

# Examining land reform in uganda economics essay



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## **Introduction**

The purpose of this paper, as part of the course Geography of Developing Countries, is to give an overview on land reform in Uganda. The paper will consist out of two major parts. The first part will cover the history of land reform in Uganda and the important Land Act of 1998; the second part will cover the different effects of these land reforms. To conclude we will assess the relation between land reform and the development of Uganda.

Two central notions will be used in this paper: land reform and land tenure. The Food and Agriculture Organization (FAO) defines these concepts as follows:

“ Land reform is the generic term for modifications in the legal and institutional framework governing land policy. Land reform is intended to implement changes in land policy that are designed to realise desired changes in a changing political, economic and social environment. The most common types of land reform are probably those dealing with reallocations of land and those redistributing legal rights of ownership. Land reform is invariably a part of agrarian reform. There is a common perception that land reform is the prerogative of developing and transforming economies. The reality is that land policy and the legislative and institutional framework implementing that policy are constantly changing in all societies as political, economic and social circumstances change.” (FAO, 2003, p. 69)

“ Land tenure is the relationship among people, as individuals or groups, with respect to land. Land tenure is an institution, i. e., rules invented by societies to regulate behaviour. Rules of tenure define how property rights to

land are to be allocated within societies. They define how access is granted to rights to use, control, and transfer land, as well as associated responsibilities and restraints. In simple terms, land tenure systems determine who can use what resources for how long, and under what conditions.” (FAO, 2002, p. 7)

Land tenure systems have many different dimensions: economic, technical, social, institutional, political, etc.. As in many other developing countries it is a crucial aspect of the social, political and economic structures in Uganda. The country has a lot of un-utilized and under-utilized land which is largely fertile and very good for agriculture. As we will discuss further on, Uganda has different types of land ownership which have developed during the country’s history (ALCON, 2010; FAO, 2002).

### Study area

The Republic of Uganda is situated in Eastern Africa and occupies 241. 547 sq. km. Eighteen percent of the land is open inland water and wetlands (UNDP Uganda, 2010). Its neighbouring countries are Sudan (north), Kenya (east), Tanzania (south), Rwanda (southwest) and the Democratic Republic of Congo (west) (Figure 1).

The population of Uganda is estimated to be around 27. 4 million and it has a growth rate of +3. 4%. This is one of the highest in Sub-Saharan Africa. Uganda has many different ethnic groups all with their own customs and norms. These many different groups are the result of the Uganda Protectorate of the British Empire which aggregated a lot of different small kingdoms. The cultural groups, such as Baganda, Basonga and Itseot (there <https://assignbuster.com/examining-land-reform-in-uganda-economics-essay/>

are more than 20 in total), still play an important role in the community. The traditional kings or chiefs do not have any political power but are important for the moral build up (Bigirwa, 2005; Busingye, 2002a; Kamanyire, 2000; UNDP Uganda, 2010).

The economy of Uganda is in the first place based on agriculture. The numbers of people working in this sector vary from paper to paper, mostly between 70% and 90%. The main export commodities are coffee, tobacco and fish. The agricultural export accounts for 45% of the total export of Uganda. In the past few years, the GDP growth rate has been on average 5% per annum, the inflation has the same percentage. When we look at the amount of Ugandans living under the poverty line we see a decrease over time, 56% in 1992 to 31% in 2006. However there are regional disparities in poverty levels, e. g. due to conflict (Northern Uganda). Uganda has a policy for a further decrease in numbers of people living under the poverty line; the government tries to increase school enrolment, to reduce the gender gap in school and to improve levels of literacy (Bigirwa, 2005; Busingye, 2002a; Kamanyire, 2000; UNDP Uganda, 2010).

### History of land reform

Uganda has a long history of land reform with different forms of landownership. We can broadly divide the history in the following periods: pre-colonial era, colonial era and post-colonial era. The last stage in the history of land reform in Uganda, the 1998 Land Act, will be discussed separately (see point 3).

### Pre-colonial Uganda

Before 1888 was the area, which we now know as Uganda, divided in small kingdoms and a lot of different ethnic groups. So there was no single land tenure system in that area, but a wild variety of customary tenure. Each ethnic group had his own system, although the big contours were the same (Tukahirwa, 2002; Rugadya, 1999). In the traditional society kings and chiefs allocated land to members of the community. This was organised around customary norms and practices. The most important point was that every single person could access enough land for his own subsistence. If a part of land was not used, it went back to the king or chief. Most of the time land passed from father to son, since lineage is patrilineal in Uganda (Lastarria-Cornhiel, 2003; Green, 2005; Rugadya, 2009). In Uganda, especially in the semi-arid regions, you could also find transhumance being practiced. The access of land by those people was based on arrangements between different clans. In general land was being accessed along their traditional cattle corridor and not because the land was owned by a particular community or because there was a specific lineage (Lastarrie-Cornhiel, 2003). Individual ownership on the other hand did not exist. Rugadya (1999) states that “ none of the communities in Uganda recognized individual ownership of land. There was recognition of various individual rights to possess and use land subject to sanction by his family, clan or community.”(Rugadya, 1999, p. 3)

The customary system still exists today, next to other systems like mailo, freehold and leasehold. These systems will be discussed further on. The major advantage of a customary system is that people know it already for a very long time; they know how the system works. The main disadvantage is

that a customary system doesn't generate a personal interest in the conditions of the land resources. When harvesting is over, the people no longer care for their piece of land. Mismanagement and land degradation can be an effect of this habit. Another disadvantage is that a customary system doesn't encourage record keeping. When there is a land use conflict, this can impede a solution (E-IWM, 2009).

## Colonial Uganda

During the colonial period, the British occupiers introduced some fundamental changes regarding to land holding systems. Three new types of land tenure, which were previously unknown, were introduced. In the following part we will explain mailo tenure, freehold tenure and leasehold tenure (ALCON, 2010; Baland et al., 2007; E-IWM, 2009; Deininger & Ali, 2008; Deininger et al., 2006; Kamanyire, 2000; Lastarria-Cornhiel, 2003; Mugambwa, 2007; Okuku, 2006; Rugadya, 1999).

## Mailo Tenure

The mailo tenure was the result of the 1900 Buganda Agreement or Uganda Agreement. This agreement divided the area of the Kingdom Buganda between the Kabaka (King) of Buganda, notables and the Protectorate Government (E-IWM, 2009; Okuku, 2006; Tukahirwa, 2002). The people who previously settled on the land were not recognised in the agreement. Only after they rioted in 1927 they were recognised. The Busulu (a fixed annual payment) and Envujo (additional levy per acre) Law of 1927 specified the rights of the peasants and the mailo owners. The name mailo is derived from "square mile"; this was the basic unit of a sub-division. In the beginning

there were two categories of ownership: private and official mailo ownership. Later on, in 1967, the official mailo ownership was transformed into public land (ALCON, 2010; Baland et al., 2007; Busingye, 2002b; Deininger & Ali, 2008; Deininger et al., 2006; Green, 2005; Okuku, 2006; Rugadya, 1999; Rugadya, 2009; Tukahirwa, 2002).

A certificate of title is issued and land is held in perpetuity when we speak about the mailo system. This system provides a certain amount of security of tenure. Hereby people will make long-term investments, which is good for the conservation of the land. Problems that can arise are absentee landlordism and a lack of access by regulatory agencies, which can limit sound environmental management. A problem that they face in Uganda is that squatters move to mailo land, they can access it without any problem because of absentee landlordism. These squatters do not care about the conditions of the land because they don't own it. For the government it is difficult to decide what will happen with the land because it's private, regulatory agencies have limited authority (Busingye, 2002b; E-IWM, 2009; Kamanyire, 2000).

### Freehold Tenure

The freehold tenure system is the result of an agreement between the British occupiers and several Kingdoms (e. g. Toro Agreement 1900, Ankole Agreement 1901, Bunyoro Agreement 1933). The Kingdoms committed themselves to British protection and a new tenure system was created (Rugadya, 1999; Rugadya, 2009; Tukahirwa, 2002). Just as in the mailo tenure system, land is held in perpetuity and a certificate of title is issued. In

Uganda we find this land tenure system especially in eastern and western parts. In comparison with the mailo land tenure system, the parcels of land in the freehold land tenure system are smaller. But both systems have a lot of similarities, e. g. they have the same environmental management problems. In eastern and western Uganda the population pressure is higher, resulting in land fragmentation. This contributes in a significant environmental degradation, but it must be said that specific data hereof is missing (ALCON, 2010; Busingye, 2002b; Green, 2005; E-IWM, 2009).

### Leasehold Tenure

The third system is leasehold land tenure; in this system you have a lessor and a lessee. The lessee pays a certain amount of money to the lessor and gets exclusive possession of the land (Rugadya, 1999). You have private leases for individual landlords and official or statutory leases for individual or corporate groups. In this leasehold tenure system the lessor can oblige certain conditions to the leases and if necessary he can revoke ownership in case of abuse. The negative points are that leases are often expensive, so the average Ugandan citizen can not afford this. Environmental concerns are often not integrated in the leasehold tenure system (ALCON, 2010; Busingye, 2002b; E-IWM, 2009).

### Post-Colonial Uganda

In the post-colonial period, after 1962, Uganda has made different reforms on property rights. The most radical change has happened in 1975 under the dictatorship of Idi Amin. The 1975 Land Reform Decree declared all land in Uganda as public land. The freehold and mailo lands were converted into



leases of 99 for individuals and 199 year for public/religious bodies (Baland et al., 2007; E-IWM, 2009; Okuku, 2006; Tukahirwa, 2002)).

A second important moment was 1995, with the Constitution of the Republic of Uganda. The government realised that the Reform Decree of 1975 was not fully implemented. This was caused by a lack of budgetary provisions, resistance by land owners, a lack of personnel, etc. In fact the 1975 Decree didn't change much, people still behave as in the pre-Decree period (Tukahirwa, 2002). The government screened the whole land tenure situation and concluded that there was (E-IWM, 2009, p. 2):

“ lack of a clear land policy and national physical development plan”

“ land fragmentation and exclusion of women from land (property) inheritance”

“ open access to resources under communal land use”

“ land degradation due to unsustainable methods of resource use”

“ demographic pressure leading to encroachment into gazetted areas”

The Constitution of 1995 tried to upgrade the land tenure situation and bring solutions for a better land tenure system. The government decided to recognise the four existing land tenure systems and made some recommendations (E-IWM, 2009, p. 3):

“ all Ugandan citizens owning land under customary tenure may acquire certificates of ownership in a manner prescribed by Government”

“ land under customary tenure may be converted into freehold ownership by registration”

“ any lease which was granted to a Ugandan citizen out of public land may be converted into freehold in accordance with law made by Parliament”

“ lawful or bona fide occupants of Mailo land, freehold or leasehold land shall enjoy security of occupancy of the land”