of tenure and facilitates easy transfer of ownership. These in turn are supposed to lead to increased productivity, equity, poverty alleviation, allocative efficiency, capital accumulation and natural resource conservation (Andre and Platteau 1996, Kirpatrick 1996).

¹ Individuals are further required to acquire land titles/certificates to ensure security of their rights over that land.

Statement Of The Problem

Ever since the commencement of colonialism, privatization of land in Uganda has been emphasized basing on some of the above assumptions. Despite the attempt to privatize lands, resources have not been efficiently allocated since food crisis and ever increasing poverty still prevail. As already indicated, privatization of land² has been considered the best alternative to enhance agricultural production in Uganda, and as such this study seeks to establish how it affects the security of tenure³ of the rural poor and how this in turn affects agricultural production. More specifically, we are concerned about whether land titling/registration (i) necessarily guarantees security of tenure (ii) increases investment in agricultural production (iii) has a positive (negative) impact on the environment and (vi) has any impact on the common property users.

Empirical Justification

Food security has been and continues to be a contentious issue in Uganda these days. The available evidence indicates that there has been food insecurity in Uganda and the problem is likely to worsen in the future (Bazaara 1993, Hubbard et al 1992). This has caused a lot of concern to the extent that the policy has been to increase food production for self sufficiency. Studies which have been carried out attribute food problems to poor technological innovations, poor marketing, pricing, poor technology, natural hazards and government policies on food security (Bibangambah 1993, Nsibambi 1990), and Structural Adjustment Policies (Chango Macho 1985, Bazaara 1991). Some have also focused on the impact of land restructuring (including privatisation) on the poor (Fendru 1985, Kasfir 1985, Kisamba-Mugerwa 1992, Mamdani 1992, MISR and Land Tenure Centre 1989, Ssenkumba 1993). In such studies however, there has been little attempt to draw attention on the association between land privatisation and agricultural production.

One of the sectors most affected by privatisation of land is that of common property resources. Recently, the Uganda government has showed increased concern on common property, but the emphasis has been on environmental conservation aspects (Ministry of Natural Resources Report 1994) rather than the way privatisation affects the people who have been depending upon such common property resources to meet their food requirements. It is

² The privatisation referred to here includes both customary land and common property resources. Under privatisation individual landholders are no longer subject to customary control. Land becomes a commodity and people are alienated from common property resources like forests, swamps, pastures etc.

³ The main objective of privatisation is to ensure security of tenure of the holders. However, this is not always the case since the security of tenure of some categories of people may mean insecurity for others (also see Platteau 1996).

important to note that people's chances of tapping such resources are constantly being diminished through privatisation and nationalisation⁴ policies; policies that tend alienate the poor from management of resources which they have always resorted to in times of crisis. In this case a reflection on the impact of privatisation on the common property users such as pastoralists becomes relevant.

Worth noting also is the fact that the current land tenure systems in Uganda emerged out of a series of land policies that were not only ineffectively implemented, but also superimposed over others leading to a complex tenure system; a system that poses constraints in the production process, which as already indicated has not been adequately and directly addressed by the studies highlighted above. In this study therefore, our aim is to unearth some of the gaps in the current analysis of land tenure systems and agricultural production in Uganda, and where necessary provoke the need for further research on related issues. On policy level the study contributes to the realisation of the magnitude of land tenure question and the related land use problems which were treated lightly during the recently promulgated constitution.

Methodology

The study adopts a strategy of bringing together information which is analyzed to address the critical research questions. The analysis is based on a combination of conceptual and theoretical debates⁵ on the subject, experience and empirical observations. The study derives from;

- i) The relevant literature like other research materials and theoretical perspectives.
- ii) Documents from relevant government departments.
- iii) The library and the World Bank Data base at ISS.
- iv) Personal interviews with people acquainted with land issues and agricultural production in Uganda.

Limitations Of The Study

The study focuses on the impact of privatisation of customary land and common property and its implication for security of tenure, agricultural production and the environment. The area

⁴ Nationalisation aspects may not feature much in the paper. This is because areas mainly affected are only those affected by National Parks and game reserves. On the other hand privatisation that is the core of our discussion affects the whole country.

⁵ As will be discussed the design of this study was greatly inspired by debates on Agrarian transformation as a condition for increased agricultural production. What is provocative in such debates is the tendency to assume that developing countries like those in Africa should embrace agrarian reforms (like privatisation) similar to those that were taken by the developed market economies.

of focus is Uganda although some reference to the rest of Africa is made. The analysis has been based on the issues related to the development of tenure systems and how these systems affect agricultural production. Although we may refer to other factors which affect production other than land access, they will not constitute our major focus. Given the time limit and the fact that the study is based on secondary data sources, we can not effectively address some of the critical research questions and conceptual considerations that would otherwise have been addressed if we had used primary data sources.

2. THEORETICAL AND CONCEPTUAL FRAMEWORK

This section addresses some of the key concepts, theories and debates relevant to the question of land tenure systems and how they affect agricultural production. We examine the concepts of common property, privatisation, land reforms and the debate on relationship between land tenure systems and productivity (with particular reference to the efficiency and Equity perspectives).

Common Property Resources

We can not talk about land privatisation without referring to common property resources because they are the most affected by this policy. Common property resources which fall under customary tenure refer to a situation where a certain group of people such as a clan, tribe, people from the same village etc have co-equal use rights over certain resources and more specifically rights to exclude other people from using such resources (Jodha 1992, Besteman 1994). Under this system there may be no explicit private ownership of land but still individuals may maintain certain rights such as the right to farm, graze, the right to obtain water and the right to gather wild plants and animals (Besteman 1994). Although the ownership of land may be vested into a group and the responsibility of allocating it is done by the leaders, Bromley and Cernea (1989), have still argued that individuals may have autonomy over plots allocated to them. As long as certain individuals are still using their plot, no other person will have rights over it or benefit from its produce (also see Bruce 1986). They have further argued that common property has something in common with private property since it involves exclusion of non-owners.

Gibbs and Bromley (1989), defined common property further as a set of accepted social norms and rules governing resource use. Examples of common property may include; communal land, community pastures, forests, swamps, ponds and public lands in general. Care should be taken not to confuse common property with open access where there is free-for-all ownership with no restricted use. Bromley and Cernea (1989), maintain that common properties convert into open access due to erosion of local level institutional arrangements.

The problem of such erosion stems from the attempt to replace these local institutions with those presumed to be more effective. However, this is not always easily achieved as these new institutions may not effectively substitute for the indigenous ones.

Some researchers have argued that common property is an area neglected by policy makers and yet it is an area vital for rural poor households who depend more on common property resources for fuel, fodder and food (Agarwal 1987, Chopra et al 1990 and Jodha 1992). They further argue that state policies such as privatisation and nationalisation of the commons, tend to undermine common property traditional management systems without necessarily providing alternatives. This does not only cause environmental harm but also social harm since the poor will be denied access to such resources (ibid). Jodha (1992), further contends that there is a theoretical bias and inadequate analysis on what leads to the deterioration of common property and how this can be halted.

The *tragedy of the commons* argument (Hardin 1968), is used as a justification for the campaign against common property regimes. The main argument is that individuals on common property try to pursue personal interests irrespective of the consequences that might cause (e.g.excessive exploitation) because the consequences are shared communally. The implication is that commons must be protected from being overused or misused. This can be done in two ways (i) privatise them or (ii) restrict entry into the commons through licensing those who may wish to use them⁶. The view presented in The World Development Report (1992) maintains that privatisation improves conservation.

In the Ugandan context common property has remained difficult to clearly define. For instance, state property may be confused with common property. In case of the latter, an individual has right to land because he is a member of the community. Acquisition and use of land rights are governed by the customs of the area. There are cases where individuals may own land while the community or clan maintains secondary rights over that land like grazing rights, access to water, firewood, clay deposits and grass for thatching. This kind of ownership varies from custom to custom. On the other hand, common property can be considered from the state ownership point of view. There are certain areas which are under the control of the state. These may include forest reserves, game reserves, national parks, some wet lands, rivers and lakes. Although neighbouring communities may have access to these resources, their use is restricted by the state. The 1975 land reform decree which made all land public guaranteed that individuals could obtain leases to use such resources; a situation that constitutes a form of privatisation. According to Bromley and Cernea (1989), there are always transformations from one regime to another. For instance the state may nationalise communal or privately

⁶ In some cases countries have nationalised commons in attempt to conserve natural resources as well as creating a potential for tourist attraction.

owned land into gazetted lands. On the other hand there can be privatisation of state land by leasing it to private individuals as already indicated.

Privatisation and Land Reforms

Privatization of land is closely linked with land reforms. It is usually implemented as a deliberate attempt to change the tenurial arrangements considered as retrogressive to improved agricultural practice. According to Binswanger et al (1993), land reforms can mitigate against the ills caused by unequal power relations and distortions. They argue that land reform is necessary to put land into the hands of small family users who according to them are more efficient than large farms.

Privatisation

Privatisation usually involves a transition from communal or state ownership to private/individual⁷ ownership. Privatisation vests control of property into individuals or groups of individuals acting as corporate. It involves the social and legal sanctioning of their ability to exclude others from having access to their private property. Privatisation is effected through individual land titling or land registration and land leases (in case of state land). Atwood (1990) sees land titling as the legal confirmation of primary land claims already informally recognised by the local community. It is a shift from the domain of informal lineage or customary to legitimate, formal and individual claims. Boundaries of each land claim are specified and recorded in the state administered land records (ibid). In western capitalist societies land is taken like any other property; ie it is privately owned, owners have legally determined exclusive rights to determine what the land is used for and how, if they wish they may dispose it off through rent, sale, purchase and bequeathing. They also have exclusive rights to exclude others from use of that land.

Land Reforms

Since privatisation may be a form of land reform it becomes necessary to elaborate briefly on views about land reforms and their effect on tenure systems and later on production. Land reform is a complex phenomena which can not be defined uniformly. However, various definitions (De Janvry 1981, Lipton 1993, Hayami et al 1990, Ellis 1992 Warriner 1969, Ghose 1983, Dorner 1972), converge on certain areas namely that land reforms aim at;

⁷ Individual as opposed to communal ownership may also be misleading in sense that it may be concluded that all private ownership is individual ownership. Practically a group of people may own private land with a title as is the case of companies. Therefore the definition of that ownership is legal. Bromley and Cernea (1989), note that all corporate property is private.

poverty alleviation, increasing productivity and providing employment opportunities (though there is divergence on the type of reforms that may be most appropriate); they are also agreed upon the importance of a strong political implications of a reform; that land reform may be theoretically necessary and well intentioned but due to vested interests and the poor handling in planning and implementation it may not realise the intended objectives let alone causing more harm than good; and even where there is successful implementation it may not necessarily lead to development. Basett (1993), points out two basic features of land reforms (i) break large holdings and their redistribution or (ii) consolidation of fragmented holdings. Although some of these features may not apply directly, they are nevertheless relevant to the Uganda situation since the country indirectly went through some kind of land reform processes.

In his argument Ghose (1983) links land reforms with agricultural production. He contends that security of tenure is one of the factors that may lead to an increased agricultural output and productivity which are central to the process of agricultural development let alone rural development. However, this can not be realised if the land tenure system prevents the farmers from getting access to land. Similarly, if the system does not provide the farmer with the security in his holding, investment in agriculture may be retarded. Farmers may not invest in the land if they are not sure that they will continue to use the land until they realise their investments costs.

The land tenure system therefore must be flexible enough to allow farmers gain access to land. However, this may not be easy where tenurial arrangements are rigid and conservative. A land reform may be necessary to resolve the situation-thus the notion of return the land to the tiller. He further argues that development efforts have contrary to the expectations, created an agrarian crisis in the third world as exemplified by per capita declining, intensifying of rural poverty, malnutrition becoming severe and problems of underemployment.

Green revolution has been one of the responses to food crisis in the Third World⁸. However, it has not solved food crisis even where there has been growth. To Ghose (ibid), such crisis stems from the demand constraints. Due to inequalities, increase in food production does not respond to increase in population but rather to the growth of its effective demand. There is competition for the produced food from urban areas on the expense of the un employed rural poor and the landless. Therefore, tackling food crisis on its own era leads to further crisis of impoverishing the rural poor. Land reform is essential for economic growth since it facilitates equal accessibility to production resources.

⁸ Green revolution has been less implemented in sub-Saharan Africa let alone Uganda. However, the point Ghose tries to raise is that of increasing production which has been the concern even in the African context.

Ghose raises three important issues that are relevant to our analysis viz; the idea of land reforms enforcing security of tenure and productivity; the relationship between poverty (including food insecurity) and agrarian crisis; and that peoples access to food can not be solved by mere increase in food production but rather their accessibility to production resources like land which can be realised through a land reform.

Debates On Tenure Systems and Production

In this study there is focus on two main debates about the effect of tenure systems on production in Sub-Saharan Africa. One is *the efficiency view* which holds that the traditional African systems of land rights impede agricultural development which calls for the need for land titling or registration (Atwood 1990, Migot-Adhola et al 1991). The other is *the equity view* which maintains that titling may not necessarily improve the security of tenure and productivity, if anything it may worsen the insecurity of some people (Atwood 1990, Migot-Adholla et al 1991, Platteau 1996).

The proponents of the *efficiency view* employ the Evolutionary Theory of Land Rights (ETLR), as their dominant framework of analysis (Platteau 1996). Their contention is that increase in population and commercialisation of agriculture, which may also be associated with changes in technology, exert pressure on land which creates a need to formalise private property rights regarding that land (Feder and Feeny 1991). The connotation is that governments should implement land titling to secure increased competition in land use. It is assumed that this will facilitate easy transfer of land from less progressive to more progressive farmers with the capabilities to improve productivity (Atwood 1990). Land titling is assumed to enforce Individual rights as opposed to communal rights. Individual rights have been defined to include; the right to cultivate a plot after a period of fallow; the right to assign a plot to a heir or tenant; the right to prevent communal claims and the right to expose the land freely to anybody who may wish to buy it (Platteau 1996).

The ETLR theory inter alia assumes that (1) land titling will resolve the disputes that emerge as a result of the scarcity of land which will further lead to the individual holders security, and social and political peace (2) once the titles are granted there will be no more fragmentation emanating from traditional patterns like inheritance; (3) there will be more efficient cropping choices since short choice crops that arise from tenure insecurity may no longer emerge; (4) farmers will invest in land improvement, soil conservation and productivity enhancing operations since they will be assured of continuity on their land; (5) farmers will be able to obtain credit facilities since the registered land will provide collateral. More credit in agriculture will enhance productivity; (6) government will no longer spend much on the costs of litigation since this will be avoided by the establishment of rights; (7) titling will

facilitate transaction costs since traditional arrangements which tend to undermine transfers are avoided (Feder and Feeny 1991, Platteau 1996 Atwood 1990, Migot-Adhola 1991);

Proponents of the efficiency view though aware of some of its short comings such as inequality in distribution of resources, they still maintain that such inequalities are vital for the sake of efficiency. Although they consider equity aspects of traditional tenure fair, they still argue that they are inefficient (Atwood 1990, Binswanger et al 1993). Binswanger et al (1993), put it that though equity minimises social tension, institutions that facilitate greater equity reduce efficiency. On the other hand efficiency aspects like land privatisation, though unfair, are considered to be efficient.

Feder and Feeny (1991), who support the view, emphasise that land rights require adequate implementation and enforcement mechanisms to reduce some of the inequalities. They advocate for establishment of institutional arrangements for this enforcement; a kind of *public sector infrastructure*. Their argument is that titling in the third world tends to fail due to lack of such infrastructure- a tendency that breeds problems of inequality in the administration of titles and registration. They recognise (though with less emphasis), that where there are no well developed credit and land markets land titling becomes uneconomical to implement. Under such situation commissioning the local institutions to direct land rights would be more feasible.

On the other hand the *equity view* maintains that it is dangerous to generalise the African tenure systems since they have been shaped by different settings (Atwood 1990, Migot-Adhola et al 1991, Platteau 1996).

Platteau (1996), and Migot-Adholla et al (1990), recognise the contributions the ETLR theory makes to the analysis of the African land tenure systems viz; that land arrangement institutions are evolving autonomously due to pressure and that the shifts that take place are geared towards increased individualisation of tenure rights and increased transferability of land. Nevertheless, they are more concerned about some of the major limitations inherent in the ETLR theory. They maintain that some of the prophecies laid down in the theory may not fully comply to the complex land tenure systems in Africa. Firstly, the assumed security of tenure and harmony after registration may on the contrary generate new conflicts since registration may reduce the risk of certain people while it increases uncertainty for others (Platteau 1996, Atwood 1990). Stanfield (cited by Atwood 1990), argues that titling by its very nature will eliminate some secondary rights previously enjoyed under customary tenure systems. Therefore, the assumed reduction of costs on litigation by government may not necessarily occur.

Secondly, manipulation of registration by the elites and the rich can not be ruled out which becomes another source of insecurity and conflict. Thirdly, there may be administrative problems which may undermine effective registration. These may include lack of proper records, lack of enough finances, the failure of the poor to adhere to the bureaucratic demands and the mere problem that people may refuse to register because of their attachment to the customary demands. Such deficiencies may facilitate land grabbing from the poor by the rich (Platteau 1996, Atwood 1990).

Fourthly, land sales may not necessarily increase as a result of titling due to other reasons like the peoples cultural attachment to their land. They may resent selling land to outsiders due speculative reasons; or because they see it as some form of insurance during unemployment or old age; or because immediate relatives need to have a say before the land is sold; people also retain land for social prestige and land may only be sold when there is a crisis.

Fifthly, land titling may not necessarily facilitate credit facilities; in the formal sector of credit provision small holders are at a disadvantage since the credit may be provided at minimum costs; besides land may not be considered a reliable collateral due to problems of credit, foreclosure for rich borrowers can not be easily enforced because they can manipulate the judiciary, while in the informal sector peasants may be deprived of their land if they fail to meet the requirements of the loans. Besides, there may be no efficient and sufficient land markets. Creditors may find it difficult to take land as collateral where chances of having it disposed off in case of default are still minimal.

Lastly, that land titling may not necessarily lead to increased investment since some people may acquire land titles to guard against inflation, insure against landlessness in the next generation and for speculation as already indicated. Therefore, it is quite common to find landlordism and mismanaged plots of land. In such cases land (mis)(under) use may prevail in presence of titles since the motive of land acquisition is speculative.

Platteau (1996) observes that government involvement in litigation and land registration has been less and this accounts for the instability taking place. He therefore recommends that there is need to re-institutionalise the indigenous tenure systems since they are cheap and flexible, since the top down approach has failed miserably. It can also be some kind of recognition of the peoples claim to the ancestral sites. Platteau again observes that there are some instances where land titling may be necessary especially when the traditional systems are weak and where there are new settlers. In such situations government can properly lay down proper prescriptions of land claims and transactions.

Other than being a critique of the assumptions laid by the efficiency view, the equity view strongly acknowledges the fair distributional aspects intrinsic in the indigenous African tenure

systems. The view maintains inter alia that customary rights (i) serve as an insurance against insecurity of the vulnerable groups by protecting secondary rights and ensuring that the next generation will be catered for (Platteau 1996, Bruce 1986) (ii) avoid the high transaction costs typical in formal land registration biased in favour of the rich and well placed individuals leading to land concentration on the one hand and landlessness on the other (Roth cited in Platteau 1996). The equity view therefore advocates for a cheap pragmatic gradual approach that re-institutionalises the indigenous tenure arrangements which relies as much as possible on the informal procedures at the local level (Atwood 1990, Bruce 1993, Migot-Adholla et al 1991, Platteau 1996). Their argument is that unlike the formal procedures, informal arrangements are not only cheap but also guarantee *community social security*; manifesting some kind of fairness and responsibility for the well being of individual members.

Another related argument has been that reforms should not bypass the socio-cultural values which are deep rooted in the African tenure systems. Atwood (1990), argues that re-adjustment to the socio-cultural aspects is possible only if there is a shift from the top-down bureaucratic management system to the reinforcement of the local management capacities, information and legal systems.

As already indicated, the equity view also maintains that there are situations where formal registration is sometimes necessary, especially when the local institutions can no longer ensure security like in case of urban areas and migrants. In the latter case, it is possible that local institutions may discriminate or fail to incorporate migrants who may as a result require legal protection. In urban areas aspects of homogeneous social cohesion may be absent due to the fusion of many ethnic groups. As a result there may be no deep rooted customary rights. Under such circumstances titling becomes necessary.

In this paper we are trying to assess whether these two polar views provide a good basis for the analysis of the Ugandan agrarian question and related developments. As will be seen later, ever since the beginning of the colonial era, policies in the country have always emphasised private ownership. It would be relevant to consider whether this has worked in favour of the *efficiency* or against *equity views*, and more particularly whether it has improved agricultural production. Before that however, it is important to trace the historical trend of land policies in Uganda and how they influenced privatisation.

3. LAND POLICIES IN UGANDA: A HISTORICAL PERSPECTIVE

This chapter is a description of the historical background of the land tenure systems in Uganda and the agrarian structure that ensued. It provides an insight on a series of the major

land policies that played a significant role in shaping some of the current tenure systems in the country. The main purpose is to lay a foundation for the later discussions which refer to some of these historical events.

Like other tenure systems elsewhere, the tenure systems in Uganda emerged out of a series of land policies implemented since colonialism. The discussion of these policies is treated according to the major political phases the country has gone through namely the pre-colonial era, the colonial era, the post colonial era and the NRM (National Resistance Movement) period.

The Pre-colonial Era

Before colonialism, land in Uganda was customary owned either by individuals or communally and everyone had inalienable rights to land (Fendru 1985, Mukidi-Walubiri 1994). Land was administered by elders, chiefs and clan heads. It was mainly acquired through inheritance and clearing of a new plot with the permission of the elders (Doornbos 1978).

However, there were regional variations in the way land was administered and shared. A brief discussion on how land was administered in some areas is essential. It helps us to understand the variations that prevail this day. Two main regional divisions are worth considering. The North and the South.

The northern part of Uganda suffered much from slave trade which partly led to the depopulation of the area. It has also characterised by low production technology and arid environment with irregular water supply which greatly shaped the economic activities in this region. People developed a simple nomadic way of life supplemented by shifting cultivation. This was characterised by constant search for pastures and new land respectively, which in turn had some significant effect on social arrangement characterised by segmented social units. Communal mode of production and ownership of land were according to Mamdani (1976) based on cooperation rather than antagonism. Among pastoralists, cultivation was done by women and old men, while able bodied men looked after cattle. In this region the colonial government deterred cash crop production in favour of labour migration as a means of earning cash to pay taxes.

Unlike the north, the south had a different ecological and social setting. The soils were fertile, had regular water supply and reliable rainfall which resulted into some form of settled agriculture. Southerners therefore developed feudal kingdoms the most significant being Buganda, Bunyoro-Kitara, Toro and Ankole. These kingdoms were further characterised by a hierarchy of social arrangement with feudal lords and chiefs monopolising land ownership. Mamdani (1976), notes that in such kingdoms surplus extraction prevailed based on political relationship between the appropriators and the peasants, a kind of inequality that was later aggravated by the colonial interference in the land administration. He further notes that expropriation was based on consumption rather than accumulation.

In Kingdom areas like Buganda, Ankole and Toro, land rights were of a semi-feudal nature (SSenkumba 1993). SSenkumba (ibid), lists four categories of such rights in Buganda kingdom (i) the *Butaka rights* where heads of clans controlled certain lands deemed to be attached to ancestors. Members of the clan were not allowed to settle there but could only be buried there. This land would not be sold or given to strangers (ii) *rights of the king* (Kabaka) and chiefs. The king had paramount command over all the land and could allocate to his loyal subjects, chiefs and lesser chiefs. The rights under this category were called *Butongole* and were only valid when the holder would still be in office. They were not inheritable by heir but instead such rights were passed on to the next chief (iii) the individual rights (locally called *Bwesengeze*) which would be recognised after a long and undisputed occupation of land. These kind of land rights were inheritable (iv) *Peasants' rights of occupation* (locally called *Kibanja*). Here the ordinary people had the right to choose a chief under whom they were to live. The chief would give them a piece of land to cultivate. In return the holders would provide services in the army and maintenance of roads. Such rights were passed on to the heir and entailed full usufruct rights. However, the occupant would be evicted by the chief in case of disobedience.

In case of Ankole, ownership rights were vested into the king (Doornbos 1978, Kafureka 1992). Use rights were obtained from clan members headed by a chief. In land allocation, consideration was based on productivity, accessibility to game destruction, hunting grounds, burial sites and sacred areas of worship (Kafureka 1992). As already indicated, semi-feudal rights to land prevailed in the area. There were two dominant ethnic groups the *Bahima* and *Bairu*. The Bahima were mainly pastoralists while the Bairu were farmers. Both groups used the land for their respective activities. Besides being pastoralists, the Bahima occupied a

higher socio-political status. It was from this group that the kings and the chiefs were drawn. This privileged status in politics gave them a privileged status over land rights. For instance, they had a right to graze all the land over the area. This somehow undermined their Bairu counterparts prohibiting them from alienating land for fallow, besides the former's animals sometimes destroying the latter's crops. On the other hand, the Bahima could alienate land from cultivation (*amarisizo or pasture land*) (See Kafureka 1992).

In non kingdom areas such as Kigezi (now Kabale, Rukungiri and Kisoro) clans occupied demarcated territories with land reserved for their members only. Strangers encroaching on the land were either beaten or killed. Ochola (cited in Roth et al 1993), notes that land disputes in Kigezi existed even before colonialism. The kind of land ownership during pre-colonial Kigezi still remains disputable particularly whether it was communal or individual. Obola-Ochola (cited in Roth et al 1993) recognises both aspects having been evident. Rights to land among the Bakiga were divided among individuals, communities and clans. Clan members held individual rights to land which they could rent out, or pledge the crops on the land, while selling was only effected after consent of the family or the clan. Grazing near homesteads was prohibited but the community had access to the communal grazing lands, salt licks, watering holes and other resources. Land disputes were settled by family or clan members (Roth et al 1993).

The Colonial Era

On the outset of colonialism the duty of land control and allocation by elders, chiefs and clan heads was abrogated and replaced by colonial administrators. The aim was to enhance private ownership and use of land which was expected to increase agricultural productivity to facilitate surplus appropriation for industrial development (Kisamba-Mugerwa 1991).

There were a series of Land reform policies initiated by the colonial regime that aimed at individualisation/privatisation. These included among others; *The Buganda agreement of 1900* and the subsequent *Ankole and Toro agreements of 1901*, the *envujjo* and *Busulu laws*, and the policy recommendations of the *Royal East African Commission*.

The Buganda agreement of 1900 divided the entire land in the kingdom between the protectorate government on the one hand, and the Kabaka (King of Buganda), his relatives,

chiefs and religious institutions on the other (Fendru 1985, SSenkumba 1993). Mukidi-Walubiri (1994) notes:

By the stroke of a pen nearly a half of the land in Buganda became Crown Land and the other half was to be divided up between not more than 1050 people (p.157)

The agreement brought into existence what is popularly known as mailo land. The concept of *mailo* is derived from the survey that was effected which apportioned the land into square miles of plots as a standard measure. The new system was defined in the Buganda Possession of land law of 1908 by which the mailo owner was empowered to alienate his mailo land by sale or will (Mukidi-Walubiri 1994). The Buganda agreement was thus a significant determinant of the current land tenure system in Buganda. It introduced a system of landholding akin to the free hold system. A system that culminated into the emergence of few landlords while the majority of the population were rendered tenants.

The *mailo* tenure system was superimposed over the semi-feudal arrangement which was operating in the area. For instance, there was no clear definition of how the mailo tenure was to operate, what would happen to the peasants on that land and there was no mention of the *Bataka rights over certain lands* (SSenkumba 1993, Fendru 1985). Lands outside the kingdom areas were not affected by this agreement. These were defined under the crown land which were subject to the control by her majesty the queen of England. In 1903 *The Crown Lands Ordinance* was enacted and it conferred the power of allocation of land in such areas to the governor.

Initially, people in Uganda were mainly subsistence cultivators. Colonialists introduced cash crops like cotton and coffee. In Buganda where mailo land operated, production of cash crops was mainly by tenant farmers. This monetisation of production led to an increase in the value of land (Doornbos 1978, Fendru 1985). As a result, landlords started increasing rent which disgruntled the peasantry. In Buganda for instance, the aggrieved tenants formed the *Bataka movement* in the 1920's as a reaction against the increased rent. In response, the colonial government passed the *Envujo* and *Busulu*⁹ law in 1928 to limit the charges so that the tenants would securely remain in production. In Ankole¹⁰ a similar dissatisfaction also came

⁹ The *envujo* was paid in kind out of the produce whereas the *busulu* was paid in cash.

¹⁰ Ankole comprised of the current districts of Bushenyi, Mbarara and Ntungamo.

up in the 1950s in form of what was known as *Kumanyana Movement* (Kafureka 1992, Doornbos 1978) established by the Bairu in opposition to inequalities in land resource allocation created by *mailo tenure* that favoured their Bahima counterparts. As Doornbos (1978) notes, this movement transcended mere land disparities to include political and social dimensions. As indicated earlier, the Bahima occupied a higher political and social status than the Bairu which gave them a privileged position in land rights; rights that were further reinforced by the 1901 Ankole Agreement. In addition the Bairu tenants were subjected to high rental charges, tributes to the king and chiefs, labour contribution, arbitrary evictions, let alone the landlords' cattle destroying their crops (ibid).

Colonial government administrators viewed the then tenure system as rigid and retrogressive to the improvement in agricultural productivity. To them, individualisation of land would reduce communal ownership and facilitate easy transfer of ownership. As a result in 1955, *The Royal East African Commission* was set up to investigate into the nature of tenure systems in East Africa and how these affected agricultural production. The commission recommended the registration of individual ownership and consolidation of land throughout the country to encourage commercial transactions in land on the basis of market forces. It further recommended that customary land rights were to be ascertained and accommodated before exclusive individual rights were to be sanctioned (Roth et al 1993). The World Bank commission to Uganda in 1960-1961 also endorsed these recommendations and it was passed that individuals who wanted land titles were to register at district headquarters. The argument was that granting of land titles would encourage investment into agriculture as individual farmers would use their titles to obtain the necessary capital (Fendru 1985).

From the above account it has been noted that the colonial regime usurped the power of land allocation from the local leaders and made laws to safeguard its interest in land. Fendru (ibid), notes that by time of independence the colonial government had passed as many as twenty three land regulations, ordinances and laws for privatising the ownership of land resources. More important to note is the fact in some areas like Ankole and Buganda such policies aggravated the problems of land inequality and insecurity of tenure; problems that were reinforced /never effectively addressed by the subsequent governments; problems inherent the current land tenure question as we shall discuss later.

Post Colonial era

The achievement of independence in 1962 did not come with a new blessing on the land question either. The post colonial regimes did not address some of the problems created by the colonial land policies. Instead, further registration in private land ownership was reinforced. *The crown Land Act of 1962* converted the crown land into public land under control of government. Later on, the 1967 republican constitution vested the powers of the allocation of land to into the *Uganda Land Commission*.

The 1969 public Land and 1975 Land Reform Decrees

The 1969 and Public Land and 1975 Land Reform Decrees were proclaimed with the sole objective of abolishing mailo ownership in favour of state control and their impact explains the nature of the agrarian structure today (Kisamba-Mugerwa 1991). For instance, the Public Land Act was meant to limit the grabbing of land that had started increasing. The Act limited the amount of land an individual to not more 500 acres.

The 1975 land reform decree substantially changed the legal basis of the land tenure system in Uganda. It declared all the land in Uganda public and put it under control of the Uganda Land Commission. Free holds and individual mailo was transformed into leasehold of 99 to 199 years. The decree was therefore meant to address the problems of land fragmentation which according to the designers would facilitate land exploitation since potential land developers would amalgamate their small plots or those who would fail to develop their land within 8 years would relinquish their plots to either government or potential developers (Kasfir 1985).

In his foreword, President Amin justified the decree thus;

Every country has some definite source of its national wealth. The more developed countries have their sources in manufacturing industries and the less developed countries have their sources mainly in natural resources. In case of Uganda, her wealth, all her economy is firmly and, and in view of her natural fertility, abundance of water and favourable climate will continue to be rooted in land. This was a fact that was clear in the minds of our forefathers so that in the customary law of all societies in present Uganda land was regarded as a property of the whole society and the individual members of the society used it on certain terms and conditions.

The introduction of colonial rule... changed this system...*It* (my word) introduced land tenure *which* has in many respects caused problems and created obstacles in national development based on land use. In order to remove or at least minimise the extent and seriousness of these problems and obstacles so as to ensure that Uganda exploits her natural gifts based on land to the maximum, it was found necessary to enact the land reform decree, 1975.Government does not intend to take away land from anyone who is capable of developing it. *It* encourages land development on an individual basis as well as on a cooperative basis. Holding land for prestigious purposes is what the government is resolutely against; and therefore wants *it* completely obliterated from our land tenure system (The Land Reform Decree 1975 p.(i))¹¹

The land reform decree was thus meant to serve at least five objectives viz; to invest all land in the people of Uganda but entrust it to the government to hold and administer it on their behalf; prevent land being left undeveloped; distribute land to as many people especially those who wanted it for development purposes; to provide security to land users/occupiers but subject to general interest and needs of the public; and generally facilitate, promote and maintain better development and use of land and natural resources for economic and social well-being of the people of Uganda (ibid p.v). Inherent in the 1975 land reform decree was an aspect of capitalist development with the motive of eliminating the last obstacles to individualisation by uprooting once and for all the foundations of the customary tenure (Bazaara 1994, Mamdani 1992). The impact of the decree will be discussed later in relation to how it affected the security of tenure.

From the above, it can be deduced that land policies in Uganda since beginning of colonialism aimed foremost, at eradicating communal ownership of land in favour of private ownership that would facilitate capitalist production¹². The argument behind was that security of tenure was paramount for this kind of production and would only be realised if there was private ownership of land that was reinforced by land titling. However, we should also note that these land policies were not devoid of problems like political manipulation, legal inefficiency and inconsistencies reported elsewhere by Hayami (1990), de Janvry (1991) and Ellis (1992). Problems emanating from this historical context will later help us to understand the nature of land crisis in Uganda and its impact on security of tenure and agricultural production.

Land Policies Under the NRM Government

The NRM government which assumed power in 1986 recognised the problems associated with the land tenure systems and has made attempted to alleviate some of these problems by trying to unify and simplify the land tenure systems (Troutt et al 1993, LTC 1995). An Agricultural

¹¹ The words underlined are my own emphasis.

¹² This mode of production was perceived to be conducive to increased agricultural production and commercialised agriculture.

Policy Committee was set up which observed that the agrarian crisis was inherent in the nature of tenure systems. Several other studies were carried out to make further verifications.

The MISR/Winscon (1989) points out the complexity and ambiguity of land tenure systems as one of the major factors underlying the crisis. Problems on mailo land tenure system were also recorded by Trout et al (1993). The MISR/Winsconsin study among other things recommended a uniform tenure system of free hold type throughout the whole country, decentralisation of land registration and repealing the 1975 Land Reform Decree. Critics of the study (Ddungu 1991, Bazaara 1994, Kafureka 1992) observed that it was not representative enough to be generalised for the whole country since it only covered the central region. Following this criticism, a Technical Committee was appointed to gather more views and the committee proposed a land tenure policy called *Tenure and Control of land Bill 1990* (See Agricultural Policy Committee Report 1993). The bill which was tabled in the NRC 1993 was captioned thus;

A BILL to provide for the gradual evolution of a uniform land tenure system and to amend and consolidate the law relating to tenure and control of land and for other matters connected therewith or incidental thereto. (Agricultural policy Committee 1993 p.70).

The main objective of the bill was to establish a good land tenure system that would steer the country to development. More specifically, it was meant to (i) facilitate land market so that those with land rights could voluntarily sell to those who wished to enter agriculture or undertake any other form of development (ii) avoid forcing people off the land especially if they had no alternative source of survival¹³ (iii) have a uniform tenure system (freehold) throughout the country (iv) ensure sustainable utilisation of land as a resource.

To achieve these objectives the bill proposed the amendment of the 1969 Public Lands Act¹⁴, repealing of the 1975 land reform decree and establishment a freehold tenure system throughout the whole country. The reasons for proposing a freehold are justified by The Technical Committee on land Tenure Reform Law as follows; (a) it offers maximum individual's right in property and a greatest degree of security in land (b) it recognises the reality of the land tenure system that has so far de facto existed in the former mailo/freehold areas for many decades. It is argued that freehold tenure provides a good environment for progressive farming and other development projects (c) frees government wastage of resources

¹³ i and ii appear to be trade offs since as we shall see sell of land may culminate into landlessness.

¹⁴ As already indicated due to land grabbing the 1969 Land Act tried to limit the land that was to be acquired by an individual to not more than 500 acres unless with permission from the minister.

and manpower especially in relation to administration costs¹⁵ (d) it gives the individual maximum ability to transfer land through land market (e) results in increased credit for agriculture (See Agricultural Policy Committee Report 1993).

This justification is almost a replication of the assumptions of the efficiency perspective. They seem not to suggest anything new and more importantly in relation to the Ugandan context. It is not surprising because the Technical Committee on The Land Tenure Law Reform was not an independent body. Most of the members were (in)directly connected with government¹⁶ (except for two Senior Researchers) and in one way or the other had vested interests in land which they wanted to protect. It was comprised of the same bureaucrats who have been accused among other things, of corruption, manipulation and inefficiencies in administration of land policies. It was not likely therefore that these incumbents would make proposals that would undermine their position.

To repeal the 1975 act, powers of government control over land were abrogated and entrusted into the Uganda Land Commission. The chairman of this commission was to be appointed by the president from the members of the commission. At the lower levels there was to be established Land Adjudication Committees consisting of five members appointed by the minister and Land Adjudication tribunals consisting of Magistrate Grade 1 or above and two other persons (also appointed by the minister).

The bill provided a mechanism by which the current tenure systems could gradually evolve into a free hold. This transformation was to take two phases (i) transfer of administration of land into the Uganda Land Commission on the behalf of the state (ii) land to be apportioned to the appropriate parties depending on the tenure type all of which could be converted and allocated as freeholds. The following were some of the rulings and how they were to affect some of the tenure types; (a) Customary tenants on public land were to occupy it without grant, lease or licence from the granting authority as long as the land they were occupying was not (i) in urban area, and (ii) was not being used by other people (ie no other right of

¹⁵ It is argued that the leasehold system which involves periodical renewal of leases titles becomes more expensive to administer. However this has no justification since it is clear that some if not most have not been renewing their leasehold titles. My experience shows that some people take these titles as freehold titles. They are not even aware of the 1975 land reform decree which transformed the then freehold tenure into public land.

¹⁶ These included the (i) Chairman Incafex Consultants-although this is a private firm, it has a good reputation with government the proprietor being one of the permanent secretaries (ii) Commissioners of; Land Administration, Surveys and Mapping, Land Registration all from the ministry of lands, Housing and Urban Development (iii) a State Attorney from The Ministry of Justice (iv) an Environment Officer and (v) a Banking Officer from the Agricultural Secretariat Bank Of Uganda.

occupancy to that land). Customary tenants¹⁷ automatically qualified for a land title and there was to be no termination of their tenancy without their consultation and subsequent compensation. (b) Leaseholds were to be converted into freehold titles and if not converted their lease titles were to be renewed within a period not later than three years (c) Kibanja holders on the land acquired through the Ankole and Toro agreements were not to be evicted without their written consent and if such consent was granted they were entitled to compensation on mutual agreement between the two parties (d) The major complication was on the mailo land where there is a controversy regarding tenanted land which would involve problems of compensation. The bill ruled that non-tenanted land should go to the owner automatically while tenanted land would fall under the state represented by the land commission. The state was to re-allocate the land to the former owners (in this case landlords), former tenants and third parties¹⁸. The new owners were to have free interests in the land irrespective of whether they were formerly owners or not. Compensation was to be effected depending on who is the beneficiary. If the beneficiary is the former owner he was to compensate the former tenant and vice versa. If the beneficiary is the third party then he is supposed to compensate both.

From these provisions it is evident that the bill proposed a kind of land reform that was to be effected gradually to a freehold (private) ownership. There was an assumption that establishment of a uniform type (freehold) of ownership throughout the country would resolve the complex land tenure problem as well ensure security of tenure for everybody particularly the most vulnerable groups. Probably one significant aspect of this reform is the attempt to resolve the landlord-tenant/squatter crisis which has been seen as the major source of agricultural stagnation in certain areas especially where mailo land operates. As we shall see this aspect was never considered seriously because it threatened interests of politicians who were benefiting from that crisis in one way or the other.

Ideally, these provisions sound admirable but when examined more critically we envisage certain problems. One problem has to do with the proposed structure for the administration of land. For instance, the Land Commission, the Land Adjudication Committees and Land Adjudication Tribunals proposed by the bill as administrative organs are not different from the Land Commission established after the 1975 Land Reform Decree. By virtue of how they are to be appointed, they are top-down and do not reflect any local representation. There is

¹⁷ The 1975 Reform Decree which declared all the land public created a category of customary tenants on the public land. These were the people who occupied land without leasehold titles and were originally owners of the land under customary tenure before the decree declared their land public.

¹⁸ Third parties was used to refer to those who formerly had no interest in the land ie neither landlords nor tenants, but deserved a share on the land as redistribution takes place. They for instance included the landless.

therefore no guarantee that they will not exercise corruption, manipulation and inefficiencies experienced with the former organs. Another related problem is the proposal to effect a freehold tenure through land titling. The procedure still being bureaucratic and costly would only rich who can afford not only the transport costs, but also easy penetration of the bureaucracy.

The newly promulgated 1995 constitution adopted some if not most of the provisions of the bill (see sections 237 and 238). However, if considered carefully those were the provisions that either protected or at least did not threaten the interests of most of the incumbents. For instance, the proposal of repealing the 1975 reform decree and the idea of gradual shift to a freehold tenure system throughout the country were easily passed. The latter would not be a problem since most of them (CA delegates) had titles for their land and those who did not have, could easily secure them. But unfortunately, when it came to the idea of resolving the tenant-landlord crisis which affected some if not most of the incumbents¹⁹ it was avoided. On the contrary, mailo land that has been the major source of such controversy was among the tenure systems recognised in the 1995 Constitution. Others being freehold, leasehold and customary land with a provision that all were to gradually transform into freeholds (Refer to the Constitution of the Republic Of Uganda 1995). To put it more precisely, this aspect of the land question was lightly tackled despite that it was the most crucial, let alone that government had spent a lot of money on research and commissions of enquiry whose findings were not considered any deliberately to protect the interests of the few politicians and the wealthy; this partly explains why even after the constitution is in place evictions still go on unabated. It can be anticipated that this kind of legislation is likely to recycle the problems that characterised the previous land policies.

Agrarian Structure In Uganda

We have already discussed the evolution of the land tenure systems in Uganda and made a point that these were manifested in the inequalities in land ownership and production relations that emerged. These historical events also greatly influenced the agrarian structure that emerged. Before embarking on the real analysis of the implications of discussed policies on security of tenure and production it is necessary to lay a profile of the agrarian structure.

Uganda has two dominant patterns of agricultural activity viz (i) crop farming (both cash and food) (ii) animal husbandry. It should be noted however, that some people combine crop farming with animal rearing. Some of the animals kept include cows, sheep, goats, pigs and poultry. The number of animals kept tends to become less in more densely populated areas. This is mainly due to the limited pasture land in such areas.

¹⁹ Majority of those who were in CA were also absentee landlords.

Various types of farming such as subsistence, peasant, corporate, estate and state farming have been/are evident in Uganda. It should be noted however, that the small-holder peasant mode of production dominates. Small holders comprise 90% of the producers of bananas, maize, cassava, groundnuts, sorghum and millet on small farms ranging from 1.5 acres in the fertile south west to 8-9 acres in the north (Ministry of Agriculture 1990; Bibangambah 1992).

The agrarian structure is highly differentiated as indicated in ownership of means of production like labour, land, and farming implements (see Mamdani 1992). Six distinct categories of the agrarian social structure come out distinctly; (i) the landlords (ii) the capitalists (iii) the rich peasants (iv) the middle peasants (v) poor peasants (vi) the landless.

(i) The landlords, who in most cases own large tracts of land, comprise of the members of the traditional royal families, former chiefs (especially where mailo land operated), businessmen, government officials (bureaucrats) and politicians²⁰. Some landlords are resident and may depend on exacting rent from tenants. Others such as bureaucrats and some businessmen are mainly absentee landlords. Some may have part of the land cultivated, usually entrusting it with caretakers²¹ or managers and yet others leave it free. Usually some of the landless people may become squatters on such land.

(ii) Capitalists also own large tracts of land though their major source of income may not necessarily be agriculture. Some are village teachers, chiefs and other village elites who may wish to supplement their meagre incomes through farming. They mainly depend on external labour to effect commercial farming²² on their land. They do not necessarily utilise all the land. Capitalists may have made their way up either through their political influence²³ or from what Mamdani calls 'accumulation from below'²⁴.

(iii) Like some capitalists, rich peasants may also rise out of accumulation from below, and own large pieces of land, but unlike the capitalists they put their land to effective use and employ permanent wage labour. They are the minority, they have more land and more implements compared to middle and poor peasants. Sometimes they may be transformed into

²⁰ Politicians include parliamentarians, ministers, army officers and other politically connected people. Most of them purchase land only as a speculative investment but also as another way of exercising their influence. They have the power and money to acquire any land they want either peacefully or forcefully. It is not uncommon to find large tracts of land belonging to ministers and the army officials.

²¹ Care takers can look after the land to ensure that nobody lays claim on it. They may also correct rent from the tenants on behalf of landlord.

²² Commercial farming may include both the traditional cash crops and commercial food crops.

²³ Political influence may involve using such influence to acquire business links and loans from the banks, government tenders to mention but a few.

²⁴ Mamdani (1992), uses the concept of accumulation from below to show how rich peasants and capitalist emerge from lower ranks of the peasantry taking advantage of the existing unequal social relations. This accumulation is effected through a kind of exploitation disguised as cooperation.

capitalists when they withdraw their families from labour provision and solely depend on exploitation of labour from outside. Instead, they may engage in other activities like transportation and small business enterprise.

(iv) The middle peasants are mainly those who own moderate pieces of land and mainly rely on family labour. They are characterised by sexual division of labour which is unequal but still complementary. They engage in both food and cash crop production. Commoditisation has changed the sexual division of labour with men controlling the production of cash crops while women produce food. Middle peasants may occasionally rely on casually hired labour.

(v) The poor peasants own little land which is in most cases operated by women while men go for wage labour. Because they lack enough implements they may sometimes not fully utilise all of their little land as was the case of Amwoma (see Mamdani 1992)²⁵.

(vi) Among the poor peasants described in (v) above, there are the landless wage labourers who can be distinguished as a distinct category. These absolutely depend on wage labour with little economic autonomy, subject to the power of the capital. Some landless peasants may borrow or rent land to produce food for subsistence since they may not earn enough money to keep them going (See Mamdani 1992, Bazaara 1994, Gariyo 1994).

The above categorisation is not uniform throughout the country. There are regional distinctions which may be due to specific historical and socio-cultural contexts. For instance the landed notables are more pronounced in areas (more particularly the central) which were affected by the Buganda agreement of 1900, the Ankole and Toro agreements of 1901 and 1902 respectively. It is in such areas that problems of landlords, tenants and squatters are more common. In much of the country outside the central region, large tracts of land are mainly in the hands of capitalists, businessmen, politicians and other government officials. Acquisition of such land may have been due to grabbing²⁶, exploitation of unequal relations, and purchasing, unlike in the central region where such differences were mainly due to the provisions of the 1900 that deliberately determined who was to get the land. This inequality was to be passed on to the next generation.

²⁵ In this study Mamdani presents two cases of (i) poor lower middle peasants and (ii) middle (average and upper middle) peasants. The two categories are presented as owning almost the same amount of land. The latter are able to cultivate a bigger portion of the land they own because they have implements compared to the former who cultivate less due to lack of implements.

²⁶ Grabbing of land has been a common phenomena almost throughout the country. Well placed individuals (both politically and economically) took advantage of weak land policies like the 1975 land reform decree to grab/ or force people to sell their land.

Animal keeping can be divided into two main categories (i) nomadic pastoralists and (ii) sedentary cattle keepers²⁷ (ie cattle ranching and dairy farming). Nomadic pastoralists keep animals on large scale and move from place to place in search for pastures and water. They are mainly found in areas of low population density like in what Kisamba-Mugerwa (1992) calls the *cattle corridor* which stretches from the southern Uganda on the border with Tanzania through the western districts of Ntungamo, Mbarara, some parts of Kasese, Kyaka county of Kabarole district and the eastern parts of Masindi district. In the central it includes parts of Rakai, Masaka, Kibale and Mubende districts, Ngoma sub-county and Nakasongora county in Luwero district, and Baale county in the northern part of Mukono district. In the east it includes northern parts of Kamuli district²⁸. In northern part of Uganda it includes Apac, Lira, Soroti, Kotido and Moroto districts. The Karamajong have been the dominant cattle keepers in this region. Although their neighbours like The Langi and the Itesot have also been renown for cattle keeping, the constant raids from the Karamajong has reduced their animals and induced them to concentrate more on other agricultural practices. As we shall see later in the paper, the nomadic pastoralists have been the most affected by the land privatisation policies since their survival largely depends on communal ownership of land.

The second category of sedentary animal keepers emerged as an attempt to modernise pastoralism. It has either taken form of either dairy farming or ranching; systems which have been receiving much government support in terms of infrastructure, credit and input supply. Although these attempts have been done to completely replace pastoralism, this has not been effectively achieved especially in areas like Karamoja.

The preceding chapter has provides a discussion on the historical context of land policies in Uganda. It has been descriptive in nature in which case it does not give a detailed account of the effect such policies on the security of tenure and agricultural production. These aspects will be dealt with in the following chapter.

4. PRIVATISATION, SECURITY OF TENURE AND AGRICULTURAL PRODUCTION

This chapter attempts to provide answers to questions we raised earlier viz; whether land titling/registration (i) necessarily guarantees security of tenure (ii) increases investment in

²⁷ Large scale animal keeping in Uganda mainly involves cattle keeping. It is common for farmers to combine small-scale animal farming (cattle, goats, sheep and pigs) with other farming activities.

²⁸ Details of the Ethnic groups involved in pastoralism in these areas are discussed by Kisamba Mugerwa (1992).

agricultural production (iii) has a positive (negative) impact on the environment and (vi) has any impact on the common property users.

In chapter three we noted that the evolution of land tenure systems was a process gradually tending towards private ownership of land which was effected through a series of policies and decrees. We also noted that the indigenous powers in administration of land were abrogated and taken over by the colonial governments and subsequent regimes. Although we do not deny the existence of inequalities in the distribution of land in the pre-colonial societies²⁹ such inequalities were aggravated by this take over and where egalitarian systems operated, it marked the *real beginning of class differentiation in land distribution* as Mamdani (1992) and Fendru (1985) rightly put it. The class differentiation aspect is important because it helps us to understand how each class is affected by privatisation. The security of tenure is manifested in the kind of tenure systems that emerged out of this differentiation.

Tenure Systems In Uganda

There are four main types of tenure systems in Uganda viz; mailo, free hold, lease and customary.

(a) Mailo tenure; This is confined to Buganda, some parts of Bunyoro (now Hoima and Masindi districts), Toro (now Fort Portal and Kasese) and Ankole (Mbarara, Bushenyi and Ntungamo districts). The mailo system emerged as a result of the Buganda agreement of 1900 where, as already noted, land was allocated to the kabaka (King of Buganda) and his notables. The beneficiaries were issued certificates of claim recognising their absolute ownership of land. The word mailo is neither local nor alien to Buganda. It is derived from miles, the unit of measurement which was used that time to allocate the land. It was given formal recognition in the land law of 1908 which was enacted in the Buganda government. On the mailo tenure there was a group of holders called **Kibanja holders** as shown in table 1 and 2. This category, though not officially acknowledged³⁰, constitutes a big portion of the population especially in mailo and public land areas. Kibanja holders are those occupying land on which they only have only usufruct (Kibanja rights) rights as will be discussed later.

(b) Free hold tenure; This is common mainly in Ankole, Toro, Kigezi, Bugisu and some parts of Buganda. Following the 1900 and 1901 Ankole and Toro agreements respectively,

²⁹ This was more so in the kingdom areas where semi-feudal systems operated.

³⁰ For instance in the constitution (1995) it has been excluded. The constitution only recognises 4 types of land tenure ie mailoland, freehold, leasehold and customary tenure.

land titles were given in accordance with the Crown Land Ordinance 1903. Under freehold, tenure certificates are given and the interest in land goes on in perpetuity.

(c) Lease hold; This involves a contract and a grant of an estate in land. The owner of a superior interest in land grants to another exclusive rights to use that land for a specified period of time. It also involves some form of payment in form of rent. Usually two parties are involved ie the lessor (one who grants the land and lessee the one who gets the land). In Uganda land lease titles have always been presided over by the Uganda Land Commission (for public land in the rural areas) and urban authorities (for urban areas). As far as public land is concerned lease begins with a contract of 5 years. Next renewal can extend it to 49 then to 99 and lastly 199 years³¹.

(d) Customary Tenure; This is probably the oldest system of land holding. Although it is widespread throughout the country, it is more predominant in the northern and western parts of the country. Land use is governed by customary rules and cultural values of the area. These customary values vary from area to area and from tribe to tribe. No land title is issued under this system. Land ownership may pass from father to son. Holders of such land are not subject to annual payment of rent.

Tables 1 and 2 show the distribution of tenure systems in some selected 26 districts.

Table 1: Number of Parcels by Type Of Tenure

Unregistered free hold	Registered free hold	Lease hold	customary	Kibanja	squatter	Other
136907 (5.0%)	122848 (4.5%)	23055 (0.8%)	572572 (21.%)	1761483 (64.6%)	41102 (1.5%)	67255 (2.5%)

The total number of Parcels was 2725222 (100%)

³¹ Until recently (after 1995 promulgation of the constitution) all the land in Uganda was public land since the 1975 Land Reform Decree. Those who operated any land were under the leasehold. However, this remained in theory than practice.

Table 2: Area Of Parcels by Tenure

Unregistered freehold	Registered freehold	Lease hold	Custodial	Kibanja	Squatter	Other
254205 (6.9%)	230808 (6.2%)	175088 (4.8%)	637684 (17.3%)	2177877 (59.1%)	1448706 (3.9%)	62756 (1.7%)

Total area of Parcels 3683288.

Extracted from The Uganda National Census of Agriculture and Livestock 1990-1991).

The two tables above will give an impression that Kibanja holdings are a significant tenure system and yet they have not been considered as a major land tenure system. As noted earlier, it does not feature in the tenure systems defined in the recently promulgated constitution. One ambiguity with tables 1 and 2 is the exclusion of Mailo land tenure which is constitutionally defined and operates in some of the districts studied. Another related problem is including Kibanja holdings which though prominent, are not constitutionally defined as one of the four major tenure system in the country. This is because most of the Kibanja holders are on mailo land. It is also possible that the registered and unregistered freehold tenure may have been underestimated due to the same problems. This confusion is a key feature of the Ugandan tenure system. However, for the purpose of clarity we can say that Kibanja holders are found either on public land or mailoland³². Kibanja holders still constitute the majority of land holdings (65.4% of the number and 59.1% of the area of parcels respectively) as also confirmed by a study by Troutt and others (1993). In the next discussions we shall consider some of the land rights and security of tenure in relation to the tenure systems.

Varieties Of Land Rights and The Related Security Of Tenure

We have already noted that land reform policies facilitated unequal distribution of land. The tenure systems are a consequence of struggles to gain access to land. Such struggles have been conditioned by unequal relations of production characterised by surplus extraction. Mamdani (1992) argues that with such inequalities exploitation is inevitable. If we are to understand the nature of this exploitation we have to refer to some of the land use rights. Muhereza (1994), points out 4 types of land use rights in Luwero district where *Mailo land system* operates viz;

³² The land rights of Kibanja holders and their limitations are discussed in section 4.1.2.

the Ttaka rights, Kibanja, renting and borrowing rights. These may also apply to areas like Masindi and Bunyoro.

Ttaka rights are those rights that give the holder rights over the soil and the developments on it (crops and trees). Not all with Ttaka rights are landlords but all landlords hold Ttaka rights. The Ttaka rights may be reinforced by land title or lease. The peasants with Ttaka rights are in most cases better off than those who do not because they realise some form of economic surplus. Muhereza (1994) noted that those with such rights were relatively few in Luwero because it was expensive to obtain.

Kibanja rights only have usufruct rights ie rights over the developments on the soil only but not the rights on the soil itself. Before the 1975 Land reform decree holders of Kibanja were supposed to pay ground rent (Busulu) and commodity rent (envujjo) and this depended on the size of Kibanja and the amount of commodity produced. As will be indicated, with the 1975 Land Reform Decree, tenants became tenants at sufferance liable to eviction any time. They were sub lessees to the landlords who were in turn lessees to the state. Possession of the Kibanja provides the security to use the land as long as the land requirements are met (ability to meet the rent) and the tenants are in good relationship with their landlords. However their security is at stake incase they are on bad terms. They do not enjoy the same security as a title /lease holder. Tenants can sell developments on the land but not the land. Even the new owners have to be reintroduced to the landlords. They are in most cases prohibited from planting perennial crops and erecting permanent structures.

Kibanja rights pose development constraints since there may emerge what may be known as *landlord-tenant dilemma* (my emphasis) especially on the mailo land. As indicated earlier the 1900 Buganda Agreement and the subsequent Ankole and Toro agreements of 1901 and 1902 respectively brought into being the tenant and land lord categories that have now become a long standing phenomena. Several tenants are to be found on the mailo land and have learnt to cope with the system from generation to generation in response to the many land policies that have taken place. For instance they may work hard to avoid eviction or vice versa so that they lose little in case of eviction.³³

The tenanted land demonstrates a kind of deadlock between the land owners who possess de jure freehold over their parcels and the tenants who enjoy de facto freehold (see Agricultural Policy Committee 1993). This is to say that inspite of landlords being freehold owners supposedly with absolute rights, this is only in theory.

³³ Those who may cultivate less land to avoid eviction comprise the poorest (See Bazaara 1994).

There are some practical problems related to this kind of arrangement. On the one hand we have landlords who can not easily develop their land because they can not displace the tenants. If they do so it may involve heavy costs on compensation and if not, some conflicts. Again the landlords do not have any legal support to charge rent although they do so indirectly. As result, such charges which are usually not standardised may be exploitative. There are also possibilities that some tenants may refuse to pay rent. Presence of tenants on the land may sometimes hinder landlords from developing the land. Some landlords find it difficult to evict³⁴ the tenants either due to fear of violence or just because it may involve compensation costs. As will be discussed later, banks do not or are hesitant to give loans to tenanted land owners due to such problems. Tenants can not effect any meaningful developments either. They are not allowed to plant perennial crops or erect permanent structures (Trout et 1993).

Renting is an other way land becomes accessible to people. The tenant enters into a contract with a land owner for usufruct rights for a specified amount of land and duration of its use. This rent is in most cases determined by the landlord depending on the location, fertility and the market conditions. The tenant may have right to choose the plot he wants but this again depends on the choices available. Tenants are not allowed to fence or sell or transfer other plots to other tenants or their heirs but they can sell the developments on the land. Muhereza (1994), notes that in Luwero rental charges were always increasing after each rental term. This puts the tenant in precarious situation since they have to look for land elsewhere if they can not meet the rental increment. Another alternative would be to provide labour for the land in addition to the rent.

Borrowing is mainly done by those who cant afford rental payments. But this does not mean that they get this land free. It involves some disguised form of payment by offering labour or surrendering part of the harvest. Muhereza(1994) and Bazaara (1994), observed that when borrowing, tenants have no choice. The land they cultivate is determined by the landlord and in most cases may be infertile or thick bush which requires a lot of labour initially and may be taken over after the first harvest. They may also be given areas bordering forest such that they can protect the landlords crops from being destroyed by vermins. The borrowers crop are therefore susceptible to vermin destruction. Muhereza (ibid) precisely puts it thus;

In this village also is a landowner whose idle ttaka is separated by a kisenyi (sandy soil) from the bush which harbours pests and vertebra pests like wild pigs and monkeys. The land is not particularly suitable for agriculture because the soils are dry and they get water logged during the dry season. Five former migrant labours of Burundi origin who failed to raise money to go back home way back in the 1960s borrow land for subsistence cultivation in this Kisenyi

³⁴ We are not saying evictions do not take place. There are those who are able to evict tenants. But when they do so more problems are created.

since they have failed to raise money for kibanja. The land owner decided to allow them to settle in the Kisenyi to guard against trespassers.... They clear the bush hence the kisenyi can not harbour pests. (Their) presence provides a 'human perimeter fence' which acts as 'a temporary buffer' against pests which would destroy the land owners crops (p.83)

In Masindi Landlords preferred tenants who are not indigenous to the area because they are easy to throw out. Cattle keepers were the most preferred because when evicting they would have no significant developments on the land. This meant that they would require less compensation during eviction. Having some visible developments on the land would also mean that the tenants would be in a better bargaining position when negotiating to stay (Bazara 1994). Similarly, Opyene (1992), reports a case in Apac where a former police officer who had acquired land lease bull-dozed the indigenous people and invited tenants from far because he felt it would be easier to extract rent from them.

Privatisation and Security Of Tenure

The argument forwarded by the efficiency view is that privatisation enhances security of tenure which in turn provides an incentive for investment in that land. This argument is ironical since as Shipton (1994) rightly argues, land titling may hike insecurity for some people. The Ugandan case has not been an exception. Therefore, care must be taken to scrutinise which interest group this security of tenure is meant to protect. In an interview held with an Assistant Chief Administrative Officer (ACAO) of Masaka district it was pointed out that land titling leads to security of tenure only when the title is genuinely acquired³⁵. Sometimes security of tenure may mean insecurity for others. If we are to understand how the expropriation of powers of land administration from the local elders and the subsequent attempts to privatise it led to insecurity for some categories, we have to refer again to some of the historical events already cited.

The Buganda agreement of 1900 which established private ownership, mainly benefitted the king, his relatives and church institutions who became private land owners while it overshadowed/or failed to define the interests of other groups. It therefore created a category of landlords who Mamdani (1996 p.141) refers to as *the first known Indian styled Landed Aristocrats in Africa*. The agreement completely disregarded the peasants who were to become tenants totally at the mercy of the landlords. The effects of this agreement are still felt today. The Mailo system it introduced, has posed perpetual controversy and misunderstanding (The Land Tenure Centre 1995). While the notables had their security consolidated peasants were subjected to perpetual insecurity.

³⁵ The respondent has worked as secretary to the Land Committee for 9 years. Some of his duties have been among others to administer applications for Land Registration and dealing with land disputes.

Ssenkumba (1993), notes that there were two beneficiaries to this agreement in Kalangala³⁶ viz the church and former chief. The church has over 200 acres which it acquired by displacing around 40 peasants. Peasants adjacent to the church are always under constant threat in case the church may want to expand. The church continues to be exploitative as any other landlord. About half of the tenants on the church land are indigenous people. The conditions to which they are subjected in order to qualify to remain on this land make their security of tenure fragile. Such conditions included among others (i) being married in the church and conduct themselves as good practising christians which meant paying tithe and other contributions whenever called upon (ii) whether the plot applied for will not be needed in the future and (iii) having a reputable background. Besides these initial conditions, tenants were also supposed to refrain from growing perennial crops, building permanent houses and donating or selling the land. Whenever the church came with a project it could easily take any land without notice or compensation;

Another policy that had significant impact on land distribution and security of tenure was the 1975 Land Reform Decree³⁷ which aggravated some of the problems created by earlier policies. Governments that came after the declaration of the decree lacked enough information on the implications of the reform decree on agricultural development (Agricultural Task Force Programme cited by Agricultural Policy Committee 1993). The MISR and LTC study (cited in Agricultural Policy Committee Report 1993) points out some of the problems created by the reform decree viz; (a) it made people susceptible to evictions with no other alternatives open to them (b) vested powers over the control of land into the state which culminated into state agents grabbing land without compensation (c) it failed to define who should put the land to better use on mailo land; is it the land owner or the tenant? This created unworkable deadlock (d) it interfered in the land market because it did not allow progressive farmers easy accessibility to land ³⁸ (e) it increased the cost of administration through periodic renewal of leases.

Where mailo land tenure system operates the 1975 land reform decree weakened the position of tenants since it invalidated the *Envujjo and Busulu* laws of 1928 that initially protected their interests (Kisamba-Mugerwa 1991). Although in theory it sought to weaken the position of the landlords by abolishing the Envujjo and Busulu rents it rather made them more powerful. For instance, the tenants had been given legal protection by the 1969 Public Lands

³⁶ Kalangala district is one of the Islands on lake Victoria.

³⁷ The provisions of the decree are already discussed in chapter 3.

³⁸ We have reservations regarding this view ie. progressive farmers are not clearly defined, experience with other studies as we shall later see indicate that most of the potential buyers are not necessarily farmers.

Act. This protection was waved away by putting control of public lands under control of the state with no individual having more than the leasehold (Kasfir 1985). The status of tenants was reduced to that of sufferance liable to be evicted at short notice at the discretion of the landlord with no assurance of resettlements (Sempebwa cited by Kasfir 1985, Ssenkumba 1993). Ssenkumba (1993), puts it precisely that the decree removed whatever security the tenants had acquired by 1969³⁹ and opened way for speculators disguised as *developers*⁴⁰. In his study in Kalangala, he notes that out of the 18 applications launched with the district land commission for a leasehold only one was granted and to a prominent businessman from Kampala (the capital city) who wanted to erect a resort complex covering about 153 acres. Granting such lease title meant displacing a number of families.

In another study, (Kafureka 1992) a similar situation was reported in Mbarara where one landlord on the pretext of developing his land brutally evicted around 100 households occupying around 780 acres in 1988. The tenants were given just 30 days to harvest their crops. Some of the tenants refused to vacate claiming that they had paid tribute to the king.

The 1975 decree was meant to address the inefficiencies caused by land fragmentation which as it was argued blocked effective utilisation of land. The new developers were therefore to consolidate their land and those lease holders who would fail to develop their plots were to relinquish them to potential developers. Kasfir (1985), notes that customary tenants in Mbarara and Bushenyi were being ousted upon six months notice by those applying for a leasehold. The ACAO of Masaka acknowledged that some of the evictions are illegally executed. He noted that some tenants are not informed, while in other cases applicants manipulate surveyors and enclose more land than they applied for.

In situations of high inflation and political turmoil when investment in other assets was risky, acquisition of land as a real asset remained one of safest investments especially so when it involved title registration (Kasfir 1985, Bazaara 1994). Besides the only costs to be incurred were only those of surveying which the poor could still not afford. The rich on the other hand who found this cheap, started to grab land from the poor. The former took advantage of being accessible to the land Commission and took advantage of the land reform decree that emphasised land consolidation and titling for development reasons. It should be noted that the beneficiaries of such grabbing were not necessarily prospective farmers but rather the rich who wanted the land for speculative reasons and were considered to have *proven capacity to develop* that land. On the other hand the poor did not have enough resources to meet the cost

³⁹ The 1969 Lands Act permitted customary tenants to acquire titles if they so wished. However, majority had failed to do so due to high fees that were charged for Registration. Besides it was provided that the land commission had no authority to grant land title/lease without the permission of the holders.

⁴⁰ The decree provides that those with land undeveloped Should give way for potential developers.

of registration. Having the land surveyed meant transporting the members of the land commission and the surveyors to the site and providing them with lunch. A study by Roth et al (1993), in Rukungiri⁴¹ reveals that although some farmers were aware of the benefits of land registration, they had not registered because they found the procedure too complex and costly. This is also confirmed by the ACAO who admits that in Masaka district, poor people especially those far from town can not have their land registered because of the problems mentioned above. Failure to have their land registered puts them in a vulnerable position in sense that rich neighbours and sometimes relatives can easily enclose their land. Mamdani (1996), summarises the problem thus;

The impact of customary relations on accumulation was contradictory. Inasmuch as it restricted access to strangers and accumulation by them, the customary facilitated the same kith and kin. Take for example the land reform decree introduced by Amini regime in Uganda. Claiming to reform the customary in the interests of development the decree introduced leasehold tenure for those pursuing development, a claim that had to be to be ratified by the district land committees usually made of local notables. The result was a mishmash of customary and leasehold: leases could be granted on large tracts of land, even hundreds of acres, to those who could establish a customary link to the land in question! With a customarily limited access substituting for a market transactions, the land title was a usurpation for the peasants displaced from it and a steal for the new owner (p.169)

Insecurity of tenure for the poor due to privatisation was also evident in the famous *Ankole Masaka-Ranching scheme*. This was a scheme started by government in attempt to modernise pastoralism. The project started as early as 1963 being financed by USAID and World Bank. Areas to be occupied by the ranches were demarcated, infrastructure was laid and an allocation committee was erected which was supposed to scrutinise the applicants before allocating them ranches. Applicants ranged from individuals, cooperative societies, unions and organisations (both government and non-government) which met some of the set conditions which included inter alia; citizenship of Uganda, sound educational and financial background and reasonable experience in cattle rearing (see Kamugisha and Stahl 1993). The average size of each ranch was to be 1300 hectares. By 1975 ranches covering a total land area of about 64700 hectares had been allocated. Kisamba-Mugerwa (cited in Kamugisha and Stahl 1993) points out that the scheme had an economic rationale which precipitated private ranching that led to self-sufficiency in beef production. Karikawe (cited by Kamugisha et al), adds that there were few people who were displaced as a result of ranching and that those few were easily compensated. However, the two underestimated the problem as other studies indicate⁴² and

⁴¹ Rukungiri was one of the areas under the Pilot Registration Scheme which is discussed will be discussed later.

⁴² There were indigenous cattle keepers of Bahima and Banyarwanda who grazed their animals on these areas. They were forced to become wage labourers on the ranches which enabled them to keep their own animals.

the fact the problem manifested itself later when as we shall that a conflict emerged between the ranchers and squatters.

Lofchie and Doornbos (1973), noted some of the controversies in the selection criteria based on the possibility that highly placed politicians and administrators would use their position to acquire the ranches. This would be contrary to the ruling that the ranches were to be awarded only to resident owners. Related to that was the dilemma of deciding whether the ranchers were to be residents or not. It was eventually resolved that absentee ranchers were to be non residents to cater for the interests of the politicians and the bureaucrats. Little wonder then, that of the first forty awarded it was possible that about fifteen would be awarded on absentee basis; an aspect that was to grossly undermine the gradual education and modernisation of ranchers as had been recommended by Gregory report (*ibid*).

Establishment of these ranches created some problems that were further worsened by the political crisis at that time. First, pasture land was fenced up by private individuals without due respect to the indigenous cattle keepers who had depended on this land for grazing their animals. They did not qualify to become ranchers because of the too demanding conditions. Worse still, they were not resettled anywhere. They still remained on the land without any usufruct rights to that land. They were forced to become wage labourers/squatters⁴³ on these ranches. In this case privatisation of this land put this category of people in a more vulnerable situation. Secondly, the situation worsened during the Amin's regime when the few areas that had remained for the marginalised groups were further leased. Thirdly, this was further aggravated by the 1979 liberation war which led to the destruction of some of the ranches and infiltration of more people who established their settlements there. This meant that there were now more squatters on the ranches than before. Fourthly, during the second Obote 2 regime in the 1980s, those who had occupied these ranches were chased out at short notice without any compensation on the pretext of reserving the area as a National Park (Kafureka 1992, Kasfir 1985). Fifthly, the 1984-1986 NRM skirmishes were to lead to further influx of people from Luwero triangle into the ranches to take refuge. Some of them were pastoralists who moved along with their animals.

By the time NRM took power ranches were full of squatters who started conflicting with the ranchers over grazing grounds, ranchers accused them of transmitting animal diseases and stealing grass. These conflicts came to the peak between 1991 when the squatters started killing animals belonging to the ranchers being instigated by the army officers-including the then minister of defence (Kafureka 1992). The government had to intervene by rebuking the minister and was in a fix of trying to set up a committee to restructure the ranches. Elsewhere

⁴³ Squatters in this case will refer to those who use without the consent of the landowner.

in Masindi, Bazaara (1994), cites a similar situation where modernisation ranches covering about 43218 hectares led to the eviction of many peasants, some not even being compensated. Like those of Ankole-Masaka, beneficiaries in Masindi were mainly political agents.

From the foregoing account it can be deduced that land titling enhanced land grabbing in several forms viz; (i) through legal force whereby the rich take advantage of state policies to marginalise the poor (ii) through the kinship systems where bureaucrats, soldiers and petty bourgeoisie use and later on sideline relatives to enclose their (relatives') land (iii) through corrupting the land commission and surveyors to register and survey land in the names of illegitimate owners (iv) through deliberate force/grabbing mainly by those who had strong political connections which was more so during Amin and Obote 2 regimes (Kafureka 1992, Bazaara 1994 Kasfir 1985). The following excerpt from Bazzara (ibid) about what was happening in Masindi demonstrates this clearly;

Before the NRM Government came to power the army men used naked force to enclose the land settled by peasants or the commons. Examples of forced evictions were found in the dispute file. In 1978, sixteen peasants signed a petition to the District Commissioner, North Bunyoro complaining " we people of Titi hereby present our problems to you concerning land disputes. We are 23 men with families and a man called Abdallah has fenced us with barbed wires. Our major fear is that where shall we go. We have been in this area since 1965". In an earlier dispute one individual informed the Land Commission, "I was one of the sad victims of the former Second Commanding Officer in Masindi Artillery regiment by the name Major...In 1975 (he) was on rampage chasing land occupants in Kigumba area.....at gunpoint".(1994 p.38-39)

Another most recent case evidence is from the local gazette; New Vision of 2nd August 1996 where the sub heading goes *Major Evicts Families;*

Over 50 families in the three villages of Bukomansimbi county in Masaka district are threatened with eviction from their land after a UPDF Air Force Major, who bought it in 1990 fenced it off to set up a farm. The affected (my emphasis)...have only been given verbal notices.

The distribution of lease/title deeds in Apac and Lira between 1976 and 1991 indicates that the majority of the holders were those with strong political connection as table 3 shows. A big portion of the land (more than 50%) is in the hands of non-cultivators most of whom are absentee landlords who are likely to have acquired it through some of the above means.

Table 3: Distribution Of Title Deed/Lease Offer Ownership By Occupation and Position, (Apac and Lira Districts) 1976-1991.

Position	Number	%
Member of parliament	363	15
Government Officials	381	15.7
Police/army personnel	315	13
Land Board Members	119	4.9
District council Members	121	5
Ambassadors	3	0.1
Former Chiefs	98	4
Cooperatives, Schools the Church and NGOs	120	4.9
Company Executives	7	0.3
Individual farmers and Traders	897	37.1
Total	2,425	100

Source Rural and Town Land Application Registration in Lira Land office in Opyene 1992.

Land grabbing creates insecurity of tenure which manifests itself in form of evictions and land conflicts as we shall see below.

Evictions

These occur as the land becomes more scarce and whenever the landlords feel that they want to use their land for other purposes. Evictions take different forms and justifications such as; (i) tenants being accused of stealing the land (ii) witchcraft (iii) charging impossible rent and

sometimes using brutal force. Although the 1975 land decree provided for compensation in case a tenant was to be evicted landlords would easily get away with it since tenancy agreements were at times not documented (Bazaara 1994, Muhereza 1994). Realising their position as insecure tenants adopt varying coping mechanisms. However, this also depends on the strata since the peasantry are also differentiated. Bazaara (ibid) notes such differences; the rich tenants work hard to produce more, so as to demonstrate signs of development that can make eviction difficult. This they do by planting perennial crops like coffee and banana plantains; and clearing more land. On the other hand the poor peasants are scared of attracting evictors. They therefore minimise their cultivation because they feel insecure. Evictions inevitably lead to land conflicts as we shall see below.

Land Conflicts

We have already indicated that there is an unequal distribution of land. Such inequalities inevitably lead to conflicts. Land conflicts have increased of recent. Some of the disputes have been reported in the media. For instance the *Financial Times of 8th October 1989* reported such clashes in Mukono and *Weekly Topic of August 1991* reported a case where peasants took up arms against grabbers (all cited in Opyene 1994). The most recent being the report in *New Vision Of 2nd August 1996* (Already referred to in this text). Opyene (1994), notes that in 1986, 1988 and 1991 there were twenty six, nine and fifty nine disputes respectively recorded in Apac district alone. Another example are those related to the ranching schemes already referred to.

Land conflicts vary from area to area. In areas where mailo land is common and landlordism is the order of the day, conflicts are mainly between the landlord and the tenants or the landlords and squatters. In such cases evictions without compensation may be one of the causes of the conflicts. In other areas conflicts may also occur between family members as a result of inheritance wrangle or selling of land that may not be approved by other family members, land grabbing and fencing of commons by individuals, digging across boundaries, and conflicts between cultivators and cattle keepers. Kafureka (1992), and Mamdani (1992), note that land conflicts tend to intensify when customary and communal land rights are eroded and replaced by individual claims.

Some land conflicts are politically agitated. Political forces may generate conflicts and to a lesser extent resolve them. During the bad regimes grabbing of land was tense and brutal such that victims offered less resistance. However, the NRM regime which combined elements of democracy, populism, and advocacy the interest of the grassroots; a government that started by politicising the civilians about their rights was bound to rejuvenate grievances caused by the former regimes. Kafureka (ibid), notes that in Mbarara district conflicts intensified from the year 1988 because people were convinced that this was a government that would redress their problems. Besides, RC courts which are more accessible than the magistrate courts, have

been established to deal with matters of civil nature including land conflicts. Although they have their own limits, RCs provide better avenues for litigation especially for the poor.

Land conflicts are expressed in different forms inter alia; evictions, destruction of crops, fencing land (which may be followed by destruction of the fence by the losers), grazing crops, stealing titles/agreements, witchcraft (Bazaara 1994, Muhereza 1994 and Kafureka 1992) and sometimes result in grievous bodily harm (Kigula 1993).

In some instances the aggrieved rise against the common enemy in a group. Such cooperation was evident in the village where I was brought up. In early 1930s wolfram was discovered in the village and a man from Cyprus started mining. He obtained a mining lease from the government which gave him entitlement to the ore not the land. People were to continue cultivating their land as long as they avoided dangerous premises of the mine. Besides, some of the people became employed in the mine which made it difficult for them to complain about some of the land that was being degraded.

In 1975 the mine was sold to a business man from Kisoro town who had no experience in mining. He gradually mismanaged the business and mining stopped. Now that there was no more mining people wanted back their land. The businessman silently went to the lands office manipulated the Land Commission and changed the mining lease to a land lease as provided by the 1975 land decree. He had this land surveyed and fenced up the area and evicted around 100 households. This marked the beginning of a serious conflict that has remained to this day. The evicted peasants joined hands and opened a case against the grabber. Unfortunately the latter had an upper hand because he had enough money to influence the court. The matter worsened when the case was referred to high court in Kabale where the poor peasants could not easily reach. They started making contributions to facilitate their transportation and accommodation of their representatives. This was unsustainable because some people started withdrawing. Failing to defeat him in court peasants resorted to violence like uprooting his crops and threatening to kill him which has made it difficult for him to carry out meaningful farming on the land.

Privatisation and Security of Tenure for Women

Shipton (1994), observes that individual titling does not protect the previously disadvantaged groups like women and pastoralists but rather tends to worsen their condition. In Uganda, women are among those most affected by land registration. According to tradition in most parts of Uganda women don't inherit land from their fathers' lineage since they join another family where they will have partial rights in relation to property and more specifically land. The assumption is that all women will be married and will be properly catered for when they get married. However, as societies changed possibilities of some women getting married

diminished, divorce cases started increasing and pre-marital pregnancies also increased. All these led to emergence of women headed-households who survive at the mercy of their fathers or brothers (Okumu-Wengi 1996). Within a tradition that does not allow women to inherit land, the majority of those in the above categories face constraints in terms of accessibility to land and yet it may be the only most viable means of obtaining food. For instance, a study carried out in Apac indicated that 58% of women headed households were landless (Opyene 1992). While in Kabale another study showed that while 93% of males were accessible to land only 32% of females were (Okumu-Wengi 1996). On the average women control only 16.3% of the farm holdings in Uganda while the men control the remaining 83.7% (ibid).

Even when women headed households acquire land still the element of patriarchy still dominates. For instance, Bazaara (1994), noted that in Masindi women who acquired land passed it on to their sons not their daughters. Similar findings were reported in Okumu-Wengi and Kyasimire (1996). This puts their daughters in precarious situations. Findings by Sebina (1995) in the study she carried out in Mpigi, Mbale, Kabarole and Lira districts revealed that more of the respondents (women and men) preferred male heirs as table 4 shows.

Table 4: Intended Heirs Between Husbands and Relatives

	Husbands	Wives ⁴⁴
Sons	75%	33%
Daughters	12%	24%
Wife	4%	-
Husbands/wives/childre/Br	2%	10%
other	4%	33%
Other	2%	10%

Source: Abby Sebina-Ziwa; Gender Perspectives On Land Ownership And Inheritance In Uganda: (1995 p.42 of the draft report).

The situation is worse with the divorced women. As land becomes scarce women's possibility of acquiring land from their parents has diminished and the only option remaining is to purchase land. Bazaara (ibid), noted that most of the women in Masindi were not able to raise money to purchase land. Even within male-headed households land accessibility to women has been diminishing. For instance, in the pre-colonial Buganda women had exclusive rights to

⁴⁴ Refers to only those women who had personal land.

both land and its produce. It was also the responsibility of the men to ensure that the family had enough food (Sebina 1995). Land access to women started diminishing when the colonial government introduced land laws which put the control of land into the hands of men. Both colonial and post colonial government policies legislated against women. For instance, the Buganda Agreement allocated land on the basis of patriarchy in Buganda, whereas in Kingdom areas of Ankole and Toro free hold titles were issued to men without due respect to women (Okumu-Wengi 1996). When cash crop economy was introduced men gained more interest in land because they were more concerned about cash crop production which they allocated the best land. This led to more constraints on production of food by women. Policies which emphasised privatisation of land alienated women from the commons like water sources and forests for fuel wood. This meant women had to travel longer distances to obtain these things.

Particular reference to inheritance legislation will indicate discrimination against women. For example, section 3 of The Succession (amendment) Decree 1972 (cited in Okumu-Wengi 1996), prefers the nomination of male heir. Okumu-Wengi and Kyasimire (1996), examined some wills probated in the high court which showed indicated that a study of 50% of such wills indicated that only 10% bequeathed their property through their wives in trust of their children. While 90% bequeathed through their children who are assumed to take care of their mothers. Of these only 40% had neutral distribution and 60% preferred male children. Sometimes on death, the land is divided among sons or at least male relatives if there are no sons. Even where women are allowed some little bit of inheritance, they may be given land of less value like grave yards in the case of Buganda (ibid). In most cases such land is resented by buyers.

The question of land being accessible to women is also relative. Bazaara (1994) and Muhereza (1994), have noted that this accessibility has been unequal even among women-headed households. Muhereza (1994) notes that in Luwero under the Mailo tenure system concubines of the former kings and chiefs acquired some amount of land through their sons.

When it comes to land titling women are excluded even when the land belongs to the family. Titles are registered in the husbands' names and sometimes women may not know that their household has a land title. Sometimes the titles are kept with relatives so that they are not accessible to the women in case of death of the husbands (Sebina 1995). Sebina (ibid), in her research indicates that 81% (n=239) of the men respondents felt that legal papers concerning land should be kept by the husbands even when the whole land belongs to the whole family. The idea of legal papers the being inaccessible to the woman has serious implications in that when the husband dies or in case of divorce the woman will have no share on that land. Therefore, it is misleading to think that a woman has security of tenure because she is married

to a man who possesses a land title. It also means they will not be entitled to the benefits enjoyed by the title holders like using the titles to get bank loans which can enable them to improve their productivity, that is in case such possibilities are there.

Another way through which women can get land is through purchasing the land by themselves. This is hardly possible because they are constrained by illiteracy and lack of finance. Even when they purchase the land together with their husbands or by themselves, men are likely to be the ones to effect the transactions and when they do so they are likely to register the land only in their names excluding their wives (Okumu-Wengi and Kayasimire 1996).

Concluding from the foregoing discussions, it is clear that the arguments advanced by efficiency perspective regarding the African tenure systems and tenure security are misconceived and misrepresented. The argument that African tenure systems pose insecurity to farmers is baseless. On the contrary, there is evidence (from Uganda and elsewhere in Africa) to show that land titling which the efficiency view recommends, has been the main cause of insecurity to the vulnerable groups. Uchendu (cited in Bruce 1986) notes that in traditional African economics, the security of rights in land is guaranteed and protected by the very principle under which the initial rights were acquired. As long the social relations which give rights in land are preserved the question of insecurity in land does not arise. Bruce (1993) and Atwood (1990), recognise that there are individual rights under customary tenure. They have further argued that customary tenure avoids problems of absentee landlords which make the land redundant. Its only when such customary rights are eroded without being replaced by any effective measure that the insecurity will set in.

Privatisation and Land Markets in Uganda

As already indicated, the conventional argument has been that registration/privatisation of land facilitates transfer of land resources from inefficient to efficient farmers. The traditional tenure systems and practices like communal ownership and inheritance are seen as constraints to land transactions which in turn denies potential producers access to land. It is therefore necessary for us to elaborate a bit on the dynamics of the land market in Uganda to see whether they reflect the above claims.

Trout et al (1993), express a fear that land fragmentation is intensifying in Uganda due to the increasing population. Similarly, the Agricultural Policy Committee (1993), observes that inheritance and fragmentation are a disease of the land tenure system. Both views prophesy that if unchecked fragmentation will lead to inefficiencies in production. To them, market efficiency in land transaction would be the best remedy. Their argument is on the basis that availability of land markets will minimise problems created by inheritance (which ranks first as the main way of getting land as noted by Trout et al 1993) characterised by sub-dividing the land since, instead of sub-dividing, some of the heirs can buy land elsewhere. This presumes that they can afford to buy from areas where it is plentiful.

The question of land markets remains intricate due to the complex tenure systems. The nature of markets may vary from region to region. The central region has been noted as having a developed land market than elsewhere. This has been attributed to high population density and high level of commercialisation (Trout et al 1993, World Bank Mission to Uganda cited in the Agricultural committee Report 1993). However, this claim needs careful consideration since it is the same region with a problematic tenure system. For instance, as land markets developed people sometimes purchase land from tenant holders who claim to be the rightful owners. The buyers may be disappointed when the rightful owners (ie the Mailo owners) emerge. In the central region, one can not be sure when he purchases land since it is possible to purchase what is locally called *empewo*⁴⁵. This problem emerges more especially when the mailo owners are absentee landlords residing in towns and may not have any desire to invest in the land. They leave the land to squatters and tenants who do whatever they want with it including selling. The ACAO Masaka district pointed out this problem was common among the land conflicts he handled. Trout et al (1993), note that tenanted land has low value when it comes to marketing due to the confusions involved. They however add that if the buyers are tenants on that land the likelihood of risks and conflicts is reduced. Here people tend to avoid buying tenanted land because it may require compensation and evictions before the land is effectively put to use (ibid). Some landlords may not wish to part with their tenanted land because of prestigious reasons. It becomes difficult for them to sell their full ownership rights that may lead them to surrender their land title (if they have) to the buyer. This kind of attitude makes it difficult for tenants to acquire full ownership rights in form of

⁴⁵ Buying *empewo* literally means buying air. Therefore when one buys land from tenant holders who are not the rightful owners they have bought *empewo* since they can be thrown out when the real owners come.

title. Trout et al (1993), pointed out that the problem is further aggravated by the costs that may be involved in transferring the land title to the buyer.

Trout et al (1993), indicated that outside the central region, purchase of land was second after inheritance in terms of accessibility to land. The tenancy (Kibanja) on public land was the most transacted and the conclusion drawn was that people associated more security of tenure on public land.

In some rural areas there may be land for sale but no buyers. This is more so in areas where there is still plenty of land. In areas of scarcity people may not even be willing to part with their land. Trout et al (ibid), noted that supply conditions were stringent in highly populated districts of Kabale, Mbale, Masaka and Rakai. There are several reasons for sale; (i) stress like illness and problems of school fees (ii) the land being so big or too small (iii) land lords may sell to tenants due to failures to evict them and (iv) sometimes some are bought off by the rich neighbours who may wish to expand their land (Trout et al 1993, Bazaara 1994, Kasfir 1985, Mamdani 1992). Others may sell the land because they find it unproductive so that they can use the money to purchase land elsewhere.

Land markets may lead to landlessness especially if the sellers have no land remaining (see Ocan 1994 the case of Karamoja, Kasfir 1985). There are other problems associated with or which can constrain the operation of land markets like (i) refusal to sell to outsiders (ii) the need to first consult the relatives/elders/RC officials (iii) high transaction costs (iv) consent of mailo owners/tenants (v) compensation of tenants especially on mailo land⁴⁶ (v) land scarcity in some places and lack of effective demand in others. These constraints are regardless of whether the land is titled or not. There is no empirical justification that titles facilitate easy marketability of land.

The question of land markets should be treated with much caution since potential buyers may not be prospective farmers, or sellers sell out of distress only to become landless with no other alternative as Bazaara (1994) notes. Even with the legal framework that is supposed to be the custodian of the security of tenure and facilitate easy transferability through the markets, customary constraints still prevail. For instance in Masaka a man who owned a big chunk of

⁴⁶ This is more so in the central region where about 60% of the land is tenanted (see Trout et al 1993).

titled land died. In his will he had indicated that the principle heir was his son while his brother was supposed to be the principle executor of that land. The boy was not interested in farming and wanted to sell the land. However, the uncle could not allow him because he saw no reason as to why he was to sell the land. The boy went to stay in town and the land remained uncultivated⁴⁷. This experience shows that even with titled land, customary constraints can still hinder easy transfer.

Related to the above is the argument that land registration will minimise fragmentation caused by inheritance by facilitating land markets such that some of the heirs instead of sub-dividing will buy land elsewhere which in turn minimises land fragmentation. However, some of these arguments are not substantiated by empirical evidence. For instance, the discussion I had with the ACAO Masaka indicates titling does not necessarily rule out fragmentation. He pointed out cases which he had presided over that involved dividing titled land between sons.

It is also a misconception to assume that land markets transfer land from inefficient to efficient farmers. Sometimes, if not always, potential buyers are not necessarily progressive farmers. There are those who buy for speculation or for the sake of using the land title to get loans to invest in other businesses. In a related observation Binswanger et al (1993) note;

Land is often preferred as a source of wealth, so with imperfect inter temporal markets the utility derived from landownership will exceed the utility derived from farm profits. Its mobility makes land a preferred form of collateral in credit markets which confers additional utility from land ownership especially in an environment whereby production risk cannot be insured.....therefore in periods of macro-economic instability non agricultural investors may use land as asset to hedge against inflation so that an inflation premium is incorporated in the real land price. If the expected inflation is fully in interest rates the inflation alone will not affect agricultural land prices. But if inflation is higher than the expected interest rates and if land is perceived to be no riskier than the alternative assets, excess demand for land will increase the price of land as a speculative asset (P:50..53)

In Uganda, Kasfir (1985) similarly notes that during the political crisis in the 1970s and 1980s when there was a lot of plundering and high rate of inflation people preferred to invest in land as the only most secure and speculative asset respectively.

⁴⁷ Evidence derived from the discussion with the ACAO Masaka district. The case referred to was among the many land cases that he handled.

Privatisation, Investment and Production

The proponents of the efficiency view maintain that freehold tenure offers the most favourable environment for agricultural investment. As already pointed out, the basic assumption is that land registration brings about the necessary security for producers to obtain credit and manage their resources more efficiently and effectively (Bruce 1993). The World Bank Mission to Uganda (1955), held a similar view based on the misconception that the creation of private mailo ownership of land in Buganda sparked off development in the region, by inter alia leading to development of a land market which discouraged subsistence production in favour of commercial agricultural production (cited in the Agricultural Committee Report 1987). Similarly, Munster (cited in *ibid*) argued that private freehold was a blessing in disguise since it abolished the retrogressive customs and created a foundation for a sound land policy. Nsibambi (1990), reinforces this argument and recommends that individualisation of land should continue to flourish because it provides important incentives for economic development.

These arguments supporting titling as a conducive factor for investment and production have certain connotations; (i) essentially presupposed that privatisation of land leads to commercialisation of agriculture which may not be the case (ii) ignores the distributional aspects characterised by a creation of a landless class that is forced into exploitative wage labour (iii) they hold the misnomer that the benefits of privatisation like increased production (if it is there anyway) will trickle down for the benefit of all. In the next account we shall consider whether such claims were realistic.

The above assumptions mean that more land would be put to use under privatisation. However, critical analysis indicates that this has not been the case. Although agriculture is the backbone of Uganda's economy, 2/3 (72%) of the arable land is not being cultivated (FAO cited in Burton and Wamai 1994). This is not to suggest that there is no land crisis as Hyden (1980) maintains. The problem at stake is that whereas some areas are heavily populated characterised by overuse of land, in other areas land is under utilised not necessarily because there are less people but because it is unequally distributed. Land is in few hands and mainly in the hands of non-users. There are also areas where land is still plentiful. Attempts to resettle people from highly populated areas to sparsely populated areas have been futile due to ethnic, human and animal health hazards and lack of infrastructure such as roads and water in such areas (Burton and Wamai 1994).

Some have argued that customary tenure poses development constraints (Nsibambi 1990, Misr-Winsconsin 1989, Kiapi 1975, Makubuya 1975). They argue that collective ownership of land leads to insecurity of tenure which makes it impossible to secure loans from the commercial banks; Nsibambi notes;

Legal arrangements must be made to enable a peasant to present his land held under customary tenure as a collateral, against which a reasonable loan can be procured from the Cooperative Bank. It may for example be necessary to register land held under customary tenure so that the owner of that land may receive a certificate of ownership for a specified period of time (1990 p.89)

In the previous section we indicated that land titling may not necessarily lead to security of tenure. It raises the question about whose security of tenure and under what circumstances. Even then, assuming that there is a guarantee of security of tenure for the few lease/title holders does this security always generate increased investment and productivity? To be able to understand this more fully we need to re-examine our earlier discussion on the administration of land titles. We realised that in most cases it is the rich, bureaucrats, with strong political connections who acquired the titles/leases. The next question is what happens next? do they go ahead to utilise these titles for effective and efficient agricultural production that can justify the cause of displacing many peasants/tenants?

We indicated that with *progressive ranchers* schemes, governments in power awarded ranches to political supporters irrespective of whether they had farming interests or not. Bazaara (1994), also notes that centralisation of power over land matters weakened the position of the district land boards escalating in a situation whereby bureaucrats nation wide started grabbing land from Masindi creating a serious problem of absentee landlords. He rightly notes that modernisation schemes became *spheres of influence* rather than *spheres of production* (p.34). Besides awarding them the land, government also paid heavily in subsidising the inputs and international capital for these farms. However, it was noted this did not materialise as some of the ranches became inefficient after government incurring a lot of expenses.

It has also been noted that title holders may sometimes use their titles to acquire loans but may invest it in non-agricultural ventures like business and transport which appear more lucrative than agriculture (Kafureka 1992, Mamdani 1992, Muhereza 1994, Bazaara 1994). The Mugerwa commission (cited in Bazaara 1994) noted that those allocated ranches were not progressive farmers as the preconditions required but mere *telephone* or *absentee ranchers* (p.51). Even those who were progressive farmers and took up farming seriously it was not always sustainable due to changes in government regimes that posed constant insecurity. There were some instances where land would be grabbed by those in power regardless of whether there was a title or not. Some of the title holders who had strong political connections abandoned their land and went to exile when regimes changed. Besides, in some instances disputed plots could not be easily developed despite the owners having titles. Sometimes evicted tenants posed as threats to title holders. In other instances court injunctions were issued prohibiting the use of land until the dispute is finally settled (Kigula 1993).

Another illusion is to assume that mere land titling can facilitate loan accessibility. Bazaara (1994) and Mamdani (1992), share the view that Banks do not simply lend out money. There are other factors to consider such as where the land is allocated so that in case of default that land can easily be sold off. Banks are also sometimes reluctant to provide loans if there are conflicts on the land that is offered as a collateral. This is because of the doubt of assurance to dispose off the conflicted land in case of default. This problem was observed on the tenanted mailo land (see for instance Trout et al 1993). Although in theory the mailo owner possesses the right to mortgage the land, in practice it becomes difficult to exercise this right on tenanted land. Neither formal nor informal lending institutions are willing to accept tenanted land as collateral. Because of the realisation that in case of default, disposing off the collateral would be problematic since it would involve compensation of the tenants on that land.

Loan accessibility sometimes also depends on whether the loanee is able to bribe his way through to get the loan (Bazaara 1994). As Bruce (1986) and Binswanger (1993) rightly observe, banks may have other considerations like the reputation of the loanee⁴⁸, his other sources of income and whether it is cost effective to execute such loans. Binswanger notes that commercial banks are reluctant to lend to small farmers because they cannot make profit. In a related incident Nabuguzi (1993), notes that in Busoga small farmers could not easily obtain loans because banks found it uneconomical to administer small loans. This is worsened by insufficient banking institutions in rural areas. It should be noted therefore that even if there were some title holders who wanted loans all these problems pose serious constraints for them to acquire them. Similarly, findings of Roth et al (1993) in Rukungiri also support some of these views as will be in the paragraphs ahead.

Loan to farmers are also constrained by the prevailing market conditions. Even when loans are easily accessible there is sometimes a problem of the failure to market the agricultural output by farmers. For instance, unsteady marketing outlets has been one of the constraints of the UCB run rural farmers scheme. The scheme found it inevitable to diversify its operations to include other income generating activities (Uganda Commercial Bank Rural Farmers Scheme Quarterly Report 1992). In such instances, as Bruce (1986) rightly observes, loans themselves may be a source of insecurity since money lenders may use mortgages to deprive the poor small holders of their land.

Following the recommendations of the East African Royal Commission the colonial government instituted a pilot Land registration scheme in Rujumbura in the then Kigezi district in 1959. Roth and others carried out a study beginning with 1987, (whose report was out in 1993) to investigate on the relationship between land registration and farm investment.

⁴⁸ This is more so especially when there are some people who know the loanee in the bank.

They note negligible effect of land registration on credit procurement from commercial banks. Although there was positive relationship between certain investments and land registration which according to their own analysis demonstrated demand side effect and enhanced tenure security. They argue that the few investments accrued from the security of tenure.

Rujumbura county was the first to be targeted under the 1955 land tenure proposals (see Roth et al 1993) which later came to be called the Rujumbura Pilot Land Registration scheme. The scheme inter alia aimed at providing information on the techniques of adjudication, survey and registration as well as the cost of converting customary rights to freehold title. The research found that credit use was very low and mainly depended on informal sources rather than commercial and cooperative banks and was used for non farm use. For instance, of those who borrowed money, 27% used it for education, 53% for non farm activities, 13% farming and 7% for ceremonies. One of the fears expressed by the farmers to justify for the low use of credit was loss of their land in case they failed to pay back the loans.

Effects of Land Privatisation on Common Property Resource Users and the Environment

As already indicated, in most of the third world countries policies about environmental conservation and sustainable development have until recently been greatly influenced by western designed models; models which tend to disregard and dismantle the positive aspects of local environmental conservation. One of the most attacked being the common property ownership. This kind of thinking has been influenced by the famous *tragedy of the commons* argument (Hardin 1968) as we indicated. The argument suggests that commons must be protected from being overused or misused. This can be done in two ways; one to privatise them since the owners will take care when using the resources; two to restrict entry into the commons through licensing those who may wish to use them⁴⁹. These aspects have been realised in Uganda where government policies have emphasized privatisation of common property including pasturelands and wetlands. Although it is not the main concern of this paper to discuss broadly the environmental problems, it becomes relevant to briefly consider the effect of such policies in relation to environment by focusing on some of the communities depending on communal pastures and wetlands.

Privatisation of land affects the poor by limiting them from keeping domestic animals like chicken, goats, sheep and cows. It may lead to fencing of land denying these people grazing sites. Yet keeping of such animals is essential for the survival of the poor. Domestic animals not only supplement their food requirements but also their income. They serve as insurance against diseases and means to meet school fees for their children. Land enclosures can lead

⁴⁹ In some cases countries have nationalised commons in attempt to conserve natural resources as well as creating a potential for tourist attraction.

to reduction in the number of animals kept and probably more labour constraints because it will require instituting someone to look after the animals so that they do not destroy the crops. It can also lead to over crowding that culminates into serious degradation. Such problems have been documented in Some studies (Kafureka 1992, Ocan 1994, Bazaara 1994, Kasfir 1985, Kisamba-Mugerwa 1992). Bazaara (ibid), for instance, shows that the victims of the enclosure started selling some of the food they would otherwise have consumed. Kasfir (1985), Kafureka (1992) and Kisamba-Mugerwa (1992), also indicate that leasing of pasture land has grossly affected nomads in Mbarara district. Kisamba-Mugerwa (1992), points out that conflicts have emerged as a result of immigrants, professionals, businessmen and politicians leasing large tracts of communal grazing land without adequate compensation to the pastoralists, the most hit being the Rwandan refugees and some local Bahima herders. For the former the situation worsened when a former minister of State in the presidents office in Obote II regime evicted them to create room for Lake Mburo National Park. Kisamba-Mugerwa (ibid), cites another similar case in Kasese where a minority group of Basongora pastoralists was marginalised by the re-activation of cotton industry by the Bakonjo mountain cultivators. Karamoja is a clear example where privatisation of land has not only affected the pastoralists way of survival but has also instigated an ecological crisis as will be seen next.

Effects Of Privatisation in Arid Pastoral Zones; The Case Of Karamoja

Karamoja is one of such areas where there is severe ecological crisis emanating from the marginalisation of the pastoralists. It is located in North Eastern Uganda. The district is regarded as one of the most backward districts where there is almost perpetual food crisis. It belongs to an arid ecological zone; probably one of the factors why the people of this area have been historically predominantly pastoralists.

Attempts by government and Non governmental organisations to develop this area have been futile. This has been largely due to their misconception of the problems of this area, misconceptions that influenced the policies that were adopted thereto. We note that the attempts to modernise this area instead of being effective tended to worsen the situation. It is important to consider some of the mechanisms that were in place before the external interferences.

Prior to the modernisation schemes, pastoralists in Karamoja had developed a pattern of life that responded to their environmental situations. Like any other pastoralists, they used mobility (transhumance) to adjust to seasonal variations. In the rainy season cattle disease incidence were common in the west. During the same period the grass tended to be tough and thus unsuitable for animals to feed on. Therefore, at the beginning of the dry season this grass would first be burnt to prepare it for grazing while the pastoralists moved to other places. However, this area was important in that it acted as a dry season reserve as its forage and

water potentials were relatively more reliable than elsewhere. Ocan (1992), notes that this area was always reserved for the harder times.

On the other hand the East grass would sprout immediately as the rains came but equally withered away as the rains stopped. Animals would be brought here immediately not only to catch up with the life span of the grass but also to avoid destruction of crops in central region. The central riverine areas had fertile black cotton soils that were ideal for agriculture. Few crops were grown though under difficult circumstances due to unreliable weather, to supplement the diet from animals (Ocan 1994). Pastoralists would return to this place after harvest tending towards the west where the grass, having been burnt would now be softer. The fire would also have helped to get rid of diseases and pests already mentioned (Ocan 1992). This cycle would continue on and on like that.

The kind of policies adopted for Karamoja by the respective governments have had at their forefront the privatisation of land. There has been attempts by government, non-governmental organisations to modernise pastoralists; attempts which have not only been futile, but also disruptive to the indigenous coping mechanisms.

The colonial government wanted to control the movement of people between regions. In doing so it introduced the idea of *district boundaries*. Pastoralists like the Karamajong who were heavily dependant on seasonal movements were negatively affected since this limited their movements.

Another policy worth considering was the attempt to *privatise common property* including communal grazing lands. As already pointed out, privatisation came out as a response to the recommendations of East African Royal commission in 1955 which emphasised individualisation of ownership of land. In areas where pastoralism was being practised, privatisation was a deliberate attempt to discourage it completely because it was considered to be uneconomic (Kisamba-Mugerwa 1991). The government advocated for ranching and settled agriculture especially on the western part of the district where water is relatively more available. Ocan (1991), notes that these were the same areas that would be reserved for grazing during the dry seasons. This meant that pastoralists were pushed to the drier east where they were to remain.

Prompted by the desire to conserve the wild life the government further marginalised the pastoralists by gazetting part of the area as *a national park* (Kidepo National Park) and *game reserves*. It was designated as a habitat for wild animals some which posed a threat to the Karamajong and their animals. Besides, the Karamajong were restricted from grazing in this area. Kisamba-Mugerwa (1991), notes that 25% of the total land area in Karamoja gazetted

as a park and a game reserve in addition to an other 25% lost during boundary allocation (see Mamdani 1992, 1996).

Beginning with 1940s the colonial government made attempts to shift the pastoralists to agriculture and permanent settlements. Dams were constructed to provide permanent water for settlers to discourage wandering. This never worked because their movement was a response to the nutritional nature of the grass in different areas during different seasons and to disease incidence. The colonial government was unable to accomplish this mission which was taken over by the post colonial governments.

Post independence governments also worked hard to consolidate and perpetuate the system. They aimed at a policy of marketisation by trying to commercialise pastoralism (Wabwire 1992). They blamed the pastoralists as being responsible for their problems, because they considered them to be conservative and hostile. For instance, the Bataringaya Commission refers to Karamaja as follows;

An area that differs from others in Uganda. It is primitive to the extreme and is occupied by people whose occupation is nomadic cattle herding. There are however an estimated 650,000 to 700,000 head of cattle and they provide the main source of supply oflow grade carcasses (The Bataringaya Report 1961, 2:35)

During 1970s, 70% of the people and their herds were to be uprooted from the eastern permanent settlements. With assistance from some NGOs and missionaries the western parts of Karamoja were turned into agricultural farms (Ocan 1994). A system of contract farmers was introduced and the rich Karamajong were the main beneficiaries. The poor were equally drawn to crop farming because they had lost their cattle. They alternatively provided labour to the rich farmers on unequal relations (see Mamdani 1992, Bazaara 1994, Muhereza 1994 and Opyene 1992).

It should be noted that the introduction of agriculture further restricted the cattle movement which in turn affected the traditional transhumance; this put further strain on the pasture land leading to overgrazing. Animal morbidity and mortality became common and despite lack of other options people were forced to sell some of their cows at low cost (ibid)- animals from which they had always derived their livelihood. In response to the crisis, war lords emerged and war raids for cattle intensified. Raids are carried out to provide food or at least increase chances of survival for those who have lost their cattle. In the 1979 coup some of the warlords acquired arms and ammunition which further weakened the state control and increased the lawlessness in the area that has persisted to this day. Also as a result of these raids some areas are seen as danger zones where people avoid to graze thus intensifying overgrazing in the same places.

Ocan notes that such restrictions aggravated conflicts between pastoralists and farmers unlike before where the two sometimes collaborated⁵⁰. Such conflicts included animals destroying some crops. This coupled with unreliable rainfall leads to decline in food production and subsequent food shortages. By 1970, capitalist farmers had fenced extensive areas which were later destroyed by the pastoralists due to the decline in the powers of the central state to control the area in the 1970's. But still the rich pastoralists had applied for leasehold and continued to marginalise the poor. Okudi notes that capitalist farmers introduced farming using tractors which intensified degradation further. By fencing off land capitalist farmers prohibited open access. They also started importing labour from other districts which intensified population pressure. Land thus became a crucial issue centering on the controversy between crop farming and pastoralism (Ocan 1994).

Privatisation and Ecological Crisis in Wet lands

Like the arid pastoral zones, wet lands have no better fate. They have been the most affected by privatisation of land. For instance, individualisation of land has intensified swamp reclamation in Eastern Uganda due to wet rice cultivation (Gariyo 1994, Nabuguzi 1993, Kizito and Nsubuga 1996, Ministry of Natural Resources 1994). In Kabale out of 48.5km², 27.05km² (55.5%) has been reclaimed. Land under leasehold is 391.2 km² (22.6%) of the total land area (MFEP Population and Housing Report 1991). Capitalist and businessmen grabbed some swampland to develop dairy farms, while the poor peasants were pushed to the marginal hill sides which are always dry. Movement along Kisoro road from Kabale will indicate that most of the swamps have been reclaimed. Mugisha (1991), found out that reclamation of swamps in Kabale deprived the poor people their access to fishing opportunities by which they usually supplemented their diet and incomes in addition to loss of access to fuel wood and building materials. Swamp reclamation led to changes in the micro-climate such as prolonged droughts and reduced rainfall amounts.

The crisis referred to above is a result of disintegration of the traditional institutions that formerly managed common property resources in the country. This stems from the fact that government policies (both colonial and post colonial) emphasised private management of natural resources and greatly discouraged common property regimes. This is clearly evident in attempts to lease public lands, modernise pastoralism and in some instances to replace pastoralism with agriculture as was the case of Karamoja. Further crisis was created when government gazetted some of these commons as game reserves and national parks, completely prohibiting people from use of such resources. Kisamba-Mugerwa (1996), sums up the whole problem thus:

⁵⁰ For instance the agro-pastoralists would allow the pure pastoralists to cross their territories during the dry seasons. Some of the animals of the agricultural group would be kept with the pastoralists.

In another related development, the creation of national parks and game reserves have taken up pastoral grazing areas and recently, national parks have been created covering forests..... all human activities other than those connected with the management or utilisation of wild life resources are strictly prohibited. All these areas covering national parks were formerly managed under common property regimes, by different ethnic groups. In case where forests were not put under the state they are now found on private mailo/freehold land, but with a few remnant stretches of forests under public tenure (customary tenure). In this regard the introduction of cash crops coupled with the individualisation policy of land under mailo/freehold, leases and a system of parcels of land holdings in any form of tenure here gradually reduced natural resources under common property regimes. In short, Uganda has never had a definite policy towards CPR. Instead, through its development and conservation policies together with land tenure policies in form of commercial ranches, in communal grazing area, demarcation of forest resources and national parks and games, the introduction of free hold/mailo and lease tenure systems the CPR have been negatively affected (p.4).

In the fore going chapter we have shown that land privatisation does not necessarily (1) lead to security of tenure (2) facilitate or enhance land markets (3) lead to more investment in agricultural production (4) lead to effective environmental conservation. The various cases cited are contrary to the provisions of the efficiency view and some how in line with the equity view. However, this analysis does not exhaustively provide for all the land problems in Uganda. Already in chapter 3 we showed how the series of land policies led to some complex tenure systems; systems that cannot be analysed using only the efficiency equity debate because some tenure systems in Uganda are neither fully private nor fully communal.

5. CONCLUSIONS: PRIVATIZATION, SECURITY OF TENURE AND FOOD PRODUCTION

This chapter is a synthesis of the earlier discussions. It brings together the research questions, the conceptual frameworks and the findings so as to come up with certain conclusions. Our main concern in the paper has been to examine the effects of privatization/registration of land on the security of tenure and how this subsequently affects agricultural production. We particularly focused on two controversial debates. On the one hand we had the neo classical rooted *efficiency perspective or the private property right paradigm* as Cornia (1994) calls it. We noted that among other things that it emphasizes that, indigenous tenure systems which pose constraints to agricultural development should be replaced with individual private property rights which can be realized through land titling/registration and land leases. On the other hand, we also considered the *equity view* which stresses that land titling may not necessarily improve tenure security and production; if anything it may worsen it.

The argument forwarded by the *efficiency view* already referred to, strongly emphasizes land registration as one way out of agricultural stagnation because it was not only assumed to lead

to allocative efficiency but also investment and better natural resource management. In Uganda as well as some other parts of Africa, there seems to be no concrete empirical evidence to justify this. On the contrary, it has been clear that in certain cases titling has intensified insecurity of tenure among the vulnerable groups let alone that the beneficiaries of the titling after displacing the actual tillers of the land, do not invest in agriculture. And where they do, there is no indication that they have been more efficient than those without land titles. In most cases those who acquire titles are not necessarily progressive farmers. It is mainly the bureaucrats, businessmen and highly connected politicians who acquire the land either for speculation, prestige, or just because they want to use the land titles to acquire loans to use in other businesses. This has led to the emergence of absentee landlords and the related problems; the absentee landlords are allocated the most fertile land which remains unutilized (despite the fact that in some areas people are landless), landlord-tenant crisis and the problem of squatters⁵¹; This partly explains why governments efforts to develop and improve on agriculture have not gone far. It is misleading to suppose that a western style private property tenure system superimposed on indigenous systems will improve agricultural production. On the contrary, it is partly responsible for the current crisis characterized by ambiguous and complex tenure systems. Systems which manifest a kind of stagnation and have serious implications for agricultural production since as indicated above (i) land may not be effectively used (ii) marginalised families and the landless who survive on subsistence production face precarious conditions especially after they are restricted/alienated from their land and common property resources (iii) ecological crisis emanates from these arrangements (iv) there has emerged landlord tenant-crisis; a dilemma that undermines production. We have on one hand a landlord who can not easily evict tenants on his land to make some developments, and on the other the tenants who are restricted from long term investments on the land. We can therefore argue that if there is to be any increment or decline in agricultural production it can not be due land registration or lack of it respectively.

Land problems also stem from the attempt to privatize land which has not been effectively and consistently done. This nullifies some of the claims laid down by the neo classical oriented efficiency perspective that mere privatization will ensure security of tenure which will in turn lead to increase in investment. Besides, if the whole process is to succeed, many other factors must be present such as alternative employment opportunities, good infrastructure and marketing and above all, a stable political system; a system that will consistently and fairly implement land registration.

One of the criticisms of indigenous tenure systems is that they inhibit land markets which would otherwise facilitate transfer of land from non-producers to progressive farmers. From

⁵¹ Squatters come to occupy land which they find free. However they may not carry out long term investment because they know they can be evicted any time.

our analysis, it came out clearly that this is not necessarily so since there is no genuine basis to support this due to the fact that (i) markets may instead shift land from producers to non producers since the rich who are not necessarily farmers are the ones who can afford buying land (ii) titled land may be too costly for the poor (iii) given the poor infrastructure in remote areas, investment in agriculture remains unprofitable (iii) other than land, there are few employment opportunities for those who may sell off their land. From this account there is no justification for the efficiency view's claim *that though unfair, land titling leads to efficiency in production*. On the contrary, we strongly maintain that land titling may not only breed *unfairness but also inefficiency*. Given such a situation, customary land laws that prohibit land sales seem to be justified since land may be the only source of livelihood and the future of the poor's children. It is therefore important to note that before we emphasize land markets it is necessary to understand whether these markets (i) allow individuals to adjust to the changing economic conditions (ii) enhance or constrain productivity and (iii) whether they guarantee equal accessibility to the land. Besides the problems mentioned above, indigenous systems are not static as the proponents of the efficiency view maintain. Indigenous systems are also flexible to the changing conditions. Currently, due to these changes it is now difficult to get a typical indigenous tenure system. However, in certain areas there are still be some traits of the indigenous tenure systems. These are advantageous in sense that they are more egalitarian and tend to protect the rights of weak individuals in the society.

Another significant conclusion we can arrive at is that land registration may not necessarily guarantee increased investment. This conclusion is based on the premise that titling (i) leads to land concentration by shifting land from producers to non-producers mainly the minority rich (ii) does not facilitate land markets and even if it did (iii) potential buyers are not necessarily progressive farmers and (iv) may lead to land conflicts that may undermine effective use of the land. However, it was not possible to establish the magnitude to which title holders (except for the case of Rujumbura⁵²) engaged in agricultural production. Most of the literature available fails to address this aspect. Therefore, there is need for further research to specifically address the problem of relationship between land registration and production.

It is due to the need to protect certain minority interests that land problems still remain despite the recently concluded constitution; a constitution which many thought would resolve the land crisis. To their dismay, nothing much was changed, since some of the proposed changes in the bill threatened the interests of some if not most of the politicians. We therefore strongly maintain that if there is to be any successful land policy in Uganda, it must have a strong political will; a political system that is ready to compromise the interests of the minority rich

⁵² The study findings in Rujumbura (Rukungiri) were insufficient to generalise the findings.

to safeguard the majority poor. As Atwood (1990) rightly puts it, there is need to readjust to the socio-cultural aspects which can only be realised by shifting from the top-down bureaucratic arrangement to reinforcement of local management capacities, information and legal systems; systems that will protect the interests of weak members of the society. This is not to suggest that we get rid of titling/registration. To be fair and to realise the principles of equity it is also necessary to note certain special cases that may require formal land registration like urban areas and resettlement schemes. This is essential in sense that in such cases there may be no local social-cultural ties to protect peoples' interests.

As it was evident with pastoral areas and wet lands, land privatization has led to the erosion of indigenous institutions and mechanisms that in some way ensured a kind of ecological balance. This has had negative impact on the environment which has in turn affected production. This experience is contrary to the views of the tragedy of the commons argument which prescribes privatization and nationalization as measure against overuse and abuse of commons. A better approach that considers how the local people can manage their environment can serve better. It was also indicated that common property users like pastoralist are the most insecure when land is privatized. Therefore, there is need to protect the interests of the pastoralist and other common property users. This can be realized by strengthening communal ownership of pasture-lands as was the case before. For instance this can be done by setting up a legal framework and institutions that can protect the rights of the pastoralist as a group.

It should also be noted that elsewhere in Africa, the impact of privatization of land on security of tenure and the presumed subsequent increase in investment and productivity does not diverge much from that of Uganda. For instance, in Somalia Besteman (1994), notes that people grabbed and registered land for prestigious reasons and the end result was that the land that was originally being cultivated ended up being idle. Like in Uganda title holders were businessmen and bureaucrats grabbed more land than they had applied for. Local farmers never benefitted from the registration because of the high costs involved. Although the law provided that registration was supposed to be free, in practice it was not. Besteman (ibid), indicates that costs included unofficial gratuities, payments to witnesses and draughts man and a trip to Mogadishu to process the registration. Besteman further notes that it was mainly those with strong political connections who benefitted. Besides, large proportions of the land registered were under private companies. On productivity Besteman notes that registered farmers mainly urbanites relied on wage labor without much supervision which resulted in production losses. In Kenya, where an ambitious registration system was launched, it reduced the security of tenure for most farmers (Shipton, Mbeere, Haugerud, Roth and Barrows all cited in Besteman 1994). This insecurity resulted from inter alia; the increased tendency to sell land to meet cash needs, increased disputes and costs of litigation. Conflicts related to secondary land rights also emerged. Shipton (cited in Besteman 1994), points out that land

sales did not lead to transfer of land to productive or efficient farmers but rather speculators or those who acquired land titles obtain loans to do other businesses.

Another area of academic interest is that advocates of the *equity view* suggest that there is need to revive the local institutions in the administration of land. Similarly, both the MISR/LTC study and the Agricultural Review Committee studies advocate for the need to decentralize land administration institutions for an effective land registration and litigation. The latter aspect is being realized in the case of Uganda where the grassroots oriented RC (later on called Local Councils) structures are tentatively involved in settling land disputes. It would therefore be interesting to look at the social-economic and political aspects of such structures. Who are the key players? who elects them and whose interests do they serve? Are these institutions devoid of dominance of the local elites? A detailed insight in this new institutional arrangement will provide basis for reinforcing such local institutions.

To reiterate Ghose's argument, land reform is essential for economic growth since it facilitates equal accessibility to production resources. In the Ugandan case and some other parts of Africa, we noted that land policies particularly land titling, alienated land from the producers. It is also stipulated in the Government of Uganda 1995/96 Background to the Budget that unless the poor participate in the production, there will be no sustainable economic growth. The only way to achieve this is a broad based agricultural development since majority of the poor are rural based. Privatization which shifts the land from the poor breaches this objective. Our discussions on land distribution indicates that many are increasingly becoming landless while survivors increasingly become insecure. Privatization which leads to landlessness without alternative employment opportunities for the displaced is disastrous and unrealistic. To be fair and if we are to realize increased production land must be given back to the tiller. This could be achieved by honoring some of the provisions of the 1993 Land Tenure and Control Bill which proposes a kind of land reform; a kind of redistribution more particularly of the mailo land. There is therefore a need to revisit the constitutional provisions that disregarded this aspect. This reform may not be an easy task as it may provoke some kind of resistance which can not be overcome unless there is a strong political will; a will to compromise some of the political interests of the few for the benefit of the marginalised majority; above all a strong political commitment to genuinely and consistently implement the land reform policy.

It would be erroneous to wholly conclude that the efficiency-equity opposition is a sufficient measure to analyze the Ugandan land question and poor performance in agricultural production. Whereas the problems and limitations of the efficiency perspective are clearly evident and some empirical evidence in favor of the equity view has been cited, nonetheless this does not exhaustively analyze the land question in Uganda. There three areas of disagreement which guarantee these two debates insufficient. First, the short comings of the

debate has been to assume that there are only two polar situations of the land question in Uganda as if there is only private land ownership and communal land. As already seen, the land policies in Uganda have been typical of inconsistencies in implementation, superimposition of some tenure systems over others leading to complex situations; situations that may not be simply exemplified by neither private nor communal ownership. In some of the areas, the latter is almost diminished not to suggest that the former is fully established. For instance, in places where the communal system is assumed to operate, individuals use their land in a manner almost similar to private ownership although some few elements may be missing. Communal aspects may come in rarely and probably to address critical problems such as disputes. In areas where land is considered highly privatized and titles have been acquired by individuals, some customary aspects may still be present when for instance selling or inheriting the land. In this case therefore, the equity-efficiency debate fails to account for such inter linkages. Secondly, the fact that the land question in Uganda is embedded in the socio-political class struggles, in most cases some of the prescriptions laid out by the efficiency and equity arguments are rendered inadequate. The solution to the land problems in Uganda transcends economic reasoning and prescriptions. It requires a strong political commitment to compromise the political interests. Thirdly, the Ugandan agrarian reform should transcend mere land redistribution whether on equity lines or efficiency. It should be supplemented by enabling environment (ie institutional framework) which will include among other things infrastructural development, political stability, marketing infrastructure, improved technology and capacity building. This can not be achieved overnight. It has to be a gradual process. It also has to involve heavy sacrifices in terms of prioritising investment given the scarcity of resources.

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