

An aerial photograph of a terraced hillside in Uganda, showing a series of green and brown terraces that follow the contours of the land. The hills are densely packed, and the overall scene is a mix of green vegetation and reddish-brown soil. The sky is a pale, overcast grey.

# The Uganda Land Issue

*A comprehensive assessment of the current situation  
and the influence of long-term trends on its future.*

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**Photo cover page: Hill in Kisoro, Uganda. Private collection B.T. Berns.**

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## Foreword

The research report in front of you was written during my half-year long internship at the Embassy of the Kingdom of the Netherlands in Kampala, Uganda. The research concluded my masters degree in public administration at the Nijmegen School of Management of the Radboud University.

During the research, the embassy has facilitated me with whatever I deemed necessary. Although one fieldtrip proposal was cancelled due to safety issues, the embassy allowed me to embark on six fieldtrips. These fieldtrips were crucial in order to get all the data needed to write this thesis. Although fieldtrips can be quite lonely at times, they are also very rewarding, provide essential data, provide you with great experiences and take you to places you would otherwise never visit. In total, I spent thirty-three days in the field, drove 7.349 kilometers and the fieldtrips brought me to almost three-quarters of all districts. Also, more than one hundred interviews were held, both with locals and with professionals, and countless more conversations were held on the topic of land issues, providing invaluable extra information. For this, the embassy cannot be thanked enough.

From the embassy side, two persons have fulfilled the role of supervisor. I owe both of them, Michel Rentenaar and Jeroen de Lange, many thanks. From the side of the university, Berry Tholen provided guidance and, although many kilometers away, asked the right questions to get the research back on track when needed. Without these three people, this research would never have been possible.

However, these three people are not the only ones that provided help. In general, I need to thank the entire staff of the embassy for the help, concerns, and occasional chitchat to brighten up the day when finishing the research seemed a thousand miles away. In particular, I need to thank ambassador Jeroen Verheul for offering me the chance to perform this research, Joyce Ngaiza for legal help, Esther Loeffen for guidance, Charles Drazu for his general knowledge on land issues, and Marieke Janssen and Carlijn Lubbinge for insightful comments and their informal support.

In addition to these people, I would also like to acknowledge and thank Joe Powell and Katherine Manchester for their invaluable support throughout the course of the research.

Lastly, I wish to thank all the respondents. Without them the research would not have been possible.

Performing and finishing the research has been a lengthy, difficult, and at times frustrating process. However, I am very pleased with the result and hope the report can be used by all those involved to improve the situation of the Uganda land issue. The country and its people deserve it.

B.T. Berns

Kampala, Uganda. October 2009.

### Abbreviations and Acronyms

AMREF	African Medical and Research Foundation
CAO	Chief Administrative Officer
CCO	Certificate of Customary Ownership
DFID	Department for International Development
DR Congo	Democratic Republic of Congo
GDP	Gross Domestic Product
GoU	Government of Uganda
IDPs	Internally Displaced Persons
IFPRI	International Food Policy Research Institute
IPCC	Intergovernmental Panel on Climate Change
JLOS	Justice Law and Order Sector
LC	Local Council
LC Courts Act	Local Council Courts Act
LC I	Local Council One
LC II	Local Council Two
LC III	Local Council Three
LC IV	Local Council Four
LC V	Local Council Five
LEMU	Land Equity Movement in Uganda
LRA	Lord's Resistance Army
MoFPED	Ministry of Finance, Planning and Economic Development
MoLHUD	Ministry of Lands, Housing and Urban Development
NAPA	National Adaptation Programme of Action
NGOs	Non-Governmental Organizations
NLP	National Land Policy
NRA	National Resistance Army
NRC	Norwegian Refugee Council
NRM	National Resistance Movement
RDC	Resident District Commissioner
UBOS	Uganda Bureau of Statistics
UPDF	Uganda People's Defense Force
Ushs	Uganda Shillings
WHO	World Health Organization

### Conversions

#### Area:

1 acre	= 4.046, 856 m <sup>2</sup>	= 0,405 hectare
1 hectare	= 10.000 m <sup>2</sup>	= 2.47 acre
1 square mile (mi <sup>2</sup> )	= 2.589.988,11 m <sup>2</sup>	= 2,59 km <sup>2</sup>
1 km <sup>2</sup>	= 247,1 acres	= 0,386 square miles (mi <sup>2</sup> )

#### Currency:

1 euro	= 2800 Uganda shilling (exchange rate of 5 October 2009)
1 US dollar	= 1950 Uganda shilling (exchange rate of 5 October 2009)
1000 Uganda shilling	= 0,36 euro (exchange rate of 5 October 2009)
1000 Uganda shilling	= 0,52 US dollar (exchange rate of 5 October 2009)

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Districts of Uganda

## DISTRICTS OF UGANDA 2007

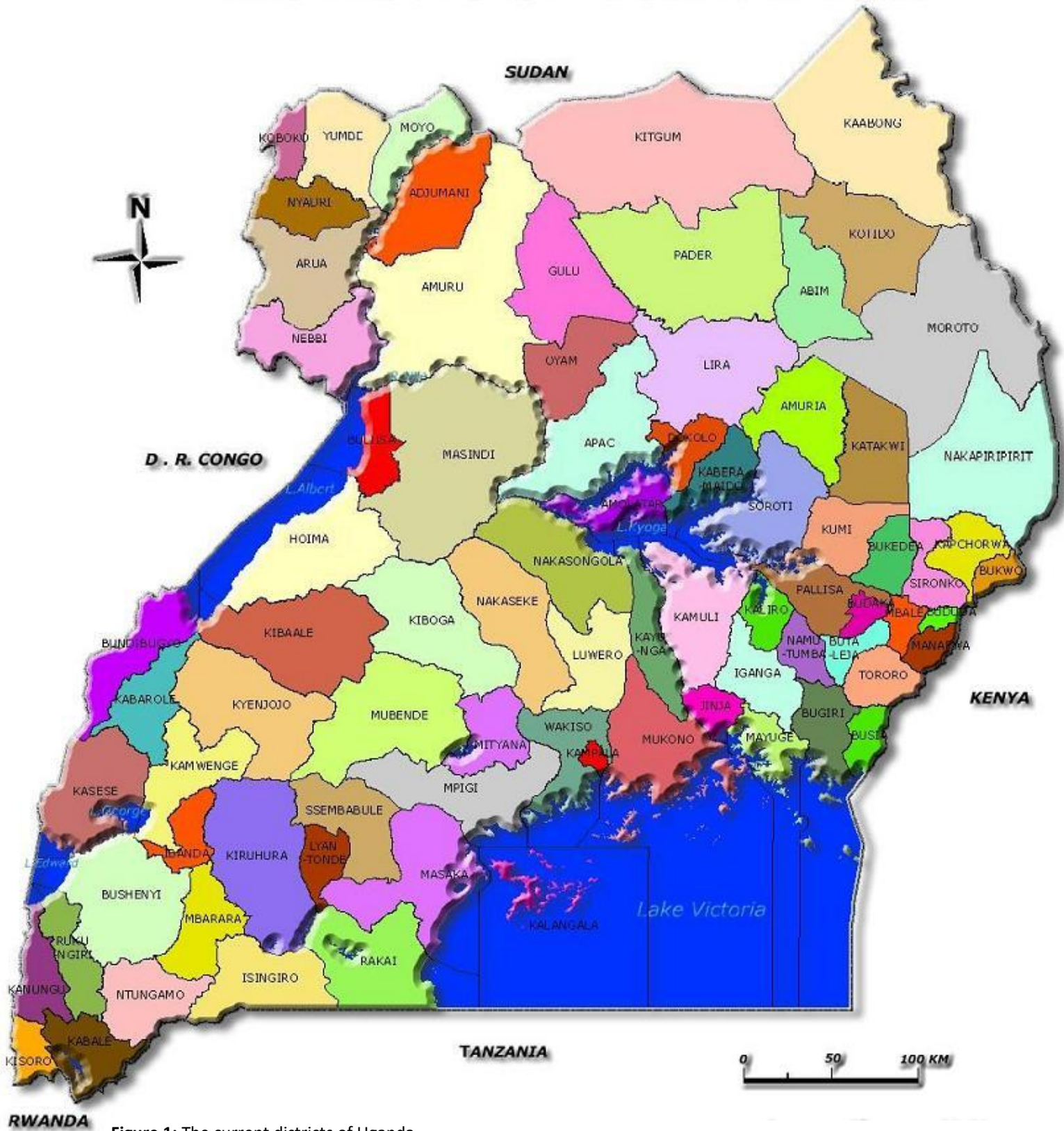


Figure 1: The current districts of Uganda.



Ethnographic map of Uganda

# ETHNOGRAPHIC UGANDA



**Figure 2:** Ethnographic map of Uganda. Boundaries are not absolute but merely show traditionally inhabited areas.



### Executive summary

The importance of land in Uganda is vast, and the issue is gaining more and more importance. The number of conflicts, both in court as well as out of court, is indisputably on the rise, tensions are increasing and ownership of land is becoming a strife political debate. Research on this topic is often limited to one or two of the aspects of the issue, or only focusing on the consequences of a single long-term trend. This research, however, focuses on the entire land issue, with all its aspects, and includes the most important trends for the future of the issue. The goal of the research is to provide a comprehensive macro view on the issue. It does so by looking at land ownership and its consequences for the aspects conflict potential, ecological effects and economic development. At the same time, it looks at the long-term effects of the trends climate change, population growth and the regime's desire to assure its survival.

The research shows that the practice of land ownership, as opposed to the formal rules regulating land ownership, largely has negative effects for the land issue. The lack of implementation of laws, the involvement of institutions not supposed to be involved, the absence of mandated institutions and the high level of corruption lead to large and different types of conflicts, tenure insecurity, hinders investment, and leads to encroachment of ecologically precious areas, such as wetlands, forests and game reserves.

On top of this are the long-term trends. Although these are sometimes difficult to predict, it is for instance virtually impossible to predict the president's every move for the next twenty years, some things are possible to predict with an acceptable level of confidence. The trend climate change will occur. In twenty years time, the temperature will increase, the droughts will be longer and the rains more erratic and unpredictable. This will affect the way people farm. Also, the population will grow to around fifty-five million people, up from thirty-one today. Although it is impossible to predict the political situation twenty years from today, the fact that the regime will try its hardest to remain in power is largely undisputed.

These trends heavily affect the land issue in Uganda. The research, based on a document study, literature study, fieldtrips and interviews, shows that the future of Uganda, if the policy context does not change significantly, is dim. In short, the conclusions are as follows: conflicts over land will increase; population growth will reduce plot sizes making them economically unviable; investments will remain low due to lack of titles and tenure security; floods will increase while droughts will be longer, having economic effects for farmers as well as health risks and possible famine; encroachment of ecologically precious areas will cause conflicts and harm the environment; the soil will suffer from degradation, making it less fertile.

## Chapter 1 Introduction

“A landlord who tried to sell his land despite protests from his tenants was lynched and his body set ablaze on Sunday. The incident happened in Kayonza Sub-county, Kayunga District barely a month after a mob in the same area lynched a land agent. Kayunga District police boss John Dhabangi identified the deceased as Sam Kubo, a 32-year-old dealer in agricultural produce. Despite protests from the tenants, Mr Kubo was going ahead with plans to sell his land and had travelled with two land surveyors from Kampala. He was surrounded by angry tenants who hacked him to death, threw his body onto the back of a pick-up truck in which he and the surveyors had travelled, and set it ablaze (Daily Monitor, 2009).”

Cases like these, although somewhat extreme, can be found in newspapers in Uganda every day. Unfortunately, the number of conflicts over land and land ownership is rapidly increasing. The ownership of land is so important in this country that people are even prepared to kill for it. To understand this importance, the real issue, and what aspects in the Uganda society are affected by land ownership, this research will provide a description of the issue of land ownership in Uganda, and will identify the most important aspects of it. To do so, however, the importance of the history of land ownership and the ownership systems are vast. Not only does this history lead to a certain path dependency and has created the situation Uganda faces today, it is also essential to fully understand the underlying grievances and the importance of the land to the people. In this respect, the draft National Land Policy (NLP) could not have been more right when it stated:

“Land is the basic resource (in terms of the space it provides, the environmental resources it contains and supports, and the capital it represents and generates). It is a **commercial** asset that can be used and traded, it is a critical **factor of production**; it is an essential part of the **national** patrimony; and it is a key factor in shaping individual and collective **identity** through its history, the cultural expressions and idioms with which it is associated, and it influences spirituality and aesthetic values of all human societies. Thus, land is perhaps the most essential pillar of national development (MoLHUD, 2008, p. 1, bold in original).”

To do justice to the importance of land ownership and the ownership system, it is crucial to consider its past. Land administration and land ownership systems in Uganda have evolved continuously since independence in 1962. Currently, four ownership systems (customary tenure, freehold tenure, mailo tenure, and leasehold tenure) are being used simultaneously. These four systems have been crafted based on old British systems, Colonial practice, local tribes and clans

customs system. The concurrent use of these systems is causing confusion and conflicts, as has been indicated before.

Again, there is no doubt that land use and land ownership are extremely important matters in the country. This is emphasized by the Ministry of Finance, Planning and Economic Development, which indicates that 38,5% of Gross Domestic Product (GDP) is generated by the agricultural sector. Also, agriculture comprises more than 90% of the country's export earnings and provides a livelihood to about 90% of the population (MoFPED, 2008). With such high dependence on land, the importance of an efficient and effective land administration system for economic growth and poverty reduction cannot be over-emphasized.

### **1.1 Historical overview.**

As already stated, the current constitution of the Republic of Uganda recognizes four different types of tenure. In order to really understand the complexity of the tenure system in Uganda, the historical context is crucial.

#### **1.1.1 1888 – 1961.**

The modern history of Uganda's land tenure systems can be traced back to 1888 when a British Royal charter assigned East Africa as a 'sphere of interest' to the Imperial British East Africa Company (London Gazette, 1888). Before this time, only a system of customs and traditions was in place. In 1894, British Prime Minister William Gladstone officially placed the Kingdom of Buganda (a tribe in the center of the country) under British Protectorate. The first major implication for land did not take place until 1900, when the Buganda Agreement was signed. The area of Buganda was estimated to be about 19.600 square miles, which was divided between the British Crown (9.000 square miles) and the Kabaka (king) of Buganda and other notables (Kingdom of Buganda, 1900). This whole area of land in Buganda became known as mailo land, named after the unit of measurement used, being square miles of land.

Also in 1900, an agreement was signed on the area in the west of Uganda. This Toro Agreement with the Kingdom of Toro had much of the same characteristics, though less detailed, as the Buganda Agreement (Kingdom of Toro, 1900). The main difference was that it did not grant much land to the rulers, and the land that was granted was freehold land (akin to the British freehold system), instead of mailo land. In 1901, a similar agreement was reached with the Ankole Kingdom in the south-west of the country on the Rwandan border (Kingdom of Ankole, 1901). A fourth agreement was reached with the Omukama (king) of the Kingdom of Bunyoro in 1933, located just north of Toro (Kingdom of Bunyoro, 1933).



In 1903, the Crown Lands Ordinance gave British colonial powers the right to alienate land in freehold. These pieces of land often have the same characteristics as mailo land, though they usually are a lot smaller (British Empire, 1903).

Obviously, the land that was given to the traditional kings and other notables was already occupied by local farmers. By a stroke of a pen, all these farmers that had been living on the land now apportioned to the notables suddenly became tenants on this new mailo land. The notable became landlord and owned the land, while the people living on the land had to rent it from the landlord. This effectively created two separate rights: the landlord was owner of the land, while the tenant had the right to use it and live on it. In the future, it would also create two separate forms of land markets. The landlord could sell (parts of) his land, but the tenant would keep his or her rights<sup>1</sup>. On the other hand, the tenant could sell his or her rights to use the land and live on it to someone else, without selling the ownership of the land. In this respect, McAuslan (2003) states:

“Relations between landlord and tenant within Buganda have always been fraught with tension. Landlords have been reluctant to accept that the restrictions of customary relationships should limit their absolute ownership of land, and tenants have refused to accept that they have no rights in land that they regard as being theirs by virtue of customary law.”

In 1928, the Busuulu and Envujjo Law was passed, severely limiting the amount of rent a landlord could demand from a tenant. With this law, the government sought to strengthen tenure security and protect the smallholders. However, critics stated that the other side of the medal was both landlord and tenant being locked in a situation in which both were not stimulated to invest in agricultural development. After all, a tenant is not likely to invest in land if he is not sure he can stay on the land long enough to enjoy the returns of the investment, while the owner is not likely to invest in land if he cannot raise the rent.

### **1.1.2 1962 – 1974.**

In 1962, Uganda declared its independence. The Public Lands Ordinance of 1962, enacted just before independence, transformed all land formerly held by the British Crown (and therefore called Crown Land) into Public Land, to be managed by a Land Commission. However, Crown Land in the Buganda Kingdom was to be managed by the Buganda Land Board. This situation did not last a long time. The Independence Constitution was first replaced by the Constitution of Uganda (1966) and then by the

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<sup>1</sup> For more information, see chapter 4.1.3.

new Constitution of Uganda (1967). The latter, under the new president Milton Obote, abolished the kingdoms in Uganda and vested all public land in Uganda in the Land Commission.

During this politically troublesome time, lots of changes have been made to various laws and policies. This also had a large effect on land ownership. During Amin's reign (1971 – 1979), laws concerning land were changed radically:

“A major land reform in Uganda was attempted in 1975, when the Government of President Idi Amin issued a decree called ‘The Land Reform Decree’ which declared all land to be public land and vested the same in the State to be held in trust for the people of Uganda and to be administered by the Uganda Land Commission. The decree abolished all freehold interests in land except where these were vested in the State in which case these were transferred to the Land Commission. It also abolished the Mailo system of land tenure and converted them into leasehold of 99 years where these were vested in public bodies, and to 999 years where individuals held these. All laws that had been passed to regulate the relationships between landlords and tenants in Buganda, Ankole and Toro were also abolished. Elsewhere, customary land users became tenants at sufferance of the state.

(...) [T]he reform reduced the tenure systems from four major ones to two (...) (leasehold tenure and customary tenure, BTB) and caused land tenure insecurity to land owners, bibanja (local word for ‘plot’, BTB) holders and customary tenants alike in the sense that: mailo and freehold estates were reduced to leasehold and no compensation was paid for the reduction, customary tenants on public land were declared to be tenants at sufferance and the land they occupied could be allocated to other people. Tenants became liable to eviction by lessees on conversion after a notice of not less than six months (Rugadya, 2003, p.5).”

Although this decree drastically changed the formal rules concerning land ownership, it was hardly implemented. The threat of the degree was felt throughout the country though, causing great tension among the citizens of Uganda.

### **1.1.3 1975 – 1995.**

As indicated above, the Land Reform Decree that was adopted in 1975 drastically changed the formal rules concerning land. Although Amin's regime was overthrown in 1979, and Milton Obote took over the presidency in 1980 to form the Obote II government, the Decree would remain active. Even after the Obote II government fled the country, and current president Yoweri Museveni took over as president, the situation did not change. This 20-year period had a huge effect on the ground, leaving people confused and causing a chaotic operation of land tenure systems. McAuslan (2003) states:

“[The chaos on the ground] led to a multiplicity of land disputes, lack of security of tenure for those occupying land under customary tenure, the exclusion of women from land utilization decisions, widespread degradation of land due to unsustainable methods of resource use and encroachment into protected areas.”

Prior to drafting a new constitution, a working group was working on a new Land Act. In 1989 this group recommended to repeal the Land Reform Decree and a new policy should be introduced that would focus on the development of a market for land based on freehold titles. In this proposal, leaseholders, holders of land under customary tenure, mailo owners and mailo tenants should be able to obtain a freehold title to the land they occupied at that particular time. After this exercise, everybody should be able to freely deal in these titles. Mailo owners would be compensated for land occupied by tenants that was converted to freehold title (Nyamugasira, 1996).

However, by the time the proposal was put in legislative form, debate upon it had taken place, and a nationwide consultation process was held, it was already 1993. By this time, the major exercise of drafting a new constitution had started and the importance of land was vast. In this exercise of drafting, the difference between freehold tenure and mailo tenure was deemed too important to be left out, resulting in mailo tenure being adopted in the new constitution, along with freehold, leasehold and customary tenure.

#### **1.1.4 1995 –present.**

After ruling the country for almost ten years, president Museveni introduced the latest Constitution of Uganda in 1995. The constitution abolished the Land Reform Decree of 1975, declared that land belonged to the people (‘Land in Uganda belongs to the citizens of Uganda and shall vest in them in accordance with the land tenure systems provided for in this Constitution (Section 237, Constitution of Uganda, 1995)’), and created the four tenure systems Uganda has today: customary land tenure, freehold tenure, leasehold tenure, and Mailo tenure. It also installed Land Boards in every district, which were to operate independently from the re-introduced Land Commission. Furthermore, the constitution stated that Parliament was to establish Land Tribunals, whose jurisdiction would be to determine disputes relating to grant, lease, repossession, transfer, or acquisition of land by individuals, the Uganda Land commission, or another authority with responsibilities related to land, and the determination of any disputes relating to the amount of compensation to be paid for land acquired by the state (Republic of Uganda, 1995).

McAuslan states three critical shortcomings of the constitution and the Land Act that followed it in 1998:



“First, the feudal system of land tenure remained a feature of land relations; secondly, customary land tenure systems remained unregulated and completely outside the statutory framework of land law of the country and, thirdly, the system of land administration was in no way integrated into the land tenure framework of the country (McAuslan, 2003).”

These three concerns McAuslan raises are not just silly mistakes in the Land Act. Under the given time constraints (see next paragraph) it was very difficult for the drafters to tackle the first issue raised by McAuslan; the issue of feudal land tenure systems. If, for instance, mailo tenure was to be tackled there would have been very intense debates about this issue, possibly leading to a blocking of the Act. McAuslan also indicates that customary land tenure remained unregulated and outside the framework of the land law. However, the Land Act clearly states that it is to be governed according to local customs. Therefore, it is not unregulated or outside the framework; it merely means that it is not regulated by the central government.

It has to be acknowledged though that the Land Act of 1998 is sub-optimal at best. Due to the timeframe provision laid down in the constitution, the Land Act had to be submitted to parliament by July 2<sup>nd</sup>, 1998. Having a strict deadline for such a complex matter obviously has pro's and con's, like every deadline has. On the one hand it prevents having endless discussions and postponing important decisions (although a decision on mailo land was in effect postponed). On the other hand a deadline limits the time available for consultation and feedback, leading to rushed decisions.

One of the drafters of said Land Act, Eddie Nsamba-Gayiiya, indicated in an interview that the general idea and plan of the committee was to draft a Land Act, see how it works in practice and learn from that experience. After that, they would design a thoroughly thought through Land Policy, and then change the Land Act so it complies with the Land Policy again. The current Land Act was thus meant as an interim-act; one that would quickly be replaced but was needed in the meantime (Interview with Eddie Nsamba-Gayiiya). However, eleven years later there is still nothing more than a Fourth Draft NLP, which is open for consultation. In the fall of 2009, a land conference will be held to discuss this draft. After the conference, the fourth draft will be amended and the final draft National Land Policy will then be presented to parliament.

In the meantime, however, Uganda will have to cope with the current Land Act. Efforts to amend this Act prove to be very difficult. For instance, the latest amendment was proposed in 2007 and has still not passed parliament (Republic of Uganda, 2007).

## **1.2 Complexity.**

Uganda's past places enormous pressure and constraints on present-day politicians. Decisions taken in the past infringe a certain inevitable path-dependency on them. The best window of opportunity to improve the land administration and tenure systems seems to have passed with the adoption of the new constitution that was drafted a little over a decade ago. Furthermore, the type of government and society in Uganda makes changing the laws and policies in the country even more difficult. In a somewhat elitist and neo-patrimonial society like Uganda, the politicians are usually upper class people possessing large areas of land or have connections to people who own large areas of land. Changing the laws concerning land is therefore not just a technocratic and objective decision, but one that affects themselves or their connections, thereby severely influencing their decisions and point of view. On the topic of patronage, in 2004 the World Bank reported:

“[A] fundamental characteristic of Uganda's political system was, and remains, that President Museveni *is* the Movement and the Movement is Museveni. Political and administrative institutions established for the purpose of achieving horizontal and vertical accountability are weak except for the judiciary, and, to a lesser extent, Parliament. Most fundamentally, the Government of Uganda is a regime of personal or “neo-patrimonial” rule—a political system dominated by one individual who maintains his authority through a combination of patronage and the selected use of intimidation, and force. Once touted as one of the “new leaders of Africa,” the President, over the last eight years, has increasingly resembled the old. During the same period, the Movement, which in theory includes all Ugandans, has increasingly resembled the single party systems that governed Africa from the late 1960s to the early 1990s .

A principal feature of the old one party state, *and* the Museveni regime is that it depends increasingly on the distribution of patronage and prebends to operate and survive. That is to say, it is a regime that rests on a series of clientelist networks that link the government to the rural areas, and which are maintained through the distribution of offices and income to its supporters. This in turn explains the perceptions of rising corruption in Uganda, and the apparent inability or unwillingness of the government to bring corruption under control. Viewed from this perspective, corruption is fundamentally a political phenomenon (not merely a criminal phenomenon), a mechanism for regime maintenance (World Bank, 2004, p. iii – iv, *Italics in original*).”

This described system of patronage and nepotism makes changing laws and policies favoring the ruling people and/or the rich at the cost of the poor and landless people an enormous challenge.

The practical consequences can easily be seen in the land issue. It has been noted before that drafting the land policy has started in 1998, right after the Land Act was adopted, while it still has not moved beyond the fourth phase out of five phases. Endless consultation rounds are held while participating parties indicate in interviews that so far little of the ideas and recommendations have been adopted. By having these consultation rounds the government appears to be working on an open, consensus-based framework, while in reality they do not seem to process the recommendations into the framework policy and keep stalling the entire process. However, the government indicates that they want to settle conflicts once and for all by having a very good policy that takes care of every problem related to land. Although the enormous complexity, importance and consequences for so many people may not be forgotten while drafting the land policy, there is no valid reason why it should take more than eleven years to adopt it.

The modern history of regimes and of laws concerning land is needed to understand the background of the land issue in Uganda. The explanation of the history is also needed to better understand the purpose of the research, and the main goal and question of it. This is what will be dealt with in the next section.

### **1.3 Research goal and –question.**

The complexities and history of the land issue, together with the increasing tension in the country due to several factors explained in the remainder of this research, make the land issue a very prominent matter in Uganda. Furthermore, the current high level of poverty of around 38% of the population in Uganda is a serious concern for both the Government of Uganda (GoU) and the international community. With about 90% of the population deriving their livelihoods from land use (MoFPED, 2008), land policy can make a large difference in this respect. It is both because of the concern, as well as the potential difference land policy can have on the issue, that the Royal Netherlands Embassy has commissioned this research in order to come to a better understanding of the issue. In their view, it is important to have an independent and comprehensive report addressing all the aspects and trends in order to come to a balanced, fair and accurate judgment of the situation. The researcher could not agree more.

The history of land policy, as described in this chapter, has severe implications for the current policy. It has created the situation the country is in right now and forms a certain path dependency for the future. In addition to this, a number of factors play a role in future possible changes in policy, like climate change, population growth, conflict potential, economic development, political stability, environmental aspects, judicial context and strength, and the cultural context. All the above-mentioned factors and aspects have to be taken into account when land policy is analyzed and



problems are identified. These aspects have been identified after a literature review, which will be discussed in chapter 3, and several initial interviews. Therefore, these factors and aspects will be studied extensively in this research in order to answer the main question and, thereby, meeting the goal of the research. This goal is as follows:

*Provide a comprehensive macro-view description of the Uganda land issue, focusing on the consequences of land ownership for the critical aspects of the issue, being conflict potential, ecological effects and economic development, while taking into account the long term exogenous trends climate change, population growth and the desire to assure regime survival.*

The following main research question results from this research objective:

*What consequences does the current system of landownership in Uganda have for the conflict potential, ecological effects and economic development, and how will this most likely be affected by the long term exogenous trends climate change, population growth and desire to assure regime survival?*

This main question cannot be answered right away. A number of sub-questions need to be answered before an answer to the main question can be formulated.

First, the basics of the Uganda land issue need to be identified. This will be done by first outlining the formal ownership rights. After that, the situation in practice will be described. The importance of the discrepancy between these two will then be discussed as well as the consequences of the practice of ownership for the main aspects of the land issue in brief. This sub-question will be the subject of chapter 4.

Secondly, the exogenous trends have to be discussed. There are a number of things that cannot be affected by government policy and are outside anyone's sphere of influence. These somewhat autonomous trends can, however, have an important impact on the land issue in the country. Even if nothing can be done about it, it is important to know the existence of the trends, what implications they have, and how one can anticipate on it. The three most important trends, being climate change, population growth and the regime's desire to assure its survival, as identified after a literature review and several initial interviews, will be discussed. These trends are the topic of the second sub question, which will be dealt with in chapter 5.

Thirdly, the effects of current land ownership rights on the three aforementioned aspects need to be discussed, while taking into account the three trends that have been identified in chapter

5. Describing the three relationships individually will help policymakers to determine whether this is the situation and future prospects that are desired. If the prospects show acceptable outcomes, nothing needs to be done. If the prospects show disastrous outcomes, however, policies need to be drafted and implemented in order to prevent disaster from striking. This sub-question will be the focus of chapter 6.

In conclusion, this leads to the following set of sub-questions:

- 1a How is land ownership formally determined?
- 1b How does land ownership work in practice?
- 1c What are the consequences of the practice of land ownership for conflict potential, ecological effects and economic development?
- 2a What influence will the climate change trend have on the land issue?
- 2b What influence will the population growth have on the land issue?
- 2c What influence will the desire to assure regime survival have on the land issue?
- 3 Accepting the identified trends as a given, what effect will the current system of land ownership have on each identified aspect (conflict potential, ecological effects and economic development)?

After these questions have been answered one can move on to answering the main question of the research. This will be done in the concluding chapter 7. However, before it is even possible to handle any of the sub-questions, the methodology of this research has to be discussed. What type of research was carried out, how was data generated, what choices had to be made and what biases and shortcomings still exist? This will be the focus of the next chapter.

## Chapter 2 Methodology

In order to carry out this research a lot of questions regarding the methods of researching need to be answered. Especially when performing a research on such a complex and controversial topic while being in a different country with all the research biases involved, these methods are crucial in order to meet the scientific standards of a research. Therefore, this chapter explains what kind of research is carried out, what choices had to be made, how biases are avoided or limited and also what shortcomings to the research there still are.

### **2.1 Research strategy.**

The literature on research methodology reveals distinctions between types of research. First of all, a distinction is made between fundamental and applied research. Fundamental research is meant to solve a knowledge gap, while applied research tries to come up with practically relevant solutions or insights to a problem. This research will be fundamental in the sense that it will explain how the land issue is comprised exactly.

The second distinction is between qualitative and quantitative research. Quantitative research is done to determine if a hypothesis of a theory is correct. Usually this is done with standardized measuring instruments. Also, quantitative research usually has a high number of respondents. Qualitative research, however, does not start from a theory, but uses its own instruments to find the answer to specific phenomena (Vennix, 2006). Denzin and Lincoln define qualitative research as follows: “[Q]ualitative research involves an interpretive, naturalistic approach to the world. This means that qualitative researchers study things in their natural settings, attempting to make sense of, or to interpret, phenomena in terms of the meanings people bring to them (Denzin and Lincoln, 2000, cited in: Vennix, 2006, p. 134). This research will be qualitative because of the specific nature of the issue and the limits of the capability of quantitative research to provide insights in this matter. This premise was confirmed by interviews and talks with experts during the first weeks of the research who indicated that a qualitative approach with in-depth interviews is far more likely to produce the information needed.

The third distinction is made between the several types of qualitative research. This research will be a typical case study. Yin has defined a case study as an empirical inquiry that:

- “investigates a contemporary phenomenon within its real-life context; when
- the boundaries between phenomenon and context are not clearly evident; and in which
- multiple sources of evidence are used. (Yin, 1989, cited in: Vennix, 2006, p. 148)“



Yin also explains that there are two conditions for a case study. First of all there is a research question which examines how a phenomena is constructed precisely. Second of all, the researcher has little or no control over the research situation, either because this is simply impossible or because the researcher does not want to isolate the phenomena from its natural context (Yin, 1989, in: Vennix, 2006). Clearly in this research both conditions are met. The research is about the precise nature of the land issue in Uganda and it is impossible to control or isolate the phenomena.

Yin (1993) then makes distinctions between several types of case studies. The first distinction is based on the goal of the research, the second on the number of cases. On the goal of the research, Yin makes a distinction between exploratory, explanatory and descriptive case studies. In this research, as shown in chapter 1.3, the goal will be to describe the Uganda land issue. Therefore it is a descriptive case study.

Since the case of the Ugandan land policy is the only system of its kind in Uganda, and there will be no comparison with other countries in the region, it is an 'extreme case'. The research will therefore be a single case study. However, although the Uganda land issue is a single case, chapter 6 will show that it is very well possible to make certain general distinctions between separate regions in the country.

## **2.2 Combining sources of information.**

A number of sources are used to carry out the research. First of all, a selection of literature on land issues as well as the aspects and trends have been used. Secondly, a large number of documents are used, ranging from NGO reports to Uganda laws and policies. Thirdly, interviews were held with experts and locals. The experts have been interviewed all over the country, including village leaders, district representatives, central government officials, consultants and NGO representatives. The locals have also been interviewed throughout the country. Chapter 2.3 will show the wide geographical range covered in order to meet all kinds of locals with different types of tenure. Fourthly, observations were held in the form of field trips to local governments and farmers. A total of six field trips were organized. A short report on each of these fieldtrips can be found in Annex A. Combining these four sources of information increases the validity and quality of the research as a whole (Vennix, 2006, p. 286).

## **2.3 Data collection.**

The hardest data to collect comes from interviews and observations. Interviews were held with local people during the field trips. During these field trips interviews were also held with local politicians, experts and civil servants. These people know most about the local situation, conflicts and the influence of the aforementioned long-term trends. All these people were approached with the help

of colleagues at the embassy, spin-offs due to previous interviews, personal contacts and/or appointments upon arrival in the village. Interviews were held in several ways. With the majority of the interviewees, a semi-open interview structure was used. This type of interview has a certain structure with a number of questions that were asked, but the researcher had the opportunity to dwell further on answers given by the respondent. However, local farmers/villagers were approached without an interview structure. These were loose conversations with the general goal of getting to know more about specific features in their village and about the land they occupy themselves. A list of questions did exist<sup>2</sup>, but these were not shown to the respondent since this could trigger a defensive and cautious response because of its official character.

Interviews can be recorded in several ways. Literature reveals the advantages and disadvantages of the various methods. The semi-open interviews held for this research were held without a memory recorder. Since there was no second interviewer available this has the danger of not registering many non-verbal signals. However, in the specific setting of an interview on land issues in Uganda, a memory recorder was deemed to be intimidating to the respondent. Also, processing the interviews word-for-word would have proven to be too time-consuming. Furthermore, the researcher holds the opinion that making notes, which was done during every interview, helps the interviewer to focus, stay alert and stay on topic. This last point is important since it is very easy to get off track when discussing a very wide issue such as the land issue in Uganda.

The open interviews with locals were without memory recorder and without taking notes. Even taking notes was deemed to be intimidating, as has been explained before. Therefore, these conversations were held with the respondent after which the interviewer would go back to the car immediately to write down the answers of the respondents on the questionnaire<sup>3</sup>.

As indicated, interviews were held with locals and with experts. For each group, the aim was to collect between forty and seventy interviews. Making a very rough distinction in areas in the country, one comes to around seven regions<sup>4</sup>. Focusing on regions instead of districts was done for several reasons. The most important one is that there are simply too many small districts to visit each of them. Furthermore, the differences between the districts are minor, while the differences between the regions are much more fundamental. Lastly, the time available for fieldtrips was insufficient to visit each district.

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<sup>2</sup> For more information see Annex C2.

<sup>3</sup> For more information see Annex C2.

<sup>4</sup> These regions are: Central, East, Karamoja, North, South-west, West, and West-Nile. For reasons further elaborated upon later in this paragraph, the researcher was not able to go to the Karamoja area.

For the locals, the aim was to conduct around ten interviews per region. This was deemed enough to get a grip on the specific problems in the area, an idea of how large estates are, and to get some information on the soil and crops. Locals were selected completely randomly. The researcher would, without knowing his exact whereabouts, decide to take a turn off of the main road. After driving for a while he would again branch off in order to get a little distance away from the main road and to be able to get the real picture of rural life and the challenges there. Although it was not always possible, it was tried to talk to two or three locals from the same village in order to verify the answers from the first interview. It was also tried to then talk to the Local Council (LC) I or similar person to find out whether or not the expert of that area had the same view. Again, this goal was difficult to achieve.

For the experts, the aim was to talk to between five and eight experts per region. On top of that, the aim was to talk to around ten to fifteen experts in Kampala, from different backgrounds and different professions. Before the fieldtrips begun, the goal was to talk to the Chief Administrative Officer (CAO), the LC V, possibly people from the land registry or the land office, and to talk to more local experts, like LC I's and LC III's. However, this plan proved to be too ambitious. Fieldtrips, as is shown in Annex A, were trips of between four to ten days. The time in each district was thus very limited, so if the CAO or LC V was impossible to be contacted prior to arriving, it came down to pure luck to talk to him or her. The ambitions thus had to be scaled down. This was not a negative thing though, since it turned out that many CAO's and LC V's are not specialists; they are overall managers of a district. It thus proved to be more insightful and informative to talk to the 'lower' people at the district level who knew the specific issues a lot better.

Within Kampala, the goal was to talk to Members of Parliament, lawyers, economists, specialists from donor parties, a ministry official, representatives of Non-Governmental Organizations (NGOs) and other relevant experts. The list of interviewees in Annex B is a list of all the on the record, approved and 'scheduled' interviews though. A lot more informal and off the record talks were held with people to gather information. However, these people have not indicated that these talks could be used for the research. Therefore, it was only used to increase the researcher's knowledge on the issue, and not to specifically use it in the research. The people interviewed within Kampala were chosen on the basis of tips and contacts from colleagues at the embassy, and on spin-offs during earlier interviews.

Observations were done during fieldtrips. However, it is important to note that the researcher had several biases which led to a few shortcomings. First of all, the researcher is a foreigner from a completely different part of the world. This caused a bias in the way the researcher looks at customs and the things he sees.

Second of all, the researcher is of Caucasian origin, or *muzungu* in the local language. This racial feature means that people, especially in rural areas, will basically 'stop and stare'. While it has most likely had limited influence, it is a bias that has to be noted.

Third of all, an important shortcoming is the fact that the researcher does not speak any of the local languages. This was an important shortcoming when the researcher went to areas where hardly any English was spoken. There was one way of avoiding this bias, which was by commissioning a translator. However, this option was not chosen because of two reasons. The first is that there are very many different local languages. This means that in every little area a new translator has to be commissioned. Next to the time consuming nature of this, there is also a chance of the translator censoring the answers of the respondents. A number of reasons can exist for this, for example not wanting to give detailed and possibly hurtful information about the village, or the translator and the interviewee being in conflict over land together and the translator not wanting the researcher to know this. Obviously, more reasons for censoring are possible. The second reason is that there is no budget for such translators. The consequence of not commissioning a translator is that in few areas no interviews could be held at all. Another consequence is that interviews were most likely only held with people with some form of education, thereby overlooking a certain group of people. However, the negative effects of these consequences were deemed less harmful for the research than commissioning a translator.

Fourth of all, the researcher was not able to go to every place the researcher wanted to go to due to safety concerns. For instance, the north-east region of Karamoja can currently only be visited when escorted. The Royal Netherlands Embassy, facilitator of the research, strictly forbade the researcher to enter this area, and rightly so. Therefore, no research was done in this part of the country, limiting the scope of the research and the scope of the conclusions.

#### **2.4 Reliability and validity.**

The difference between qualitative and quantitative research has briefly been touched upon before. Over the years, a discussion has emerged over the relevance of reliability in qualitative research, with Stenbacka claiming that 'the concept of reliability is even misleading in qualitative research. If a qualitative study is discussed with reliability as a criterion, the consequence is rather that the study is no good (Stenbacka, 2001, p. 552, cited in: Golafshani, 2003, p. 601).' However, this is disputed by Lincoln and Guba, who respond by asking how a researcher can persuade the audience that the findings are worth paying attention to if the reliability is not shown. According to these two researchers, in qualitative research it is more about the notions of credibility, neutrality, confirmability, consistency or dependability and applicability or transferability since each paradigm's research has to be judged by its own paradigm's terms (Lincoln & Guba, 1985, in: Golafshani, 2003).

Seale, however, claims that ‘trustworthiness of a research report lies at the heart of issues conventionally discussed as validity and reliability (Seale, 1999, p. 266, cited in: Golafshani, 2003). Ultimately, Lincoln and Guba (1985, in: Golafshani, 2003) and Patton (2001, in: Golafshani, 2003) explain that validity in qualitative research cannot be established without reliability, so a demonstration of validity is adequate to establish reliability.

The validity of the research is a very important concept. As shown, the meaning of reliability and validity in qualitative research slightly differs from the meaning these terms have in quantitative research. As the discussion is still going on to establish the meaning of these terms for qualitative research one has to settle for what is agreed upon at this point in time. After a thorough literature review, Golafshani concludes: “The idea of discovering truth through measures of reliability and validity is replaced by the idea of trustworthiness (Mishler, 2000), which is “defensible” (Johnson 1997, p. 282) and establishing confidence in the findings (Lincoln & Guba, 1985) (Golafshani, 2003, references in original)”.

For this specific research, this means that the methods of research have to be defensible and that these methods should establish confidence in the findings. Defending the methods of research has partly been done by explaining the method of data collection. In this research, four different methods have been used which together give an accurate and trustworthy representation of the situation. Furthermore, the fieldtrips commenced have been done in a way that captures the geographical differences in the country. Every distinct region in the country<sup>5</sup> has been visited and interviews held in the field were held with a wide variety of people in order to get the full, bigger picture of the issue. Also, the same type of people has been interviewed in the different regions, thereby making it more reliable. By interviewing a fairly high number of respondents the trustworthiness was increased. The range of organizations, from NGOs and independent consultants to government officials, ensures the bigger picture as well, offering the chance to reveal opposing visions on the issue. As all the views were more or less coherent this increases the confidence in the findings.

Each and every interview that was held was processed and is thus digitally available. The questionnaires, which can be found in Annex C, are based on the first few interviews and on elaboration with colleagues at the embassy. This way, the questionnaire became more sophisticated as time went by, and it made sure that the right questions were asked. The way questions were asked was in line with the questionnaires, although the specific formulation may have been different since the interviews were semi-open. Formulation of the questions is an important task since, if it is

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<sup>5</sup> Except for Karamoja, for which the reason is explained in chapter 2.3.

done the wrong way, it may lead to socially desirable answers and it may lead interviewees to easy answers. It is therefore important to find the right tone and formulation, since this will keep a respondent alert and will result in getting the honest answers.

As time goes by, more and more information is known about the research topic. Obviously, this has led to more sophisticated questions for the interviews, as well as to a more critical approach. If, for instance, a respondent provided answers that seemed to contradict the general trend identified in documents and other interviews, the respondent was asked further questions in order to find out whether this was the persons true assessment of the situation, whether he or she was holding back information or giving a politically correct answer, or whether the previous findings were perhaps not entirely true. The same was done if any of the answers were not entirely clear or provided new information.

As noted before, all the interviews were processed. After this process, the answers were cross-examined. It was important to find out if answers from locals were similar, and to see if experts from a certain region provided information comparable to what the locals gave. It was then found that locals often indicated that they had never had a conflict over land, while they did acknowledge that there were many conflicts in the area. Although at first this was perceived to be unfortunate, (the researcher may have talked to the wrong people), it was then realized that it was extremely likely that people did not want to acknowledge to having been in a conflict. Also, the only ones that did acknowledge this said they had won the conflict. For more reliable information on this, the researcher thus had to rely on answers from experts in the region and reports from organizations that had performed a research in the entire village, interviewing each member of the community. Although the answers from the locals did not make the interview entirely useless (these findings in itself were interesting as well), other sources had to be used to find reliable answers to the specific questions relating to conflicts.

Overall, the answers from the interviewees to the posed questions proved to be fairly similar. After a certain amount of interviews it was even possible to fairly accurately predict the answers given by the respondent. Very important was that the general conclusions reached in the final chapter do not oppose any of the answers given by the interviewees, though respondents may have formulated things differently or leave certain things out due to political reasons.

By having the relatively large number of interviews the influence of exceptional or extreme respondents is limited. In general, the answers of the respondents are fairly coherent and similar. This increases the reliability of the outcomes. Because of this, it is justified to use these general and coherent findings from interviews to answer the research questions. By no longer using specific answers from individuals anymore, but instead using the overall consensus of the entire collection of answers, it becomes impossible to attribute statements in this report to certain individuals. Instead,

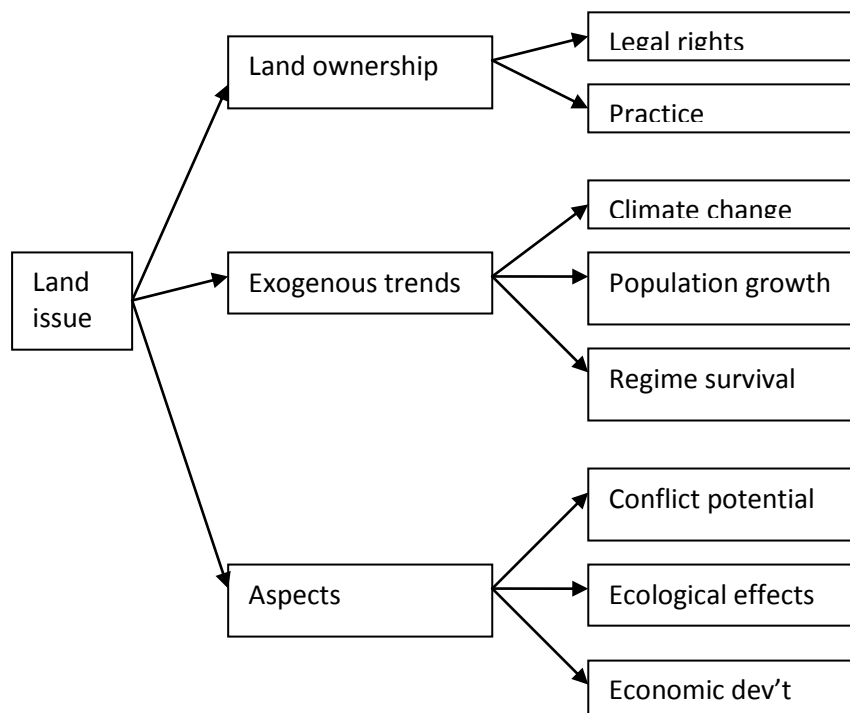


the at times seemingly bold and blunt statements are carefully based upon the large set of interviews.

### 2.5 Conceptual model.

The conceptual model of this research starts with the entire land issue. The research consists of three main parts, being a description of the current situation of land ownership, description of the existing autonomous exogenous trends and showing the relationship between the current land ownership rights and the various aspects, while taking into account the exogenous trends discussed before.

The first thing discussed will be the formal rights and day-to-day practice of land ownership. After that, the trends will be discussed. The three main trends that have been identified after the literature study<sup>6</sup> and a number of initial interviews are climate change, population growth and the regime’s attempt to assure its survival. These trends are autonomous to a large extent and can therefore hardly be influenced by government policy<sup>7</sup>. However, their impact on the land issue need to be discussed since they imply major changes for the way land is used and distributed. The third section of the model concerns the aspects. As shown before, the current situation consists of three main aspects. A thorough and detailed description of these three aspects (conflict potential, ecological effects and economic development) as well as their interlinkages is necessary to fully understand and appreciate the land issue in Uganda. These main aspects obviously consist of a variety of smaller aspects that will be discussed in detail. The described structure is visualized in the model shown below.



The last part of the land issue, which will be

Conceptual model of the land issue in Uganda.

<sup>6</sup> This literature study is discussed in chapter 3.

<sup>7</sup> With the exception of course of regime survival. However, regime survival is tactics and actions by the top officials. These actions are obviously not official government policy, and may well even undermine official policy.

taken care of in the conclusion, is to link the current land ownership rights to the three aspects, while taking into account the identified trends. To do so, a causal model is developed which clearly shows which relationships will be examined.

Variables in research:

Independent variable:

Dependent variables:

Intervening exogenous variables:

A = Land ownership rights

Q = Conflict potential

X = Population growth

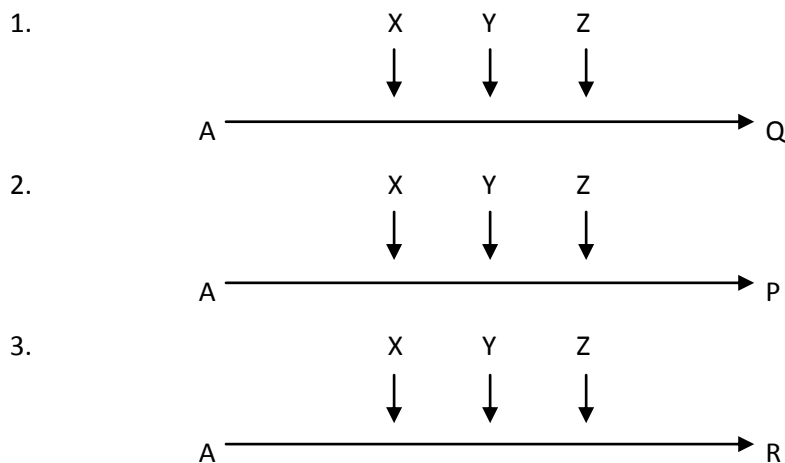
P = Ecological effects

Y = Climate change

R = Economic development

Z = Regime survival

Relationships between variables that need to be researched:



## 2.6 Definitions.

The terms and concepts used in the causal model presented above need to be clarified for this specific research. In most cases, this exercise comes down to common sense and using other research, but some need to be adapted to the specific Ugandan situation. For all terms and concepts, the definition is given as it is used in this research. In most cases, it needs to be explained how this is researched or how it is operationalized.

Concept	Definition in this research
Uganda land issue	Ownership of land and the aspects and trends influencing or influenced by the ownership of land in Uganda.
Legal rights of land ownership	The set of rules as adopted by the GoU as well as customary rules concerning the ownership of land.

	<p>How to research: document study of laws and policies of GoU; Interviews with experts on customary rules.</p>
Practice of land ownership	<p>How possession of land works in reality.</p> <p>How to research: interviews with experts and locals, focusing on type of ownership, conflicts, conflict resolution, transfers of land, and the role of institutions.</p>
Climate change	<p>The change in the long-term (30 years) average weather in Uganda.</p> <p>How to research: document study of reports on climate change in Uganda; interviews with locals, focusing on changes in rainfall, droughts, floods, temperature.</p>
Population growth	<p>The increase in population, both in growth rates as in absolute numbers.</p> <p>Operationalization: Data from UBOS, MoFPED and MoLHUD.</p> <p>How to research: Document study on population growth in Uganda; literature study on consequences of population growth; interviews with experts on the consequences of population growth.</p>
Regime	<p>The period of rule of a government lead by a specific ruler.</p> <p>Operationalization: The regime is called after the name of the president of Uganda (thus, since 1986 Uganda has experienced the Museveni-regime, which succeeded the Obote II-regime).</p>
Regime survival	<p>The actions top government officials take in order to assure their control over power in a country, based upon a rational cost-benefit analysis of losing/giving up power for themselves and their close allies.</p> <p>How to research: Interviews with experts; document study; soft research (newspapers, internal reports, etc.).</p>
Conflict	<p>Competitive or opposing action of incompatibles concerning land ownership, leading to disagreement, resulting in either legal or illegal actions.</p> <p>How to research: Interviews with experts and locals; document study; literature study, focusing on causes of conflicts and consequences.</p>
Conflict potential	<p>Likelihood of occurrence of conflicts.</p> <p>How to research: Interviews with experts and locals; document</p>

	study; literature study, focusing on causes of conflicts and consequences; soft research (newspapers, internal reports, etc.).
Ecological effects	The result the various trends and land use have on the environment. Operationalization: Interviews with experts and locals, focusing on soil quality, fertilizers, land use and production; document study of ecology in Uganda; Literature study on farming techniques and types of crops used.
Economic development	Social and technological progress that leads to an increased well-being and quality of life of the Ugandan people due to an increased level of income. Operationalization: Level of income, both GDP as well as GDP per capita, as measured by UBOS.
Long-term trend	Phenomenon that has or will have significant influence on the studied issue. Operationalization: Effects of a trend on the land issue in twenty years time.
Poverty	International poverty line: Daily income of less than 2 dollars a day per person (as a percentage of total population). Operationalization: Data from UBOS, World Bank.
	National poverty line: Daily income of less than 1 dollar a day per person (as a percentage of total population). Operationalization: Data from UBOS, World Bank.

## 2.7 Relevance.

The last important aspect of methodology is the relevance of the performed research. The relevance of the research is divided between the social relevance and the scientific relevance.

### 2.7.1 Social relevance.

When performing a research, it is important to understand why it is important that the research is conducted. One has to know the reasons for researching, what it adds to what we know, and why this understanding is relevant to society. There is no point in researching for the sole purpose of performing research. This report is relevant to the Ugandan society and to its affiliates because it explains the different aspects of the land issue of Uganda. The research deepens the understanding of problems and opportunities, difficulties and challenges. By showing the relevance of the history

outlined in chapter 1 and the trends described in chapter 5 one gets a better grip on the causes of present day issues and how these are likely to evolve. That information is crucial if someone wishes to influence or intervene in policy. Also, the consequences of the current system of land ownership on the different aspects, and the interlinkages between these aspects are important for potential interventions as well. After all, these links indicate that when someone intervenes in the ownership system, this will affect the aspects as well. This shows that a deeper understanding of the land issue is relevant to the Ugandan society as a whole.

### ***2.7.2 Scientific relevance.***

Next to the social relevance there is a scientific relevance as well. The most important feature of this research is that it combines very many aspects and trends affiliated with the land issue. This is a fairly new approach since to this day research on land issues in Uganda only included one or two of the aspects of the issue. As we will see in the next chapter, previous research only looked at direct relationships between, for instance, ownership and conflicts, or economic development and conflicts, or the influence of climate change on land use. This research, however, combines many elements of the issue and shows how these intertwine. Since it is also based on a large number of interviews throughout the country, the local situation is also represented. Furthermore, by deepening the understanding of the consequences of the land ownership system on the defined aspects, the research is very relevant to the scientific community.

After having explained the methodology of the research it is now time to look at the theoretical framework. What authors have published relevant materials? Which essential elements have been identified before? What relationships are proven to exist? What hypotheses can be derived from the literature? All these questions will be the focus of the next chapter on the theoretical framework.

### Chapter 3 Theoretical framework

A research hardly ever starts from absolute scratch. Virtually all research builds on research done before. Therefore, this chapter will identify relevant previous research and will show what value it has for this research. This chapter will first focus on land ownership itself. Important is to find out what kind of systems are used in the world, and how these work. Then these theoretical notions will be cross-examined with the system in Uganda.

After that, it is important to look at the aspects and trends. The goal of those sections is to identify the relevant aspects and trends and determine what is said about these aspects and trends in relation to land. It is also important to then reveal what literature proclaims about the links between the aspects and trends, and what the consequences are for the land issue in Uganda. All in all, the aim of this chapter is thus to identify the aspects and trends that literature finds important for the land issue, what the connections are between these aspects and trends, and how all of this relates to the land issue in Uganda. Fulfilling these goals leads to a more specific focus on the aspects and trends, and guides the questions for interview respondents and the focus of the observations during fieldtrips.

#### **3.1 literature on land ownership.**

Throughout the world a lot of different ownership systems are used. In his work 'Man and Land', professor Kuhnen of the University of Göttingen discusses the most important ones used in the world. He indicates that there are five major types of ownership: state ownership of land, land grants, collective and communal ownership, private ownership of land and farm tenancy. In practice, all these forms are seen in Uganda. State ownership in Uganda occurs mostly in the ecologically precious areas, like wetlands, wild reserves, forests and national parks. Land grants are basically a lease handed out by the central government to an individual or a company. Collective and communal ownership of land used to be common in Uganda, but are declining. These types of ownership vests the ownership of land in the clan or tribe, and the leaders give each individual a certain piece to use, while the fundamental ownership of the land stays with the traditional entity. Private ownership is full ownership in every possible way, which in Uganda exists under the name freehold tenure. Finally, farm tenancy is divided in a few different types of tenure. Kuhnen explains that there is occupational tenancy, which means that the tenant works on the land of the landlord in order to pay for the land he rents. The second form is cash tenancy, in which the tenant pays a fixed rate for the land and can keep all his produce. The tenant then also bears the full economic risk. The third form of farm tenancy is rent in kind, in which the tenant pays the landlord a fixed quantity of produce which limits the economic risks for the tenant. The last form of farm tenancy is share tenancy, in which both



landlord and tenant share the profits of the land, usually in a fifty-fifty manner (Kuhnen, 1982). In Uganda, the second form of farm tenancy is practiced on mailo land, in which the tenant pays a fixed amount of rent per year.

In Uganda, about 75% of the land is owned under customary tenure<sup>8</sup>. This type of tenure corresponds mostly with collective and communal ownership. However, the role of clans and tribes in the land issue is declining due to the increasing importance of land. Ownership of land is simply becoming too important for a family to be left to the clan. Therefore, in Uganda a system of individual customary ownership has evolved.

When it comes to changing laws, policies and institutions in a country, Easterly (2008) shows that there are basically two overarching views shaping our thoughts on how this should be dealt with. One of them is described as top-down, the other as bottom-up.

In the top-down view, as advocated by scholars like Rousseau and Condorcet, the government, or political leaders if you will, shapes society and institutions by adopting laws. When political leaders decide institutions need to change, they alter the law and society will adapt its behavior accordingly. The bottom-up view has a different notion of the role of political leaders. Institutions and society will themselves decide what direction to go into, and political leaders merely have to change the laws so that it fits these institutions and society again. This is a view advocated by scholars like Edmund Burke.

These two views are very important for institutional change. Scholars favoring the former would argue that, in the specific situation of Uganda, the government can simply decide to start handing out titles, or to change the structure of mailo land. Changes can therefore be sudden and abrupt since institutions will simply follow the new rules. Scholars favoring the latter, however, claim that current and future institutions are heavily constrained by previous institutions. They argue that society will direct itself to a favorable situation and at that point in time the politicians have to alter the laws. In the specific context of land titles in Uganda this would mean that society will, for example, go towards a system in which every family has its own plot of land making tribes and clans unnecessary for that matter. Once that situation is reached the central government can simply pass a law stating that land is owned by families, and could then title land accordingly if society wishes so.

Very important in this distinction in worldviews, is the way people look at laws and institutions. In the top-down view, new rules and institutions are recommended through pure reasoning. The bottom-up view will be reluctant to introduce severe changes since it recognizes historical and cultural constraints which have somehow shaped the current institutions. However, as

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<sup>8</sup> For more information, see chapter 4.2.

Easterly (2008, pp. 1 – 2) puts it: “This is not to advocate the extreme view that ‘what is, is right’, only the more modest view that ‘what is, is for a reason’.”

Since these two worldviews are the extremes, most actual views lie somewhere in the middle. In his 2008 work, Easterly shows how a ‘shock therapy’ of introducing capitalism in an extreme top-down way failed in the former Soviet Union, while it was and is successful in a modest and gradual manner in present-day China, hereby showing that extremes usually do not work. Easterly then moves to the specific issue of issuing land titles in Africa. He first shows that opinions of official institutions have hardly changed over the past sixty-five years (‘all discussions on the subject agree as to the value of giving security to the occupier of land, (...) legal security against attack or disturbance can most effectively be guaranteed by registration (Lord Hailey, 1938, in: Easterly, 2008, p. 3)’, versus ‘[Land] arrangements found in many countries are often not optimal from either an economic or a social perspective. For example, in Africa, the vast majority of the land area is operated under customary tenure arrangements that, until very recently, were not even recognized by the state and therefore remained outside the realm of the law (World Bank, 2003, in: Easterly, 2008, p. 3)’), only to then conclude that attempts to register land has failed: ‘today only about 1 percent of land in Africa is registered under the formal system (Commission for Africa 2005, 231). Clearly, something about the top down registration of land titles is not working (Easterly, 2008, p. 3, reference in original).’

On the topic of bottom-up or top down, Easterly concludes that:

“Attempts at rapid, top down change can even have negative consequences. If that is reality, then an agenda of gradual reform that recognizes the constraints of bottom up evolution will lead to more hopeful results than a delusory top down attempt to leap to institutional perfection (Easterly, 2008, p. 5).”

Easterly thus favors a bottom-up approach which recognizes the inevitable constraints over a top-down approach the way many donors and aid agencies advocate. As discussions still go on, a widely agreed upon conclusion has not yet been reached though.

Large theoretical discussions on the topic of land ownership have evolved over the years, also on the specific topic of titling. One particular discussion was dubbed the ‘title-no title’ dichotomy by the World Bank scholars Deininger, Ali and Alemu (2008). Easterly considered the process of structuralized titling of land in a country a top-down approach to development instead of a way to empower land users and deemed it coming too much from donors (Easterly, 2008). On the other hand, the results Deininger, Ali and Alemu achieved with their land certification project in Ethiopia

are promising. They proofed that issuing certificates of ownership<sup>9</sup> ‘had a positive economic impact and improved tenure security, investment, and supply of land to the rental market’. Furthermore, conservative estimates point towards a ‘positive and large cost-benefit ratio’ (Deininger, Ali & Alemu, 2008). However, even if titling is considered a very useful process now, it requires documentation, registration and, above all, continuous updating of the database in the future.

Just four years previous to this World Bank report, the very same Deininger, this time in cooperation with Castagnini reported a very contrasting view. In a paper on land conflicts in Uganda, the duo stated: ‘Traditional interventions such as titling, which were very effective in other parts of the world, have proven inadequate in many African contexts where, instead of fostering growth, they may even have led to higher levels of conflict (Deininger & Castagnini, 2004, p. 1).’ However, de Soto (2000) indicates that secure land rights lead to increased investments on land, increases the value of land, reduces the number of conflicts and spurs economic participation and development. It would therefore seem to make sense to provide a title to every family and individual holding land.

In stark contrast to this, Easterly refers to a number of reports indicating that titling has had limited effects on investment, increases opportunistic behavior induced by institutions, and even has an increasing effect on conflicts (Easterly, 2008). Related to opportunistic behavior, Easterly gives an example of a case in Kenya which is exemplary to the way land rights and interest can become intertwined when formal titling and traditions meet:

“In an illustrative anecdote from Shipton, Ocholla Ogweng of Kanyamkago got a loan of 30,000 Kenyan shillings from Barclay’s Bank in 1979. To raise collateral, he asked the help of his wife’s father, Ogwok Nyayal. Mr. Nyayal arranged with his sister’s husband, Mr. Alloyce Ohero, to pledge his land as collateral for Mr. Ogweng’s loan. Alloyce Ohero then sold part of his land to two strangers, without informing them of the Barclay’s Bank lien, and they settled on the land. Mr. Ohero died in 1981 and Mr. Ogweng defaulted on his loan. The two sons of Alloyce Ohero expected to inherit the unsold part of his land, equally unaware of the Barclay’s Bank claim. By 1982, a court broker prepared to auction off all of Mr. Ohero’s former land on behalf of Barclay’s, to the consternation of everyone involved. The two strangers blamed Mr. Ohero’s sons, who blamed their uncle Ogwok Nyayal, who blamed Alloyce Ohero, who if he were alive would blame Ocholla Ogweng (Easterly, 2008, p. 4).”

Easterly sums up a large number of scholars opposing the need, relevance and positive influence of formal titling. Instead, scholars have found that indigenous property systems themselves evolve to a system of more individualized land rights (Migot-Adholla et al, 1991) and that formal land

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<sup>9</sup> Note that these certificates are by no means full titles of ownership to land.

titles are not necessarily an advantage over indigenous systems (Platteau, 1996; Boudreaux & Alicia, 2007; Cotula, 2007), although this also does not mean that indigenous systems foster optimal outcomes. These researchers have shown that it is not possible to simply point out a single best system of tenure that works world-wide.

A much broader and inclusive theory on land ownership comes from North and Thomas. Their 1973 work argues that well defined and protected property rights are the foundation for a state and its economic growth. Although their theory is discussed in more detail in section 3.2.3 on economic development, they indicate that the behavior of actors can be explained by the applicable institutions that form the 'rules of the game'. Therefore, socially desirable activities may not be embarked upon because the individual outcomes are ultimately negative (North & Thomas, 1973). Taking this concept to the negative, this may then thus lead to widespread disrespect for property rights. After all, if the individual outcomes of disrespecting property rights are positive, this path would be chosen. Looking from just a slightly more positive side, socially desirable behavior by an individual may be blocked by institutions. For instance, assume that handing out titles is positive for the society at large since it lessens conflicts and spurs economic activity. In that case, an individual applying for a title would be a socially desirable action. However, if the transaction costs for this individual are too large, either because he faces large financial costs, too much paperwork or resistance from his neighbors and fellow-villagers because they oppose the concept of titling, he may decide not to apply for the title. In this (realistic) case, the institutions block the desired outcome and thereby explain the behavior of the individual.

### **3.2 Literature on aspects of land ownership.**

In this section, literature on aspects of land ownership is discussed. As indicated in chapter 1, three main aspects are identified, being conflict potential, ecological effects of land use and economic development. Each of these will be discussed.

#### ***3.2.1 Literature on conflicts and conflict potential.***

A very important aspect of ownership is the conflict potential it represents. Chapter 1 has shown the historical context of land issues in Uganda and how this fosters conflict. In recent years, conflicts over land are indisputably on the rise in Uganda. A very important reservation has to be made though. Whereas in this research the effects of land ownership on the aspects conflict potential, ecological effects of land use and economic development are central, no literature has been found that *directly* links land ownership to conflicts. Although ownership of land is a crucial and critical factor, another factor is always explained as the trigger of conflict.

As stated, conflicts over land in Uganda are on the rise. Several factors for this have been identified:

“One of the main reasons underlying the increased incidence of land conflict in [African] countries is the failure of the prevailing land tenure systems to respond to the challenges posed by appreciation of land in a way that would enhance effective tenure security and thus provide the basis for higher levels of investment and productivity-enhancing land transfers rather than the dissipation of resources in conflict over land (Deininger & Castagnini, 2004).”

With this claim, Deininger & Castagnini indicate that conflict is not so much over the resources of the land, but more over the economic value of the land and the value of tenure security. This is disputed by Collier (2000) who claims that if more than 25% of a country's exports is comprised of primary commodities, the country is more than five times more likely to engage in conflict, a situation Uganda is in. This would mean that the curse of resource wealth is a more important reason and cause of violent conflict than poverty induced grievances. An additional claim is made by Zongo (2002, in: Deininger & Castagnini, 2004, p. 3), who claims that population growth is more important:

“Rapid population growth, combined with either limited opportunities for non-agricultural employment or, in other areas, increasing non-agricultural demand for land, is a key factor that causes land values to appreciate, resulting in higher competition for a limited or decreasing amount of land available. This often leads to conflict across generations or ethnic groups, especially in environments where risk is high and land is a key asset and source of livelihood.”

The conditions stated by Zongo (population growth, limited opportunities for non-agricultural employment, land as a key asset and source of livelihood) are all present in Uganda. Zongo has linked population growth directly to conflicts. However, population growth does not have to lead to conflict: ‘There is strong historical evidence linking youth bulges to instability and conflict. But this need not be the case. A youthful population can (...) [provide] a “demographic dividend” of energetic workers to jump-start productivity and growth (Brainard et al, 2007)’. However, if this is to happen, the local economy needs to offer enough opportunities for work. In this respect, the Uganda National Population Policy rightly states: ‘Uganda will, sooner than later, enter a demographic window of opportunity that is often called the demographic gift or demographic bonus which if not planned for can end up being a demographic burden (MoFPED, 2008).’ As of right now, Uganda does not seem to be able to avoid this demographic burden since jobs are scarce and unemployment is high, a situation which, according to literature, could easily end in conflicts.

From the available literature, Goodhand (2001) identifies three common factors for 'grievance formation': historical development patterns, the role of the state, and international policies. Goodhand claims that these three factors often spark conflicts in countries. The first identified factor is explained in chapter 1 of this research, while the second one will be explained in chapter 5.3 as 'regime survival'. The last factor seems not to be all too present in Uganda, mostly because donor parties in Uganda seem to have learned their lessons from other countries. When it comes to land issues, donors are therefore very reluctant to participate and prefer to let government and civil society come up with the best way forward.

Obviously conflicts lead to very undesired outcomes. Violence, death, and destruction of property are just a few examples of such outcomes. Another undesired outcome is the economic effect of conflicts. Often, conflicts are linked to (extreme) poverty. Although this link between conflicts and poverty is a clear one, there is dispute in the literature about the direction of the link. As Goodhand (2001) rightly asks: 'Is poverty a permissive or causal factor? Is it a structural cause, a trigger or an accelerator of violent conflict?' Since the link is disputed, both directions will be discussed. Important to note with all these links is the difficulty to find out true and complete data on the link. Luckham *et al.* describe the difficulty and limitations of obtaining this data. They argue that there are three key problems. The first one is lack of reliable data since data is one of the first casualties in case of conflict. The second problem is that most data tends to be country-wide figures while most conflicts are localized. The third problem is the establishment of appropriate counterfactuals: How would the situation be without conflict? What real effect has the conflict had on the people and their economic wealth (Luckham, *et al.*, 2001)?

#### *3.2.1.1 Conflict leads to poverty.*

Many scholars agree that conflict leads to reduced agricultural outputs, thereby causing a decline of income for the involved person or family which can put him or them into poverty. Deininger and Castagnini, for instance, indicated that during their research on the effects of land conflicts in Uganda, they found 'evidence of a significant and quantitatively large productivity-reducing impact of land conflicts (Deininger & Castagnini, 2004, p.1).' Furthermore, Goodhand concluded that 'chronic internal wars are likely to produce chronic poverty (Goodhand, 2001, p. 13).' The long lasting conflict in the north due to insurgencies by the Lord's Resistance Army (LRA) was such a chronic internal war, which left the northern part of Uganda in extreme poverty and caused widespread famine and displacement. Goodhand also concludes: "[C]onflict, and particularly chronic conflict, raises the incidence of chronic poverty and creates downward pressures on the poverty dynamics of many households (Goodhand, 2001, p. 18)."



As just indicated, Deininger and Castagnini found that conflicts have a large productivity-reducing impact. They therefore conclude that this suggests that ‘measures to reduce the incidence of conflict can have a significant impact on the productivity of the agricultural sector, in addition to the contribution such a measure is likely to make to broader and more inclusive rural growth (Deininger & Castagnini, 2004, p. 13).’ Just before they reached this conclusion, they stated that the Land Act of 1998<sup>10</sup> did not lead to a reduction of land related conflict. According to the researchers, further adjustments of said Act and/or greater efforts to implement the Act are essential to reach the potential of the legislation. The researchers thus conclude that the current Act has the potential to end most land related conflicts, thereby significantly increasing the productivity of the agricultural sector, but that the efforts to implement it is holding this back.

Looking from a more macroeconomic perspective, conflict also places a large burden on economic development. In their 2001 paper on the causes of conflicts in Africa, the English Department for International Development (DFID) reports: “The World Bank estimates that conflict in Africa is causing a loss of 2% annual economic growth across the continent (DFID, 2001, p. 11).” The same DFID report indicates that countries bordering conflict zones have high military costs in order to defend itself in the possible case that the conflict enters their country, and that there are very high direct costs of hosting displaced people from other countries. This applies to Uganda since it borders the conflict-prone regions of south-Sudan and the eastern part of the Democratic Republic of Congo (DR Congo). Furthermore, Stewart and FitzGerald (2000, in: Goodhand, 2001) found similar patterns of macroeconomic effects in conflict affected countries, including a fall in per capita GDP, production and export of food, decreasing gross investment and declining government revenue and expenditure.

After examining the macro and micro impacts of conflicts on rural livelihoods and entitlements, Goodhand in his report ultimately concludes: “chronic insecurity increases chronic poverty, but the impacts vary according to a range of factors including age, ethnicity, gender and region (Goodhand, 2001, p. 45).”

### *3.2.1.2 Poverty leads to conflicts.*

As discussed before, scholars have not agreed on the precise direction of the link between conflict and poverty. Many scholars have indicated that the link is not as discussed in the previous section, but rather in the opposite direction. Poverty, they argue, causes conflicts. Goodhand states the relationship in a rather careful way, arguing that “[a]lthough poverty may not be the initial trigger for violent conflict, it can be an important factor that sustains it (Goodhand, 2001, p. 25).” He also

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<sup>10</sup> For more information, see chapter 4.1.

indicates that extreme horizontal income inequalities are considered important by many scholars. Broadly speaking, he says, uneven development processes lead to inequality, exclusion and poverty. This then contributes to increasing grievances, especially when poverty goes hand in hand with religious, ethnic, language and/or tribal lines. Grievances, however, do not directly lead to conflict. An intervening factor is always needed: “These underlying grievances may explode into open conflict when triggered by external shocks (...) or mobilised by conflict entrepreneurs (Goodhand, 2001, p. 24).” This is further supported by Goodhand’s conclusion:

“We examined the processes through which chronic poverty generates grievance leading to violent conflict and concluded that chronic poverty by itself is unlikely to lead to conflict - the chronically poor often lack political voice and organisation. However, horizontal inequalities and social exclusion, particularly when they coincide with identity or regional boundaries may increase a society’s predisposition towards violent conflict. (Goodhand, 2001, p. 45).”

Other factors related to poverty are also mentioned by Brainard *et al.*. They go back one step further, and indicate that scarcity is the real reason of poverty, which then leads to conflicts:

“A powerful driver of extreme poverty is scarcity—typically of such renewable resources as water, timber and arable land that are fundamental for daily survival. When demand for resources outweighs supply and when the distribution is perceived to be grossly unfair, public frustration can spark civil strife (Brainard, *et al.*, 2007, p. 6).”

It has been stated now that poverty alone is very unlikely to spark social unrest and conflicts. Draman (2003) supports this notion by saying that overemphasizing the economic aspects over the political aspects is a mistake. His macro-view on conflicts in Africa is that economic arguments alone cannot explain the complex civil wars on the continent. In addition to this, he claims that theories linking poverty directly to conflicts do not clearly demonstrate this direct link:

“[The theories’] emphasis is on the greed of disgruntled elites within a society who mobilize young men and women to rebel against the state. However if we think about how it is possible for these elites to easily mobilize large numbers of young people to mount a rebellion, then we can see the role of poverty in most conflicts in Africa. As Collier rightly noted ‘If young men face only the option of poverty, they might be more inclined to join a rebellion than if they have better opportunities’ (Draman, 2003, p. 10).”

By stating this, Draman joins Goodhand who indicated that people in poverty are mobilized by others, either ‘conflict entrepreneurs’ or rebels, to start a conflict. Marginalization also tends to induce conflicts: ‘Historically, marginalised sections of the population have been likely to turn to

organised banditry. Particular social conditions such as a surplus rural population or an economic crisis, are therefore conducive to the development of predatory violence (Goodhand, 2001, p. 25).’

Furthermore, Goodhand indicates that it is most likely the transient poor instead of the chronically poor who would be leading in fermenting violent conflict. ‘In remote rural areas’, according to Goodhand, ‘it is difficult to sustain effective organizations that involve poor people on a continuous basis (Goodhand, 2001).’

Literature on the hypothesis that poverty leads to conflicts is rather vast. Poverty, marginalization and scarcity of resources have been proven to be important factors that can spark conflicts. However, not a single scholar indicates that poverty alone can cause conflict. All scholars have at least one intervening factor which functions as a trigger. However, it is a very important link since the history of land issues in Uganda<sup>11</sup>, as well as the regime’s quest for survival<sup>12</sup>, offer enough sparks that could trigger conflicts.

### 3.2.1.3 Conflicts $\leftrightarrow$ poverty.

The last group of scholars advocate that there indeed is a link between conflicts and poverty, but they argue that the direction of this link can either not be determined or is two-way. To say the least, there is a correlation between the two aspects. This is argued by Draman: ‘[A] close look at some of the hot spots in Africa will reveal that there is a very high correlation between poverty and conflict (Draman, 2003, p. 11).’ Goodhand is again the scholar who has performed the most extensive research on this topic. He indicates:

“As the (...) discussion indicates, the links between poverty and conflict are complex and impossible to define precisely. There is clearly no single explanatory framework and one directional, mono-causal explanations have limited value. Most balanced assessments argue for a two way causality – poor countries have a greater disposition to conflict and poverty is also a probable outcome of conflict. Therefore poverty, inequality, scarcity of non renewable resources and external economic forces can have a major destabilising effect on political stability in certain conditions. As usual, however one comes back to the importance of history and context; similar configurations of poverty and bad governance may result in conflict in one context and not in another (Goodhand, 2001, p. 28).”

This is also the personal view of Draman, who admits that ‘the relationship between poverty and conflict is blurred. I argue that poverty is both a cause and a consequence of conflict. The relationship is two-way: poverty leads to conflict and vice versa (Draman, 2003, p. 5).’ This view is supported by

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<sup>11</sup> For more information, see chapter 1.

<sup>12</sup> For more information, see chapter 5.3.

most evidence and is the one that makes most sense from a theoretical-analytical point of view. Therefore, the view that there is a two-way relationship between poverty and conflict is adopted in this research.

### **3.2.2 Ecological effects of land use.**

Literature on ecological effects of land use in sub-Saharan countries is fairly limited. More research is done on ecological choices based on type of tenure and farmers' choices based on economic conditions. The link between ecological choices and type of tenure is an important one though, especially for this research. The World Bank, for instance, shows that 'tenure security (...) is the only variable that has a significant impact on soil fertility investment (Deininger, Ayalew & Yamano, 2006, p. 18).' A similar conclusion was reached by Pender, *et al.* (2004). This would mean that investing in increased tenure security would lead to higher investments on soil fertility, thereby taking better care of the environment and securing higher yields in the future. This would be a very important development for subsistent farmers to increase their income.

Certain ways of using the land one possesses has different outcomes. The most extensive research found in this respect was done by Pender *et al.* during their research in Uganda. They found that 'participation in technical assistance programs (as is done in Uganda by the NAADS, BTB), pursuit of certain livelihood strategies and investment in irrigation can achieve 'win-win' outcomes, increasing agricultural productivity while reducing land degradation (Pender, *et al.*, 2004, p. 1).' Surprisingly, they also found that the hypothesis that poverty causes land degradation was not supported by evidence. However, they do indicate that there is evidence of a continuous circle of land degradation with more erosion in case of land viewed as lower quality and fertility. Furthermore, no significant link was found between crop choice and the perceived soil erosion. Also, in the short run crop rotation (which is often advocated for in Uganda) significantly reduces profitability although in the long run, crop rotation may lead to higher profitability since it restores soil fertility (Pender, *et al.*, 2004). The researchers found that irrigation substantially increases profitability (by a factor of 4,6), while it also has a strong negative impact on erosion. This means that the more irrigation is practiced, the less erosion is perceived. The same link is found between the presence of trees on a plot and soil erosion (Pender, *et al.*, 2004).

Furthermore, the researchers found that in Uganda, plots on steep slopes have more severe erosion problems and that there is a downward spiral of land degradation: already degraded soils suffer more from erosion. There were a few other factors found to affect *perceived* soil erosion, which includes 'better market access (reduces erosion), higher population density (increases), access of the plot to the farmer's residence (increases), (...) and tenure security (less erosion on land the

farmer expects to operate in ten years) (Pender, et al, 2004, p. 9).’ The researchers indicate that more research is needed to confirm these findings though.

A very important finding by these same researchers concerned the effects of population growth:

“The positive effect of population density on erosion supports neo-Malthusian concerns about population induced land degradation, consistent with findings of other studies in Ethiopia (Pender, Gebremedhin, Benin and Ehui 2001; Grepperud 1996). This finding is not consistent with optimistic arguments about “more people, less erosion” cited in some studies (e.g., Tiffen, *et al.*, 1994) (Pender, *et al.*, 2004, p. 9, references in original).”

Another significant finding by Pender, *et al.* concerned the level of erosion on certain types of tenure. Although they supported Deininger, Ayalew and Yamano’s finding that increased tenure security has a positive impact on soil fertility investments, they also found lower levels of erosion on customary and leased-in plots, which the authors did not expect. According to the researchers these results ‘call into question the common presumption that owner-operated plots under freehold tenure are better managed than customary land or leased-in land (Pender, et al, 2004, pp. 9 – 10).’

The last important finding of Pender *et al.* relates to poverty. The researchers have not found evidence of a ‘poverty-land degradation trap’, meaning that they have not found evidence that a poorer household suffers from more soil degradation since they would not be able to invest in their land.

The main conclusions of literature on the link between land ownership and ecology in Uganda is thus that increased tenure security would lead to higher investments, thereby taking better care of the environment. Other important conclusions for Uganda are that a higher population is negative for soil quality, and that irrigation and the presence of trees have a positive effect on soil quality.

### **3.2.3 Economic development.**

Land ownership and economic development are closely linked. Scholars throughout history have made this link clear. The previously discussed work of North and Thomas is no exception. In section 3.1 the importance of property rights, which includes land rights, as advocated by North and Thomas was discussed. Their work has a very important economic link though. The main point they raise is based on the argument that efficient economic organization is the key to growth: “Efficient organization entails the establishment of institutional arrangements and property rights that create an incentive to channel individual economic effort into activities that bring the private rate of returns close to the social rate of return (North & Thomas, 1973, p. 1).” Although they acknowledge the fact

that an individual may choose to ignore such incentives, they argue that most people prefer more goods over fewer goods and act accordingly. This premise then leads North and Thomas to the fairly common explanation that if society does not grow, this is to be blamed on limited incentives for economic activity. North and Thomas argue that factors like innovation, economies of scale, education and capital accumulation are not causes of growth, but are growth in itself. They then state:

“Growth will simply not occur unless the existing economic organization is efficient. Individuals must be lured by incentives to undertake the socially desirable activities. Some mechanism must be devised to bring social and private rates of return into closer parity. Private benefits or costs are the gains or losses to an individual participant in any economic transaction. Social costs or benefits are those affecting the whole society. A discrepancy between private and social benefits or costs means that some third party or parties, without their consent, will receive some of the benefits or incur some of the costs. Such a difference occurs whenever property rights are poorly defined, or are not enforced. If the private costs exceed the private benefits, individuals ordinarily will not be willing to undertake the activity even though it is socially profitable (North & Thomas, 1973, p. 2 – 3).”

The link to property rights is very important in their work. On property rights, economic growth and the essential institutional arrangements to establish the property rights, they state:

“Given (...) the way people behave, economic growth will occur if property rights make it worthwhile to undertake socially productive activity. The creating, specifying and enacting of such property rights are costly, in a degree affected by the state of technology and organization. As the potential grows for private gains to exceed transaction costs, efforts will be made to establish such property rights. Governments take over the protection and enforcement of property rights because they can do so at a lower cost than private volunteer groups. However, the fiscal needs of government may induce the protection of certain property rights which hinder rather than promote growth; therefore we have no guarantee that productive institutional arrangements will emerge (North & Thomas, 1973, p. 8).”

This means that in principle, institutions will be established that make desirable activities possible once the benefits of such activity outweigh the costs of it at the individual level. However, North and Thomas indicate that there may be reasons for a government to protect property rights that hinder, instead of promote economic growth. These reasons for protecting the ‘wrong’ property rights would prevent the emergence of productive institutional arrangements, which in return hinders economic growth. Although North and Thomas primarily argue that *fiscal* needs of government may be the

reason for protecting the type of property rights that hinder economic growth, there may be other reasons as well. In Uganda, the importance of survival for the ruling regime is so high that it is easy to argue that this is a much more important and explanatory reason to protect current property rights<sup>13</sup>. The outcome is the same though, since it protects the status quo of institutional arrangements that hinder economic growth. Their basic thesis is thus that behavior of actors can be explained by the rules of the game (or institutions as North and Thomas would call it) for economic transactions, and that these rules of the game can block individual activities that would be beneficiary to the society at large. Institutions, being formal rules and policies, organizations and/or informal rules, are thus an important explanatory factor for the way people behave.

The formal ownership of land has important consequences for investments people make and the returns they get from this. In South-America, Bandiera has found important relationships between the ownership of land and the type of crops invested in. In her report, she presents empirical evidence linking tenure status to the choice of cultivation techniques. The purpose of her research was to assess whether or not cultivation techniques were different if a plot was owned by the farmer, compared to when it was cultivated by a tenant. This was done by looking at the likelihood of farmers to grow trees on their land, since growing trees is generally more profitable than growing annual crops and 'trees enhance nutrients recycling, conserve soil moisture, maintain fertility and reduce soil erosion (Bandiera, 2004).' She concludes that:

“[C]ompared to tenants, owner cultivators are more likely to grow trees. Importantly, the result holds for a sample of farmers that cultivate both owned and rented plots, suggesting that the effect derives from tenure status rather than from unobservable farmers' characteristics. The most conservative estimates imply that the probability of growing trees is twenty-four percent higher on owner-operated plots (Bandiera, 2004).”

Despite major differences, there are crucial similarities between Uganda and Nicaragua. Bandiera shows that Nicaragua heavily depends on agriculture and has a per capita GNP of 430 dollars while about 50% of the population lives below the poverty line. This is comparable with the agricultural society that marks Uganda, where per capita GNP is 330 dollars and almost 40% lives under the poverty line (MoFPED, 2008). Bandiera herself compares her work to other scholars' research and finds that her results are in line with findings from India and Ghana which both show crucial differences between owner-cultivators and tenant-cultivators, whereby owner-cultivators

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<sup>13</sup> This will be discussed in more detail in chapter 3.3.3.



invest more in long-term crops with high returns, like trees (Bandiera, 2004). The World Bank report finds similar results:

“Household-level fixed effect for investment and productivity of land use on owned compared to occupied parcels point towards significantly reduced investment incentives on the latter. While tenure no longer affects productivity if crop choice is controlled for, much higher levels of productivity under perennials suggest a significant productivity impact of tenure. (...) Regressions provide strong evidence supporting the hypothesis that ownership has a significant and large effect on increasing investment incentives. (...) Compared to the ones under usufruct, owned parcels are 31 percentage points more likely to have trees and the probability of past tree and soil conservation investments on them in the applicable reference periods is higher by 17 and 13 percentage points (Deininger & Ali, 2007, p. 11 – 12).”

This shows that the economic potential of increased tenure security is vast. In addition to the tenure status of farmers, the World Bank shows that ‘an exogenous increase in legal knowledge from the current level to full awareness would be associated with a 10% increase in the number of trees planted per acre (Deininger, Ayalew & Yamano, 2006, p. 16).’

These two findings indicate that there is a lot of progress still to be made. An increase in tenure security and in legal knowledge would increase both the number of trees grown on a plot, thereby increasing the profitability of a farm, as well as the ecological balance. Furthermore, the number of trees on any given parcel, seen as an indication of long-term investment, ‘is estimated to have a very positive impact with an elasticity of 12% to 13% (...) on land prices (Deininger, Ayalew & Yamano, 2006, 19).’ Tenure security thus has a large impact on investments, profitability and, ultimately, on economic wealth of a farmer.

The size of the land is very important for profitability. Many policy makers in Uganda claim that large commercial farming should be practiced in the country. However, literature from Uganda to a large extent opposes this idea: ‘The negative effect of land area owned is consistent with much of the literature on farm size-productivity effects (e.g., Deolalikar 1981), indicating that management, labor or other constraints limit the ability of larger farmers to be as productive as smaller farmers (Pender, et al, 2004, p. 7, reference in original).’ On the other hand, however, farms that are too small are economically no longer viable: ‘Today, the middle-sized farms frequently turn out the highest productivity, while small farms are increasingly unable to provide the cultivators' families with a decent living (Kuhnen, 1998).’ It therefore seems best to have a medium-sized farm. Kuhnen not only observed this in 1998, but in his 1982 report he also wrote on the insufficient profitability of

a small-scale farm: 'As soon as the precondition of sufficient farm size no longer exists, the situation becomes less favourable and the living standard of the farmers' families drops, the farms become indebted, property is lost, and the ecological balance is endangered (Kuhnen, 1982).'

The importance of land has changed over the years. More and more people are leaving the rural setting where they have too little land to start their own family and farm. Instead, people move towards the district capitols or even to the capitol city of Uganda, Kampala. Kuhnen witnessed this movement throughout the developing world and reported the following:

"We must accept the fact that the interest in land has changed for many of the younger generation. Whereas the main desire their fathers and grandfathers had was 'access to land', the younger generation is looking to an increasing extent for 'access to income' and where they can gain access. This change, once again, calls for a land market in order to facilitate the transfer of ownership, of more usufruct rights and a mechanism for preventing the land from drifting into the hands of speculators and other undesirable groups (Kuhnen, 1998)."

Although the trend of the youth moving to urban areas to look for access to income can also be seen in Uganda, the cultural, spiritual and traditional importance of land is not given up. People still hold on to that ownership. In order for them to be able to do so, while the economic potential of the land is still exploited to the fullest, the security of tenure needs to increase. Only then can a young person move to the urban area while holding on to the property of the land and renting, lending or leasing the usufruct rights to another person. This is also important for long-term investments, as the World Bank found: '[G]reater transfer rights are associated with significantly higher levels of long-term investment (Deininger, Ayalew & Yamano, 2006).'

These same authors studied the economic impacts of tenure security enhancing measurements. They found this quite hard to do, but found a way to add economic value to the legal knowledge of households. Using this method, they found that informing Ugandans about their rights and obligations under the new law, the total economic impact could be as much as \$1.15 billion, adding that:

[O]ur results support the hypothesis that enforceable legal change can have a major impact on investment and productivity even if it is not accompanied by immediate programs to award certificates. Still, evidence of a high demand for certificates of customary ownership that is backed up by a realistic willingness to pay suggests that, in the medium to long term, legal reform is unlikely to obviate the need for establishment of an effective land administration system (Deininger, Ayalew & Yamano, 2006, pp. 20 – 21)."

Tenure security, however, is reduced by overlapping rights, a situation in which many people find themselves. Especially tenants and landlords on mailo land, and in certain cases owners of customary land, experience overlapping rights. According to Deininger and Ali, there are 'substantial economic effects of overlapping property rights (Deininger & Ali, 2007, p. 14)'. They continue by stating that 'in the case of Uganda, higher tenure security could considerably affect agricultural performance (Deininger & Ali, 2007, p. 15).'

In his groundbreaking 1982 work 'Man and Land', professor Kuhnen stated the economic importance tenancy in theory could bring by making the land market more flexible. However, he found that in developing countries the landlords are in a one sided advantageous position on the market of land available for tenancy. According to Kuhnen, this leads to 'stagnating agricultural production, dependence, and an economically poor situation for the tenants and their families (Kuhnen, 1982).'

Ownership of land is thus closely linked to economic development. Scholars have shown that increased security of tenure, as well as increased knowledge of their legal rights will have large positive effects on long-term investments, productivity and profits.

#### ***3.2.4 Conclusions regarding the aspects.***

Literature reveals that land ownership is closely linked to the aspects identified in this research. Although some literature also reveals gender as an important aspect (Rugadya, Obaikol, Kamusiime, 2004; ULA, 2007; ULA, 2008; LEMU & NRC, 2008) in this research this is considered to be already part of the topic of land ownership, and is therefore not a separate part of the research. The mentioned aspects conflict potential, ecological effects of land use and economic features are all affected by land ownership, while they also affect each other. It has been shown, for instance, that conflicts lead to poverty, while poverty can also lead to conflicts (as long as there is an exogenous spark). In the same manner, the way people use their land has effects on the ecology of the land, thereby affecting the economic potential of it. The three aspects are strongly linked to land ownership, though they are also linked to each other.

#### **3.3 Literature on the exogenous trends influencing land ownership.**

In this section the literature regarding the long-term trends affecting land ownership will be discussed. Chapter 1 has shown that exogenous trends are identified as being climate change, population growth and the desire to assure regime survival.

### **3.3.1 Climate change.**

The incidence and impact of climate change is very difficult to predict. Literature on this topic is vast yet very inconclusive. For Uganda alone, hardly any predictions exist, except for the little evidence formulated in the Uganda policy, a DFID report and an OXFAM report. All of them are, again, very inconclusive though. The most extensive report on climate change in the world comes from the Intergovernmental Panel on Climate Change (IPCC) which published its latest report in 2007. Chapter nine, written by Boko *et al.* of this report is focused solely on Africa. Its conclusions towards this continent are as follows (in parentheses the confidence in the prediction): Africa is the most vulnerable continent suffering from multiple stresses which occur on different levels and adaptive capacity is low (high confidence). Although African farmers have developed some adaptation options, these may not be sufficient to cope with the changes (high confidence). Agricultural production and food security are likely to be compromised due to climate change (high confidence). Water stress will increase (very high confidence). Changes in ecosystem varieties are detected at a faster rate than expected (very high confidence). Human health could be negatively impacted even further due to climate change (high confidence) (Boko, *et al.*, 2007, p. 435).

Especially the IPCC prediction regarding productivity and food security is very important for Uganda, along with the water stress. In this respect, water stress does not only mean drought but also floods. The importance of water stress is supported and explained more clearly in DFID's report by Hepworth and Goulden on climate change in Uganda, in which they clearly state: 'In Uganda (...) there are likely to be changes in the frequency or severity of extreme climate events, such as heat waves, droughts, floods and storms (Hepworth & Goulden, 2008, p. 3). These occurrences would have devastating impacts on the Ugandan society which is largely dependent on agriculture<sup>14</sup>.

Although land ownership per se is not directly connected to climate change, it can have important implications for the land market. When a certain region is more prone to drought or floods, in an ideal land market this would lead to a drop of the price of land in the region. Also, climatic changes can have large effects on the various aspects mentioned before. For instance, in their report, OXFAM gives an example on the amount of rain and the number of days of rainfall<sup>15</sup>, whereby they show that rainfall will intensify and may come in heavier bursts. Therefore, OXFAM indicates, '[t]his type of rain may not only be less useful, it may be positively damaging, smashing crops and washing away topsoil (OXFAM, 2008, p. 5)', thereby having a negative effect on the ecology and fertility of land. Also, when drought makes crops wither, or when floods and heavy rainfall washes away crops, this has a large effect for the population. Not only is their investment in

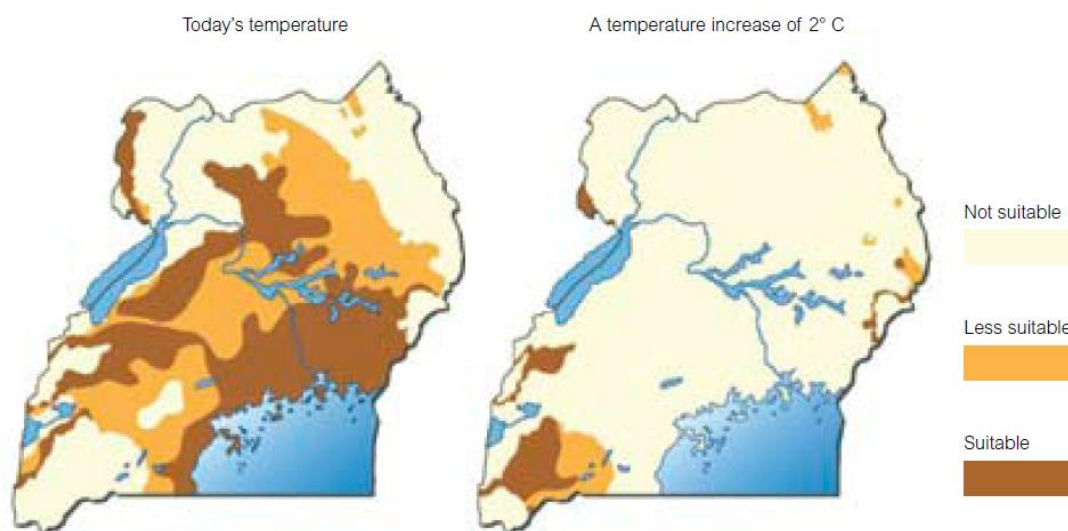
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<sup>14</sup> For more information, see chapter 1.

<sup>15</sup> For more information, see chapter 5.1.2.

the crops gone, which has a severe economic impact, also their potential food or sellable crops are gone, causing famine and lack of money in the near future.

Another feature of climate change is increased temperature. Hepworth and Goulden (2008) indicate that the average temperature in Uganda will rise with around 1,5 degrees centigrade within the next twenty years. This rise in temperature would have a large effect on agriculture, and in particular on coffee. At the moment, coffee makes up 40% of Uganda's export, comprising a total of around \$265 million a year (Hepworth & Goulden, 2008). As the following figure shows, a two degree rise in temperature would diminish the area of land available for coffee growing. Since a 1,5 degree centigrade rise will likely occur within the next twenty years, it is very likely that the two degree rise will be reached shortly after that.



**Figure 3:** Impact of temperature rise on suitability for coffee production. Source: Hepworth & Goulden, 2008.

### **3.3.2 population growth.**

Uganda is experiencing one of the highest growth rates in the world, while the amount of land of the country is obviously not expanding and food production is only very slowly increasing. While only around five million people lived in Uganda in the 1950's, this number has grown to over thirty million today. The Ugandan population projection indicates a population of between 40.6 million (low variant) and 43.4 million (high variant) in 2017 (UBOS, 2007). The United Nations Population Division has made its own projection up to 2050, based on the medium variant of growth, which is shown in figure 2. One very obvious result of the population growth is that the land available per person will go down.

The Malthusian theory on population claims that population cannot keep growing forever. Malthus argued that population will at some point outstrip available agricultural production, leading to widespread famine and starvation which would put the population back into balance with the available resources (Malthus, 1826). In general, Malthus has been proved wrong by statistics,

Year	Population	Pop. growth
2000	23.487.000	3.30%
2005	27.623.000	3.62%
2010	32.996.000	3.58%
2015	39.335.000	3.46%
2020	46.634.000	3.31%
2025	54.883.000	3.11%
2030	63.953.000	2.84%
2035	73.550.000	2.53%
2040	83.344.000	2.27%
2045	93.250.000	2.06%
2050	103.248.000	

**Table 1:** Population growth in Uganda. Adapted from UNPD, 2003.

primarily since he did not sufficiently take into account the possibility of technological innovation and decline in fertility. Even though technology has only recently, and very slowly, reached Uganda it is having a, rather small, effect. However, since Uganda will likely benefit more from technological change in the future, and can also import food paid for by, among others, coffee exports, even the neo-Malthusian claim that widespread famine will occur is fairly unlikely (Klasen, 2005).

A growing population has both advantages and disadvantages. In this respect, Bloom and Williamson have

adjusted a neo-classical model of economic growth to make a distinction between a ‘demographic burden’, in which there are many dependants per worker (both the elderly and the children of the workers), and a ‘demographic gift’, in which the number of dependants per worker goes down rapidly. A country with high fertility will first be in a the phase of a demographic burden. After that, however, fertility will go down and the country will enter the phase of the demographic gift. The faster fertility goes down, the higher the gift is (Bloom & Williamson, 1998).

However, the problem in the specific case of Uganda is that fertility is persistently high. For their projections, the Uganda Bureau of Statistics (UBOS) indicates that they expect fertility to remain high at 6,0 children per woman in 2017. Currently, fertility stands at 6,7 children per woman, while this is down from 7,1 in 1969 (UBOS, 2007). Therefore, it is not likely that the demographic gift Bloom and Williamson describe will be very large in Uganda. In fact, since the population growth has been this high since the 1950’s, Uganda should have been experiencing a demographic gift for a long time, while in reality it has not because of the persistent high fertility rate. A more positive view is expressed by German scholar Klasen, professor at the University of Göttingen. Deriving data from the UNPD, he indicates that the demographic gift will indeed happen from 2015 onwards since the UNPD data reveals a declining fertility rate. According to the UNPD, fertility in Uganda will have gone down to 2,9 children per woman in 2050 (UNPD, 2003).

Ultimately, though, Klasen is not too positive. He indicates that the theoretical demographic gift, which is caused primarily due to high savings and investments rates, may happen, but that it in fact is only a gift and thus an advantage if the government provides a sound economic policy that ensures high employment. Klasen indicates that he is skeptical about this in the Ugandan situation.

In his research, Klasen finds some very important economic effects of population growth in Uganda. Although population growth has a positive impact on overall economic growth in the country, he finds that population growth has a highly significant negative impact on per capita GDP economic growth. He furthermore shows that: '[I]f Uganda succeeded in reducing its population growth rate from (...) 3.4% to 2.4% (which, given the inherent demographic momentum, would only be possible in the medium term), its annual growth of per capita GDP could rise by between 0.5-0.6% (Klasen, 2005, p. 11). Klasen concludes that these results are in line with results from other scholars in different countries.

The effects of population growth on ecological effects have been discussed in paragraph 2.2 of this chapter. It was shown that population growth has a large positive effect on erosion. Population has also been linked to conflicts in paragraph 2.1. Therefore, in this section the effects of population growth on these two aspects will not be discussed again.

### **3.3.3 Regime survival.**

The concept of regime survival is that a leader of a country will do anything within his or her possibilities to stay in power. In Africa, this has lead many leaders to stay in power longer than they were supposed to or expected to. Examples of these leaders are the recently passed away president Omar Bongo of Gabon (in power: 1967-2009), Colonel Muammar Gaddafi of Libya (since 1969), president Eduardo Dos Santos of Angola (since 1979), president Robert Mugabe of Zimbabwe (since 1980), president Hosni Mubarak of Egypt (since 1981), president Paul Biya of Cameroon (since 1982), president Yoweri Museveni of Uganda (since 1986), and president Zine al-Abidine Ben Ali of Tunisia (since 1987).

The tradition of staying in power is thus a long one. Literature on the topic is hardly theoretical though. Most literature sees the quest for regime survival as a given, an independent variable instead of a dependent variable, which is used to explain behavior of heads of states.

One important attempt to explain regime survival as a dependent variable comes from Licht and Lai from the University of Iowa. They argue that regimes which receive a lot of foreign aid are more likely to ensure their survival. The more aid they receive, the more they try to strengthen the regime in order to maintain the status quo: 'Regimes that receive foreign aid are likely to invest it into mechanisms that insure their own survival (Licht & Lai, 2007, p. 1). This is supported by Bueno de Mesquita *et al.*, who indicate that governments may invest aid into broad economic programs, though they are likely to foremost be concerned with the survival of their regime (Bueno de Mesquita, *et al.*, 2003). According to Licht and Lai, this 'suggests that foreign aid should have a status quo effect, where it helps to maintain the survival of the existing regime by providing additional

resources to insure the support of necessary elements of society (Licht & Lai, 2007, p. 1).’ After finding evidence that supports this hypothesis, Licht and Lai claim: ‘Governments are likely to allocate aid in order to maximize their survival, suggesting that the effect of aid is to strengthen a regime, enhancing its survival. (Licht & Lai, 2007, p. 5). They also find evidence that ‘[g]reater intensity of aid leads to a lower hazard rate and thus a greater chance of surviving for a regime (Licht & Lai, 2007, p. 9).’

Bueno de Mesquita *et al.*, rather bluntly yet fairly state: ‘All political leaders seek to hold office, as holding a position in power is a minimal requirement to achieve any other political end (Bueno de Mesquita, *et al.*, 2002, p. 561).’ They also indicate that political leaders, while trying to ensure their survival, will have to choose between providing public goods to society or private goods to a select group. The political leader will then make that choice based on his judgment of what will ensure his survival. Bueno de Mesquita, *et al.*, give the example of a politician having a thousand dollars and having to ensure a ‘winning coalition’ from a ‘selectorate’, the group of people selecting the leader. By providing solely public goods each member of society would gain twenty dollars. However, if the winning coalition is a group of only ten people, the leader can offer these ten people one hundred dollar each, which they would naturally prefer over the twenty dollars of public goods. However, if the winning coalition comprises of a hundred people, each person would only receive ten dollars and they would then prefer the public goods worth twenty dollars (Bueno de Mesquita, *et al.*, 2002). The choice between providing public or private goods thus becomes a rational choice for the person in power.

Very important in the quest for regime survival is a mixture of clientalism, patronage and prebendalism. The World Bank (2004) in their report states clientalism as a very important phenomenon for the poor, as well as a ruling mechanism for the people in power:

“For the poor, clientelism is a survival mechanism within the context of very non-responsive public institutions. Thus many people rely on the social connections of their extended families to secure admission to schools, pay school fees, gain employment, be awarded a business contract, or benefit from government services (World Bank, 2004, p. 44).”

The concept of clientalism is a social form of organization characterized by a patron-client relationship. Powerful and rich patrons promise to give jobs, protection, infrastructure and other benefits in exchange for votes and other forms of loyalty to relatively poor and powerless clients. Although this suggests a certain level of socioeconomic mutualism, the relationship is often exploitative, corrupt and unfair (Keefer, 2005). The term clientalism is often used along with the terms prebendalism and neopatrimonialism. In essence, all these terms come down to the concept



that a wealthy and powerful patron offers benefits to relatively poor and powerless clients in return for their votes.

Neopatrimonialism is different from patrimonialism in the sense that the latter was used by Max Weber to explain a system of rule in which administrative or military personnel was solely accountable to the ruler. Neopatrimonialism, however, is used to describe a system in which patrimonialism and a rational bureaucratic system exist coherently, or are even interwoven (Erdmann & Engel, in: Hoffman, 2006).

These concepts have proven to be very important in the Ugandan context. It is claimed that not a single Ugandan politician could maintain popular support without offering such patronage to the electorate (Kasfir, in: Freedom House, 2003). Reno (2000) even claims that not a single Ugandan regime in history ever had a sufficient base of support or sufficient popularity to stay in control without offering some combination between patronage and repression.

### ***3.3.4 Conclusions regarding the trends.***

The sections on climate change, population growth and regime survival have shown what the trends on these topics are. If reasonably possible it is shown how these trends will affect Uganda, and how they will affect the aspects discussed in the first half of the chapter. The information from the literature will be used to ask the right questions during interviews and as background information during the fieldtrips.

Although, especially with trends that will affect Uganda in the middle- to long term, it is rather difficult to indicate what the effects will be exactly, all the useful information from the literature is distilled to address the issue of land ownership in Uganda. It proves to be very difficult to predict in what extent climate change is going to affect Uganda, although it seems very likely that it will affect the type of crops that can be planted. Population growth is definitely going to happen, and it affects the issue mostly because other forms of employment have to be found in order to fully use the possible demographic gift. The section on regime survival has shown that rational choice will continue to be important for politicians, rather than ethical decisions. Also, the concepts of clientelism and neopatrimonialism have been discussed which seem to be persistent phenomena in Ugandan politics.

## Chapter 4 Land Ownership

Land ownership in Uganda is an incredibly difficult and complex matter because of its history and traditions. Also, it is a very important matter to the people, since, not only people derive their livelihood from it, it also is a matter of identity. The judicial side is a fairly objective and relatively straightforward matter. Regarding land, there are only four documents currently directly applicable to land ownership and administration: the Constitution of Uganda of 1995, the Land Act of 1998, the Registration of Titles Act of 1924, and the Local Council Courts Act (LC Courts Act) of 2006. However, there are a few older documents that are still relevant and explain some of the characteristics of the land law that would otherwise seem odd.

However, landownership in practice is a completely different story. In general, not a whole lot of people know the content of the law. Sometimes the judges do not even know what the law states, especially at the lower level. The law assigns certain duties to certain institutions, but at the local level other, not-mandated institutions are approached or intentionally get involved in land issues and dispute settlement.

For this reason, it is very important to clarify the exact content of the Land Act of 1998 which formally describes, among others, the rules and regulations regarding ownership and transactions of land. This will be predominantly based on the aforementioned documents and will be done in the first section (chapter 4.1) of the chapter. In this section, an answer will be sought for sub question 1a: How is land ownership formally determined? After that, it is important to explain the way land ownership works in practice. This second section (chapter 4.2) will explain who owns land and who does not, how land is transferred and how disputes are settled in reality. The question that will be answered in this part is sub question 1b: How does land ownership work in practice? In the concluding part (chapter 4.3), the answer to these two questions will be confronted with each other and the results of the practice of land ownership for the aspects will be discussed, thereby answering sub question 1c: What are the consequences of the practice of land ownership for conflict potential, ecological effects and economic development?

### **4.1 Land ownership according to the law.**

In this section of the chapter, an answer will be formulated to sub question 1a: How is landownership formally determined? Almost all matters concerning land in Uganda are governed by the Land Act of 1998. This Act was enacted three years after the promulgation of the 1995 Constitution, partly in fulfillment of that new Constitution<sup>16</sup>. Chapter 15 of this Constitution is devoted to land and

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<sup>16</sup> Article 237(9) of the Constitution of Uganda of 1995.

environment. It opens with Article 237 (1) by stating: 'Land in Uganda belongs to the citizens of Uganda (Republic of Uganda, 1995).' This is the very expression replicated in the memorandum of the Land Act. Ownership of land according to both the said Constitution and the said Act, is in accordance with four land tenure systems: customary, freehold, mailo and leasehold (Article 237(1) of the Constitution of Uganda, 1995). The rules and regulations on each of these four types of tenure will now be explained.

#### **4.1.1 Customary ownership.**

Customary ownership is defined through incidents. The best way to describe the ownership of customary land is by quoting the law. The Land Act explains customary land ownership as follows:

'Applicable to a specific area of land and a specific description or class of persons; (...) governed by rules generally accepted as binding and authoritative by the class of persons to which it applies; applicable to any persons acquiring land in that area in accordance with those rules; (...) characterised by local customary regulation; applying local customary regulation and management to individual and household ownership, use and occupation of, and transactions in, land; providing for communal ownership and use of land; in which parcels of land may be recognised as subdivisions belonging to a person, a family or a traditional institution; and which is owned in perpetuity (Section 3(1) of the Land Act, 1998, Cap. 227).'

This definition means that land can be owned according to traditional rules, customs, norms and practices of the community in which it is located. It also indicates that customary land ownership is self-governing by the indigenous communities as opposed to state/statutory control save for when the norms or rules are in conflict with the Constitution. The consequences of this are that communities can have their traditions and customs regarding (the inheritance of) land, but also that the central government has little to say over what these indigenous communities do. However, the traditions and customs are not allowed to violate the constitution or law in any way (e.g. discrimination against any person or group is not allowed).

##### **4.1.1.1 Individual customary ownership.**

It is possible for a holder of customary land to acquire a Certificate of Customary Ownership (CCO) to the land. This is explained in the Land Act: 'Any person, family or community holding land under customary tenure on former public land may acquire a certificate of customary ownership in respect of that land in accordance with this Act (Section 4(1) Ibid...).' It is also possible under section 9(1) of

the Act to convert customarily owned land into a freehold title. Said section provides that '[a]ny person, family, community or association holding land under customary tenure on former public land may convert the customary tenure into freehold tenure in accordance with this Act.' However, mandatory demarcation by state surveyors makes this a more formal and expensive process than merely acquiring a certificate of ownership.

#### *4.1.1.2 Communal customary ownership.*

According to the Land Act, it is possible for a group of people, or even an entire community, to form a communal association. If this is done, the group of people must elect three to nine officers who will be managers of the association and who will apply the constitution of the association. This option has been created to give communities the possibility to continue their traditions and customs of having elders who rule the community, settle disputes and assign land, while granting them protection of the law by turning it into a more modern organization. The management of the association assigns land for personal use and benefits to the different families, which are to be seen as a single legal person represented by the head of the family. Also, the management can create areas of common use within the association, for instance for wood gathering, hunting, grazing or watering of livestock. Theoretically an association can be set up under each type of tenure, although it is most likely to occur under customary tenure.

#### **4.1.2 Freehold ownership.**

Freehold tenure is the type of ownership that is most widely used in European and North-American countries. It is a form that provides full ownership of land, in any way, shape or form. The owner has a land title and can do anything with that piece of land, including, but not limited to, selling, leasing, mortgaging, subdividing rights and creating interests for other people. In principle, the owner holds the title in perpetuity unless he or she decides to sell it or dispose of in another way.

#### **4.1.3 Mailo ownership.**

Mailo land tenure is a form of ownership that stems from the British colonial rulers. It was first created when the Buganda Agreement of 1900 was signed<sup>17</sup>. The Land Act defines it as follows:

'Mailo tenure is a form of tenure deriving its legality from the Constitution and its incidents from the written law which—involves the holding of registered land in perpetuity; permits the separation of ownership of land from the ownership of developments on land made by a

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<sup>17</sup> see Chapter 1.1, 1888-1961.

lawful or bona fide occupant; and enables the holder, subject to the customary and statutory rights of those persons lawful or bona fide in occupation of the land at the time that the tenure was created and their successors in title, to exercise all the powers of ownership of the owner of land held of a freehold title set out in subsections (2) and (3) (concerning freehold tenure, BTB) and subject to the same possibility of conditions, restrictions and limitations, positive or negative in their application, as are referred to in those subsections (Section 3(4) Ibid...).'

This means that Mailo land combines more than one interest in the same land. The interest in the land is divided between an owner and a user (occupant). This feature of mailo land has been explained in chapter 1. Traditional kings (or *Kabaka* in the Central Kingdom of Buganda) and notables were given large pieces of land by the British rulers in Uganda. The descendants, and therefore successors in title, of these people are now the owners of mailo land, although these rights may have been sold to others who have then taken over the mailo ownership. However, the land given by the British rulers already had occupants. These occupants received formal (user)rights when the Busuulu and Envujjo law was passed in 1928. Under this Act, user rights were given to the occupants who could in turn pass their user rights on to their future generations. However, the land could not be divided among heirs, nor could it be transferred, sublet, or sold to anyone. In return for the rights, the occupant now had to pay an annual rent (Busuulu) for the use of the land and a tribute for the produce of the land (Envujjo). The Busuulu and Envujjo law was passed for the Kingdom of Buganda, while similar laws were passed for the Kingdoms of Tooro and Ankole in 1937. The Land Act of 1998 has created more transaction possibilities for the occupants.

If an owner or occupant of the land wishes to sell his<sup>18</sup> rights, he is by law obliged to give the first option of purchase to the occupant/owner respectively.

#### *4.1.3.1 Owner of mailo land.*

The owner owns the land in perpetuity as a freehold owner, yet he does not have the user rights to it. He can, however, sell, lease, mortgage et cetera the ownership of the land to anyone. At all times, he must respect the rights of the lawful or bona fide occupant (to be explained shortly) who occupied the land at the time the tenure was created<sup>19</sup> and his or her successors in title.

#### *4.1.3.2 Occupant of mailo land.*

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<sup>18</sup> The masculine pronoun is used alone here because interests in land went along masculine lines.

<sup>19</sup> see Chapter 1.1, section 1888-1962.

The occupant of mailo land has rights that stem from the aforementioned Busuulu and Envujjo Law of 1928, the Tooro Landlord and Tenant Law of 1937, or the Ankole Landlord and Tenant Law of 1937. Every person occupying land at the time of these laws, depending on where he lived, received user rights and became a 'lawful occupant', which the Land Act of 1998 defines as:

'a person occupying land by virtue of the repealed— (i) Busuulu and Envujjo Law of 1928; (ii) Tooro Landlord and Tenant Law of 1937; (iii) Ankole Landlord and Tenant Law of 1937; a person who entered the land with the consent of the registered owner, and includes a purchaser; or a person who had occupied land as a customary tenant but whose tenancy was not disclosed or compensated for by the registered owner at the time of acquiring the leasehold certificate of title (Section 29(1) Ibid...).'

The Constitution of 1995 provides that if a person is not a lawful occupant of mailo land, he can still have user rights. He or she is defined as a bona fide occupant if this person, before coming into force of the Constitution:

'had occupied and utilised or developed any land unchallenged by the registered owner or agent of the registered owner for twelve years or more; or had been settled on land by the Government or an agent of the Government, which may include a local authority (Section 29(2) Ibid...).'

The occupant has several rights to the land and duties towards the owner, as defined by section 31 of the Land Act. He or she has to pay a nominal annual ground rent<sup>20</sup> as set by the Land Board. However, this ground rent, or Busuulu, is not to exceed Ushs. 1000, - per year, irrespective of size, use, or location of the land. The only way the tenancy can be terminated is if the occupant fails to pay the rent for two consecutive years and fails to respond within six months to the notice the owner is to send to the occupant demanding an explanation for not paying the rent. If the occupant responds the case is brought before the Land Tribunal which is to decide in the case. If the occupant fails to respond within six months, the owner may apply for an order to terminate the tenancy.

As long as the occupant meets the rent requirement, his position is very strong. The law clearly states: 'A tenant by occupancy on registered land shall enjoy security of occupancy on the land (Section 31(1) of the Land Act of Uganda, 1998, Cap. 227)', as well as 'the security of tenure of a

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<sup>20</sup> The aforementioned Busuulu.

lawful or bona fide occupant shall not be prejudiced by reason of the fact that he or she does not possess a certificate of occupancy (Section 31(9) Ibid...)'.

Any lawful or bona fide occupant is, by law, allowed to sell his or her interest/occupancy of the land to anyone. This is enabled under section 34(1) of the Land Act which provides that: 'A tenant by occupancy may (...) assign, sublet, pledge, create third party rights in, subdivide and undertake any other lawful transaction in respect of the occupancy.' This is possible too as long as the occupant submits an application for the owners consent (Section 34(3) Ibid...). If this happens, the buyer/third party takes over the exact same rights and duties and will be the new lawful or bona fide occupant. Under the same provision, a tenancy by occupancy may be inherited.

#### ***4.1.4 Leasehold ownership.***

Leasehold tenure is a form of tenure in which the owner, called the lessor, grants another person, called the lessee, the exclusive right of possession of the land for a specified period of time. Usually the lessee has to pay a premium for the exclusive right of possession of the land to the lessor. In general, this is up to the parties involved to agree upon, although sometimes it is regulated by law (Section 3(5)(b), Ibid...).

#### ***4.1.5 Protection, restrictions of land sale and compensation.***

Section 27 of the Land Act forms a very important exception to the legal options of customs and traditions on customarily owned land:

'Any decision taken in respect of land held under customary tenure, whether in respect of land held individually or communally, shall be in accordance with the customs, traditions and practices of the community concerned, except that a decision which denies women or children or persons with a disability access to ownership, occupation or use of any land or imposes conditions which violate articles 33, 34 and 35 of the Constitution ('Rights of women', 'Rights of children' and 'Rights of persons with disabilities' respectively, BTB) on any ownership, occupation or use of any land shall be null and void (Section 27, Ibid...)'.

A direct result from this is that a community in which it is impossible for a woman to inherit any land from the deceased parents can no longer uphold this rule. If it does, the woman in question has the right to appeal against the decision and claim her land basing on Article 33(1) of the Constitution which states that '[w]omen shall be accorded full and equal dignity of the person with men'. She and her sisters therefore have equal inheritance rights to the land as her brothers. The

Land Act also protects spouses and children from irresponsible land sales by the head of the family.

For instance, section 39 restricts transfers of land in any form by family members by stating:

‘No person shall sell, exchange, transfer, pledge, mortgage or lease any land; enter into any contract for the sale, exchange, transfer, pledging, mortgage or lease of any land; or (c) give away any land inter vivos, or enter into any other transaction in respect of land—

- i. in the case of land on which the person ordinarily resides with his or her spouse and from which they derive their sustenance, except with the prior written consent of the spouse;
- ii. in the case of land on which a person ordinarily resides with his or her dependent children of majority age, except with the prior written consent of the dependent children of majority age;
- iii. in the case of land on which a person ordinarily resides with his or her children below the age of the majority, except with the prior written consent of the committee;
- iv. in the case of land on which ordinarily reside orphans below majority age with interest in inheritance of the land, except with the prior written consent of the committee (Section 39, *Ibid...*)’.

The consequence of this provision is that nobody is allowed to sell his or her land without the written consent of the aforementioned people. Even if a land title is only registered in the name of the man, he cannot sell the land if his family depends on it for its livelihood. If he does, the spouse, dependent children or the clan/committee (depending on the exact situation) can demand the sale to be declared null and void. This protects family members from irresponsible decisions taken by the head of the family. It is an exceptionally important restriction since, as will be discussed briefly in chapter 6, especially the north faces many problems with husbands addicted to alcohol and/or drugs. This is often caused by internal displacement due to long-term regional conflicts. In order to access the cheap alcohol and drugs, some are even willing to sell pieces of their land in order to meet their additional need to buy said products. The restriction laid down in section 39 of the Land Act therefore protects the families from land sales that affect their security on the land and their ability to produce food and meet their daily needs for nutrition.

Another important restriction on land sale is contained in section 40 of the Land Act, which prohibits noncitizens, both in the form of a natural person or corporate person from acquiring any mailo or freehold land. A noncitizen can only obtain a lease of a maximum of ninety-nine years. This way, land is to be reserved for Ugandans only.

The Land Act also provided for the establishment of a Land Fund whose funds can be used to compensate people who needed to be resettled after government action, natural disaster or other



cause. Also, the Fund may give loans to several groups of people in order to enable them to improve their position in society. This way, occupants of mailo land or those owning land under customary ownership can be respectively enabled to buy the land they occupy, or to obtain titles in that regard (Section 41, Ibid...).

Finally, under article 26(2) of the Constitution the government may acquire land by force if it is done in accordance with the law. If it does, it has to be for public use and prompt and adequate compensation is to be paid prior to taking possession of the land and/or property. Also, the person who has an interest or right over the property has access to a court of law to appeal against the decision.

#### ***4.1.6 Institutions and judicial powers.***

The Land Act establishes different institutions with different powers and mandates in a very clear and technocratic way. It establishes the Uganda Land Commission, the District Land Boards, a Land Committee in every parish and District Land Tribunals. All these institutions have distinct powers. Respectively, they hold land in trust for the central government, issue titles or resolve disputes. There are clear rules about who can be a member of such institutions, what the salary will be and how meetings are to be held. For instance, the District Land Board holds unallocated land in trust for the people and facilitates the transfer and registration of interests in land. Also, it receives technical assistance from the District Land Office. The Land Office consists of the offices of a district physical planner, the district land officer, the district valuer, the district surveyor and the district registrar of titles. The District Land Board will also be assisted by the Land Committees that are to be installed at parish level. These committees advise the board on matters relating to land such as ascertaining rights in land.

With regard to dispute resolution, there is a system of land tribunals at the various levels. In case of a dispute, the plaintiff should go to the sub-county or urban land tribunal first depending on the location of the disputed land. An appeal against a decision made by such a land tribunal is at the district land tribunal level. An appeal against the district land tribunal's decision will lie at the High Court. However, a land tribunal can also refer a case to a mediator. This decreases the amount of work for the land tribunal and the costs for the litigants. It may also have less negative effects on the relationship between the two parties (Sections 74 – 88 Ibid...).

This part of the Land Act governing the land tribunals seems to create a fairly straightforward judicial system for disputes resolution. However, there is an overlap in dispute resolution stemming from the Local Council Courts Act of 2006 (Act No. 13 of 2006). Before one can look at this Act however, the Local Governments Act of 1997 (Act No. 1 of 1997, Cap 243) needs to be examined. This Local Governments Act establishes several institutions of local government. It creates local

government structures at various levels right from the village to the district. These structures include (in parentheses the abbreviations used by both the public and the government): the village level (LC I), the parish level (LC II), town, division or sub-county level (LC III), the county level (LC IV) and the district level (LC V). The LC I, LC III and LC V are elected by universal suffrage, while the LC II is elected by the LC I's of the parish, and the LC IV is elected by the LC III's of the county. All of these levels have a chairperson; so a chairperson at the village level is called 'chairperson LC I'.

The LC Courts Act uses the structures established by the Local Governments Act to create a local council court at every village, parish and town, division and sub-county<sup>21</sup> level (Act 13, Section 3, Local Council Courts Act of Uganda, 2006). By law, the local council court at village or parish level consists of all members of the executive committee of the village or parish. At the sub-county level the members are appointed by the council after recommendation of the executive committee.

According to the LC Courts Act: '[E]very local council court shall have jurisdiction for the trial and determination of (...) matters relating to land (Section 10(1)(e) of the Local Council Courts Act of Uganda, 2006).'

Local Council courts are meant to be less technical and easily accessible. Therefore, the language of the courts is the language that is most widely spoken in the locality of the court. However, the record of proceedings has to be in English, except for the parish level. These records have to include a series of characteristics of the case for future references. Although the local council court can decide that one party has to pay, return, compensate, declare, reconcile or apologize, it cannot imprison someone.

If either one of the parties is dissatisfied with the verdict of the court, they may appeal to a higher court. For example, a farmer who has a conflict with his neighbor would start at the LC Court I level. If the farmer is dissatisfied with the verdict he can appeal at the LC Court II level. If he again is dissatisfied, he can now appeal at the LC Court III level. From this level, the court case would go to the Chief Magistrate's court, and after that to the High Court. However, these last two courts will only grant the appeal if the appellant can convince the Chief Magistrate or the High Court that the decision against which the appeal is intended involves a 'substantial question of the law', or if the decision appears to have caused a 'substantial miscarriage of justice' (Section 26, *Ibid*...).

It is important to note that a lawsuit concerning land held under customary tenure is triable by the LC Courts. However, any court in the country has to uphold the customary rules of the specific clan the people involved are in if it is a case under customary law. Also, for claims over land held under customary tenure, the plaintiff must first go to the customary institutions for dispute

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<sup>21</sup> The town, division and sub-county are the same level but the terminology depends on the formal status of that specific area in the country. A court may be called town court in an urbanized setting, while the same level court would be called a sub-county court in a rural area.

settlement. In most cases, this means turning to the clan elders or the chief. Only if the traditional institution fails to reach a decision satisfying all parties can one lodge a case to the LC Courts. An important shortcoming of the law is that it gives traditional leaders the powers to reach a verdict, but it fails to give them mechanisms and legal force to enforce their verdict (interview with Eddie Nsamba-Gayiiya).

#### 4.2 The practice of land ownership.

The practical situation of land ownership in Uganda is a lot different from the way it is described in the law. Some elements of the law are simply ignored, others are altered to suit the local situation and some elements are accepted. Therefore, in this section an answer will be given to sub question 1b: How does landownership work in practice?

The following section was written after having interviewed over fifty locals and a same number of experts on land. The term expert in this research means any person who is involved with land as a professional. As a result, anyone from LC I level to Member of Parliament is considered a professional, but this definition also includes consultants and lawyers engaged in land issues.

The exact division of land in the different types of tenure is unknown. However, Petracco and Pender, commissioned by the International Food Policy Research Institute (IFPRI), used data from the UBOS and some own data, and have combined this to give a convincingly accurate estimation. From a sample of 3.890 households throughout the country, they have made the following table:

		Region				
		Central	Eastern	Northern	Western	Total
Tenure	Freehold	2.33 %	4.96 %	0.60 %	12.50 %	5.48 %
	Leasehold	2.33 %	0.25 %	0.24 %	0.68 %	0.80 %
	Mailo	87.76 %	0.58 %	0.00 %	0.68 %	18.79 %
	Customary	5.02 %	94.21 %	99.16 %	86.05 %	74.37 %

**Table 2:** Division of land per region and type of tenure. Adapted from Petracco & Pender (2009).

The table clearly shows that mailo land is clustered almost exclusively in the central region. This makes sense since mailo land was only created by the different kingdom agreements and all three kingdoms are located predominantly in the central region. It also shows that the majority of the freehold titles are in the western part of the country, while leasehold is mostly found in the

central (most likely Kampala) region. Clearly, with almost 75% customary tenure is still the most dominant form of land ownership.

It has been stated before that many interviewed locals quote the Constitution's article 237 which vests land in the people. It has often led to the false believe that everybody owns land, even if one has sold one's land to someone else. Many people believe that the government will then have to allocate a new piece of land since the Constitution clearly says that land belongs to the people.

#### **4.2.1 Customary ownership.**

As the table above shows, customary ownership of land is the most common form of tenure. It is a form of tenure in which no one has ever demarcated the land, no official boundaries exist, and no government official has ever interfered with sales or inheritance. Land is not registered, so the government does not know who owns what piece of land. This information is only known to the local community. If a person has a dispute with someone else, in general this person will first talk to that other person. If they do not agree, the case will be brought to the clan elders or another highly respected person. This depends on the region, since in certain areas the clan and tribe are losing their authority and powers.

During the interviews a total number of fifteen institutions were mentioned and considered by the interviewees to play a role in dispute settlement concerning customary ownership of land. These are elders, clan leaders, LC I, LC II, LC III, LC V, magistrate court, police, CAO, Resident District Commissioner (RDC), Land board, Village land committee, Area Land Committee at sub-county level, Area Land Committee at district level and parish chiefs. A number of these institutions have no formal rights to get involved in land disputes, yet many of them pretend and/or believe to have these rights or simply usurp them.

One relevant factor to pay attention to is corruption. Corruption is a widespread phenomenon in Uganda and it is very much present in the land issue as well. Many people proclaim that the various institutions ask significantly more money than they are allowed to and people have stated it is possible to purchase a favorable verdict. Another way to influence the final decision is to stall the courts and the procedures. In some instances, the defendant has done something illegal, like grabbing land, stealing timber or something similar, and is sued over it. He then can make the case more and more expensive for the plaintiff by deliberately stalling the procedures or keep appealing to a higher court. Ultimately, the costs for the plaintiff to uphold his claim will be too high and he must cease his quest for justice.

Another important shortcoming in the practice of landownership is the lack of knowledge or understanding of the law. Many people, sometimes even up to the LC III or LC V level, continue to claim that women do not own land. If a person is denied his or her rights at the clan or even village

level and the people in charge higher up do not even know the actual law, that person's rights will keep being denied and justice will not be served. In this regard, a woman claiming land upon the death of her father is very likely to be denied her rights (LEMU, 2008; 2009). This stems from the tradition in many clans that a woman can claim land with her husband from the husband's family. This way, the sons stay where they are born while the daughters move and join their husband's clan. In many clans it is almost impossible for women to stay in their clan of birth. As a result, women are very often discriminated against and their rights are infringed upon on a daily basis.

In all fairness, this lack of knowledge is understandable. The law is written in English and done so in a fairly formal manner, yet many people in the country have hardly had primary education, let alone a university degree. Often, people speak only their local language, and English proficiency is low, even amongst chairpersons LC I and LC II. Furthermore, access to the law proves to be very difficult. Strangely enough, it is not even available on the internet without a username and password, and training of members of the executive committee by the government hardly takes place. If villages have received any legal training, it is mostly catered for by NGOs, embassies and/or development organizations. Therefore, although it is not justifiable, it is very understandable that knowledge of the law is at a low level.

#### *4.2.1.1 Individual customary ownership.*

According to the law, CCO's can be acquired. This is not an official title for purposes of third party transactions like mortgages. It is recognized by the government and it increases the tenure security though. However, none of the interviewed locals indicated to have such a title. Likewise, various experts said they have never seen such a certificate. In effect, CCO's are merely existent in law but not in reality.

#### *4.2.1.2 Communal customary ownership associations.*

Just like CCO's, none of these kind of associations have been found in the country during the research and various experts indicate that they have not encountered these associations. They were invented to support local traditions and customs of inheritance and allocation of land, but were never acted upon (interview with Eddie Nsamba-Gayiiya, interview with Simon Levine).

#### **4.2.2 Freehold ownership.**

The table at the beginning of this section shows that a little over 5% of the land in Uganda is held with a freehold title. Freehold titles are most common in the Western part, where about 12% of the people have a title. The most important advantage of a freehold title is the ability to dispose the land through transactions like sale or securing mortgages. Also, having a title severely increases the

security of tenure. These two reasons make a freehold title the most desirable of all tenure types. However, the most important drawback of a freehold title is the costs to obtain one. One has to pay for the title, which costs approximately Ushs. 100.000,-, and has to pay the surveyors to determine the borders, which costs approximately Ushs. 250.000,-. These are the formal costs, however. They are for processing the title and paying the surveyors to actually do their jobs. There are all sorts of other 'hidden costs' that can increase the price of a title to between one and two million Ushs. (interview with Steven Biru).

Registering land in order to get a freehold title can be very dangerous for the depending members of the family. In an interview Levine, who works as an independent consultant for the Land Equity Movement in Uganda (LEMU), stated: 'If a man registers his land to get a title and accidentally 'forgets' to put his wife's name on it, it cannot be changed anymore and she will just have lost 43,5% of her property rights (Interview with Simon Levine).' Levine comes to this percentage because under customary law both husband and wife own fifty percent of the property. If the husband dies, the wife would receive this percentage plus fifteen percent of the husband's remaining property while the rest of his property would go to his children and other dependants.. Under the Succession Act which governs, amongst others, titled land, however, if the husband dies while the wife's name was not on the title, the wife will receive fifteen percent of the property while the rest is divided between children and possible other dependants such as his parents.

If someone with a freehold title dies without leaving behind a will saying otherwise, the land is inherited by the family. In case both parents are deceased, the land will be divided between the children. However, at this point the land title has to be reregistered in order to be valid again. The costs to do so are relatively very high though. Therefore people often ignore the fact that the title is not valid anymore and just inherit the land according to local traditions, in effect turning the land into customary ownership again (Interview with John Karuhanga, Interview with Simon Levine). This problem is even enlarged by the fact that most districts in the country do not keep records of births and deaths, making it even harder to figure out who the registered land belongs to and if this person is still alive.

#### **4.2.3 Mailo ownership.**

Although mailo tenants are fully protected by the Land Act of 1998, they live in constant fear of getting evicted. Land owners are not happy with legal squatters on their land and want to get rid of them in order to develop the land. On any randomly chosen day, the national newspapers will have a

report about lawful and bona fide occupants being evicted from their land, even though this is highly illegal according to the Land Act<sup>22</sup>. Occupants are threatened and intimidated daily.

Farmers indicate that often they get evicted without being paid any compensation for the land they had to give up. Another issue is that an owner may sell his land without notifying the buyer about the squatters. Once the new owner shows up and sees that people live on his land he chases them away.

Often the landlord forbids the tenants to grow any trees (which in general have higher returns than seasonal crops<sup>23</sup>) or build any permanent buildings. This is one of the reasons a lot of houses are seasonal (thatched houses) although another reason is that it is too expensive for people to build permanent houses. Often the landlord does not want anything permanent on the land. However, James Nangwala, an advocate and senior lecturer at Makerere University, states:

“Tenants are not forbidden to grow trees by law. The owner of the land might say so, but the law does not state that someone cannot grow crops or build a house, and neither does it say that a tenant is not allowed to grow trees. Anything the law does not prohibit, is allowed! (Interview with James Nangwala)”

#### **4.2.4 Leasehold.**

Leasehold is a form of ownership that is most common in the cities. Most of the leasehold is located in central Uganda, of which a large percentage is located in Kampala. It is the form of ownership with the least amount of problems since the number of leases is low and the leases are usually given out to respectable institutions and organizations. These groups in general have enough means to pay for the title and the registration process. Also, a relatively large percentage of these titles are held by foreigners living in Uganda and by foreign investors since this is the only form of tenure they are allowed to own land under.

#### **4.2.5 Protection, restrictions of land sale and compensation.**

In the similar section of the formal rules<sup>24</sup>, a number of things have been touched upon. Spousal consent, equal rights for men and women, cases to be handled according to local customs, ownership only for Ugandan citizens, and compensation by the Land Fund have all been discussed. In general it is safe to say that only the restriction that foreigners are not allowed to buy land is more or

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<sup>22</sup> “A tenant by occupancy on registered land shall enjoy security of occupancy on the land (Section 31, Land Act of Uganda, 1998).”

<sup>23</sup> For more information, see chapter 3.2.3 and 6.2.

<sup>24</sup> See Chapter 4.1.5.

less applied. Spousal consent, consent from children of majority age, or consent from the committee in case of children under majority age or orphans is rarely asked for during a land sale. There are only few people that hold on to this requirement. If it is required, the consent may be obtained in an illegal and misleading way<sup>25</sup>.

The rule of spousal consent for a land sale is thus hardly acted upon. Elizabeth Kharono, director of CLEAR Uganda, remembers a case in which a woman was called in a meeting with a number of men. At the end of the meeting she was told to sign a piece of paper which, allegedly, was the minutes of the meeting. However, like many people in Uganda the woman was illiterate but her husband told her to sign it. It turned out it was the sale agreement and she never knew that she had just officially given her consent to the sale. Cases like these are said to happen on a regular basis. Other times the husband is not even bothered to get a signature and the clan leaders just accept a sale simply because they do not know the law or believe the widespread belief that 'women don't own land' (Interview with Elizabeth Kharono).

It has also been explained before that women are still often denied their rights by clan elders or leaders. A woman who does not marry might be chased away from the land she was born on by her brothers, and the same happens at times with mothers when a father dies. The reason for this is that these women hold on to land that the men want to use for their own families. LEMU, for instance, indicated in one of her reports that 'in Lango, between half and three-quarters of all widows face difficulties in enjoying their legal land rights, and over 80% of divorcees or unmarried women are denied their legal rights to land (LEMU, 2009, p.1).'

Usually cases are handled according to local customs. However, since these have hardly ever been written down consistency and precedent are not guaranteed. The Norwegian Refugee Council's (NRC) exercise in the Acholi region is an important exception (2008). Also, rules not being written down and being applied in a local language make it very hard to supervise and check the legality of the applied rules.

Compensation by the Land Fund is done sporadically. The Land Fund is established like it should be, but it is not as active as was intended by the drafters of the law. Usually it does compensate people if their land is taken by the government, but the amount of money does not always fully represent the value of the land taken<sup>26</sup> and it may take a long time before the money is paid.

#### ***4.2.6 Institutions and judicial powers.***

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<sup>25</sup> As described in Chapter 4.2.

<sup>26</sup> Although there is an option of judicial redress if the compensated person does not agree with the confiscation of the land or the amount of money paid for it.



In the introduction of this section it has been stated that during fieldtrips, a total number of fifteen institutions were named that allegedly had 'something to do' with land dispute settlement. The biggest problem at the moment is that most institutions do not even know themselves what their role is and what powers they have. For instance, often the LC V gets involved in a conflict while the LC V has absolutely no judicial powers when it comes to land dispute settlement. Involvement of institutions that are not supposed to be involved causes confusion amongst both civilians and government officials, unnecessary red tape and different verdicts with no legality whatsoever. This confusion is easy to take advantage of by smart land-grabbers who 'shop' for a favorable verdict: if the clan elders do not favor him, he might just go to the Land Committee, the police, the RDC or the CAO. Although illegal verdicts, for example to evict people, cannot be enforced by law, there are other informal mechanisms to do so nonetheless.

In section 2.1.7 it has been stated that not having sufficient powers to enforce a verdict is an important shortcoming of the traditional institutions. These institutions rely on the respect of the people for the institution for their enforcement. However, there are many areas in the country where the authority of the clans is diminishing. In some of these areas people indicate they just skip the traditional institutions and go straight to the LC I or LC II. As long as these institutions respect the traditions and customs and reach a verdict accordingly, this is not necessarily a negative development. However, skipping the traditional institutions can become a problem if the LC I or LC II fails to rule according to local rules for the obvious reason that this creates a discrepancy between the rules followed by the people and the rules applied by the judiciary.

Institutions are facing some large problems in Uganda. First of all, often they too weak or are simply not in place. Many respondents have declared that District Land Boards are not functioning. The same applies to some other institutions like the land registrar or the Land Tribunals. The Land Tribunals, for instance, are not in place yet due to administrative matters like funding, while their job is currently taken up by the Magistrate's Court. Even if they are installed, interviewed people indicate they are not always functioning. One important reason for this is lack of funding. Money simply goes to other places or is missing.

Another important reason is the endless creation of districts. Eddie Nsamba-Gayiiya says: '[w]e tried to get some institutions at the grassroot level. However, at the time the Act was drafted there were only 39 districts. By now, a total of 80-some districts exist, making it all a lot less effective (Interview with Eddie Nsamba-Gayiiya).' In just a decade the number of districts has doubled (more about this in chapter 5.3) while the amount of money going to the districts has not doubled. However, the combined overhead costs are a lot higher. Also, constantly creating more districts means the know-how, experience and continuity is seriously threatened. The institutions concerned

with the land issue in Uganda are therefore rather weak, not functioning optimally or even non-existent.

### **4.3 Conclusion.**

The central focus of this chapter was to explain the laws concerning land ownership and their intentions, and to describe how land ownership actually works in practice. The first section has given an answer to the question how land ownership is formally determined. The second section then explained how the practical situation is. This is very important since it has been shown that the actual situation differs a lot from the way described in the law. Therefore, this concluding section will provide an answer to sub question 1c: What are the consequences of the practice of land ownership for conflict potential, ecological effects and economic development?

An important question also is whether or not the situation in the country would be completely different if the law was actually acted upon. It seems that this would be the case, since the first section has shown that the Land Act is actually quite rigid. If the implementation would have been perfect, the institutions installed would be very strong and would be present at every level of government. Also, the reality is that the Land Act is quite an impressive document, taking care of many things related to land. Although conflicts would still arise, and the investment deadlock between tenants and landlords on mailo land would still exist, to name just two examples of the rampant problems, these issues would be easier to deal with. Also, good conflict resolution and knowing that illegal behavior will be punished is an important disincentive for people to do anything illegal. However, it must be noted that this of course is a hypothetical situation that cannot be tested.

When we take a look at the different forms of land ownership, it has to be noted that leasing of land causes the least problems of all types of ownership. This could be because it is hard to encroach on it if it is in the town or city, or because it is owned by a company or individual big enough to take care of, or prevent encroachment. Also, usually a company or individual only obtains a lease for specific reasons and do not let this land be idle.

Idle land is one of the reasons that freehold titled land has some problems. However, this form of ownership also has relatively few problems since the boundaries are very clear and encroachers can easily be dealt with since the title clearly states the owner of the land.

When looking at difficulties that arise in every type of tenure, the weakness of the formal institutions places the largest constrain on economic development and is the biggest reason for conflicts. Formal institutions not being in place and institutions that are susceptible to corruption make conflicts more likely to occur and weakens the position of the poor. Having a very strong legal system that can enforce its verdicts while not accepting any form of bribe or corruption would most

likely take away many of the current conflicts and would also spur economic activity since tenure would be more secure.

However, most of the problems that arise from the discrepancy between formal rules and day to day practice are concerned with mailo land and customary land. These two forms of ownership have less clear rules and can have different interests. Unfortunately, almost 95% of the land in Uganda is under either one of these two types of tenure, hence the many conflicts and problems. Since these two types of tenure causes the most problems, they will both be dealt with separately.

#### ***4.3.1 Customary ownership.***

One of the characteristics of customary ownership, as been stated before, is that the central government does not know who owns which piece of land. Land is not demarcated and people do not have a title to their land. According to the law, any conflict has to be taken care of according to local rules and traditions. However, it has been shown that many institutions get involved in conflict resolution, even institutions that are not mandated to do so.

An important consequence for the conflict potential stems from this involvement: decreasing respect for clan and tribal leaders in some parts, and involvement of non-mandated institutions with no expertise on conflict resolution makes it more attractive for people to break the law and try to acquire more land. This can be done in several ways. The first way is dubbed 'land grabbing' by LEMU. Since it is possible to stall court cases, ignore verdicts from elders and clan leaders without persecution and it is possible to shop for favorable verdicts from different self-nominated institutions, more and more conflicts like this occur. The concept of land grabbing is that a person will simply deliberately occupy one or two meters of his neighbors land. If he does not respond, the person has acquired the land and will keep using it. If the neighbor does respond they either go to court over it or settle in the middle (in which case the 'grabber' has receives some of the land that does not belong to him). According to LEMU, land grabbing happens very often and it is mostly women, elderly and disabled people or children/orphans who suffer from it. The most common forms of land grabbing, according to LEMU, are grabbing by gradual encroachment (as described), grabbing by borrowing, grabbing by seizing opportunity (for instance when a husband has recently died), and grabbing through using the judicial system. A few other options are identified as well, which will be discussed in more detail in chapter 6.1.2 (LEMU, personal correspondence).

Conflicts are also more likely to occur because CCO's are still not implemented. Obtaining a CCO can help a lot to prevent conflicts since they should be easily accessible and cheap, and they should state what the boundaries are. If CCO's would be handed out customary tenure would be more secure than it is now. Not implementing CCO's also has an economic component. Although a

mortgage can only be obtained with a freehold title, security of tenure would likely lead to more long-term investments in own land.

The many 'hidden' costs that drive the costs of obtaining a freehold title up to exorbitant heights are also an important constrain on economic development. Obtaining the title would enable someone to get a mortgage and invest money for long-term gains. Since there are many non-legal extra costs less people have a title, thereby most probably lessening economic development.

An organization of communal customary ownership has not been found during the research. However, it is likely that that such an organization would lessen the chances of conflicts since the management of this organization would have more legal powers. Also, the existence of such an organization would likely lessen ecological effects of overgrazing since, by appointing a management, the conditions of the concept of the tragedy of the commons<sup>27</sup> would no longer be met.

#### **4.3.2 Mailo land.**

Mailo land in general has less problems with land grabbing, although it does happen at times. The biggest conflict potential here is the tension between tenants and the landowner. Both are locked in a situation in which they do not have the full rights to the land, and therefore do not have full economic opportunities.

Most of the problems arise when the landlord wants to develop the land he owns. Owning land inhabited by tenants is very unappealing for a landlord. It has been shown that he can only ask a rent of one thousand shillings per year per tenant. The much more appealing option for him is to get rid of the tenants and develop the land. Often, the landlord has enough land to either start a large-scale farm, sell the land to someone who wants to start such a farm, or, if it is close to a city, develop the land for housing purposes. However, the landlord is not allowed to evict the tenants unless they fail to meet the requirement of paying rent every year. This is where the day to day practice comes in though, since evicting tenants is what does happen on a daily basis. Sometimes the landlord is prevented from doing so, sometimes the system fails the tenants and he is not prevented from evicting the tenants. Conflicts arise from this every day, which at times erupt in extreme violence. This happened in August 2009 for instance, when the Daily Monitor opened with the header: 'Angry tenants lynch landlord (Daily Monitor, 2009)', of which the opening paragraph can be read in the first chapter. In this very example, the landlord allegedly wanted to survey his land since he wanted to sell

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<sup>27</sup> Introduced by Hardin in 1968. The concept describes how, if nobody is in charge of a common pool resource like grazing land, everybody will pursue short term gains. After all, if person A does not do this, others will and person A will have no gains at all. Since for each individual short term gains are better than no gains at all, everybody will go for the short term gains and the common pool resource will be depleted in the long-term.

it to someone else. Although the series of articles on this case did not reveal whether or not the landlord or the buyer wanted to evict the tenants, these were obviously scared he would do so.

Mailo land also locks both tenants and landlord in an economically unsatisfying situation. It has been explained before<sup>28</sup> that both tenant and landlord are not stimulated to invest in the land. The landlord will not invest since he does not have the rights to use the land or increase the price of the tenancy, while the tenant is not stimulated to invest in the land since, in the day to day practice, he has no certainty of using the land for a long time. This is a severe constrain on economic development on mailo land. The deadlock is not only an economic one, since it also has impacts on the political situation in Uganda and the quest for regime survival.

#### ***4.3.3 Conflict potential.***

The current practice of land ownership as described in this chapter increases the amount of conflicts. Since institutions are not in place, underfunded, corrupt and/or biased, they are not preventing and punishing illegal behavior by actors, thereby stimulating this behavior. After all, if you steal something from your neighbor but you are not punished for it, even though everyone knows it was you, the likelihood of stealing something else in the future rises. The law provides for many institutions that must prevent such behavior. However, as stated numerous times before, this is hardly the case.

The institutions that take over the role of settling conflicts only make things worse. In a lawless scenario, if one institution takes over and is, on whatever basis, acknowledged by the people, there is some sort of clarity and effectiveness. However, in the Uganda land issue, some lawful institutions are in place and are trying to do their work, while others are not in place. On top of that, some unlawful institutions get involved and try to settle conflicts. Whether this is an honest settlement attempt or a fraudulent attempt is not the most important question. The most important is the outcome, which is confusion, unlawful settlements and verdicts, and more conflicts. Therefore, the lack of implementation of the actual law, and the presence of the current system of land ownership leads to an increase in conflicts related to land in the country.

#### ***4.3.4 Ecology.***

Not enacting the laws in the country does not have major influences on the way people farm their land. The use of hand ploughs and hand hoes would not be different if the law was implemented the way it was supposed to be. However, the law does clearly state that ecologically precious areas like wetlands, forest reserves and natural streams are to be held in reserve by the government of Uganda

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<sup>28</sup> For more information, see chapter 1.1.1.

for the common good of the people. Therefore, encroachment upon these areas by citizens is not allowed. Although the specific consequences of encroachment will be dealt with in more detail in chapter 6.2, the encroachment of such areas has a severe negative effect on these areas, thereby affecting the entire population of the country. In that sense, better enactment of the law would prevent these people from encroaching precious areas and thereby lessen the negative ecological effects encroachment has for the people.

Preventing encroachment would thus be a positive development for the ecology of the country. However, this still does not take away the ecological deterioration seen in the country, which is caused primarily by old and unsustainable farming techniques, and the increased use of the soil. This is something that can hardly be affected by changing any laws, but needs to be changed by soft measurements by government and possibly NGOs and other stakeholders. In this sense, the current laws in Uganda do not have an intrinsic tendency towards soil deterioration and depletion, although not implementing laws regarding encroachment do lead to deforestation, encroachment of wetlands and other precious areas, and are thereby severely negatively affecting the ecology.

#### ***4.3.5 Economic development.***

The previous chapter has shown the importance of tenure security for economic development. Without this security, people are far less likely to invest in the land since they are not certain that they will enjoy the fruits of this investment. The first section of this chapter, on the actual laws of Uganda, shows a very robust system of tenure. All four systems of tenure are explained sufficiently and institutions are created that have to solve any problems and disputes. However, the practical section has shown that this written legality hardly exists in reality. People's rights are infringed upon on a daily basis and verdicts may even be ignored. In such a reality, the level of trust people place in institutions and the government declines. Once people trust institutions that govern land and land ownership less, they will be more hesitant to deal and invest in land since they are not sure that the actual laws will be upheld if they end up in a conflict. Therefore, the lack of tenure security in Uganda has a negative effect on economic development.

The discrepancy between the formal rules on land and land ownership, and the practical situation of land and land ownership also has an effect on innovation and growth. Although the rules are quite clear, the actual outcomes of a situation cannot always be predicted accurately. This hinders innovation. After all, innovation is, by definition, trying something original that has not been tried before in the country (or the world). An example of this would be a group of farmers working together by farming the land together, with one full-time farmer making it possible for the others to find other jobs in town. All farmers contribute a piece of land and they are allocated with the returns

in line with their contribution. A consortium like this is relatively innovative in Uganda. However, people may be reluctant to join in since they are not sure what would happen if they would get in a conflict with each other over the dividing of the returns. In effect, this idea would thus be blocked by a lack of certainty of the legal outcomes in case of a conflict. This way, innovative ideas are discouraged by the lack of implementation of the law. Both the restrictions on investments and on innovation lead to less economic growth than possible in the country.

This fourth chapter has taken a look at the formal rules governing land and land ownership in the country (answering sub question 1a), and at the practice of land ownership (answering sub question 1b). This exercise has shown that there are large discrepancies between the two: the paper legality is different from the practical situation in many ways. In the concluding section of the chapter the consequences of these discrepancies for the land issues was discussed (answering sub question 1c). Ultimately, it was assessed what kind of consequences the practice of land ownership (and thus the lack of implementation of the actual law) has for the identified aspects. In short, the practice of land ownership and lack of implementation of the law leads to:

- Increased likelihood of conflicts happening;
- No real effects on the way people farm and use their land;
- Enablement of encroachment of ecologically precious areas;
- Hampers innovation;
- Hinders economic development due to lack of tenure security.

The next chapter will take a look at the long-term trends. The trends, as identified by literature as being climate change, population growth and the desire to assure regime survival, will first be discussed in general, whereby their link to Uganda is most important. After that, the consequences of each trend for the Uganda land issue will be determined.

## Chapter 5 Exogenous trends

In this chapter the focus will be on three major exogenous trends that are currently happening in Uganda, and that will seriously affect the land issue in the country. The trends selected have been chosen after a literature review and a number of interviews with experts. The reasons to include long-term exogenous trends into this research are obvious. It would not make sense to provide for a comprehensive report on the land issue in Uganda while ignoring the future. A static report only focusing on the here and now would merely be useful as an informational document, while it is vital for policy makers to know how the situation is likely to evolve so they can design a sustainable policy that will use the opportunities and solve the problems. It is therefore important to identify the inevitable trends and to indicate what kind of effect these will have on the issue in the long run.

The three main trends that have been identified in the literature review are climate change, population growth and regime survival. The likely effects of each of these trends on the land issue in Uganda will be discussed. The timeframe of these effects will be twenty years. Obviously, nothing about the situation in Uganda in twenty years time can be said with absolute certainty. It is not all guesswork though, since especially the population growth and climate change are quite predictable. In this respect, it is important to note that this research focuses on the relationship between land ownership and the aspects economic development, conflict potential and ecological effects. The trends described here are indirectly influencing this relationship<sup>29</sup>. Although population growth (and possibly regime survival) has a direct effect on land ownership, it will be discussed as an indirect effect on the relationship between land ownership and the aforementioned aspects in this chapter.

Important to note as well is that this chapter discusses the main trends as identified by the literature review in chapter 3. After discussing the general trends, their specific consequences for the Uganda land issue are explained. To be more specific, the influence of these trends on the issue will be discussed in this fifth chapter, while chapter six discusses the consequences of land ownership in Uganda on the various aspects, while taking into account the long-term trends discussed in this chapter.

### **5.1 Climate change.**

The last couple of years, climate change has become a very popular concept and subject in the world. This was especially sparked by Al Gore's 'Inconvenient Truth' campaign, started in 2006. However, although it was not part of the questionnaire, it is fairly safe to say that hardly any of the locals that have been interviewed for this research have ever seen this film or have heard about it. It could be

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<sup>29</sup> As can be seen in the causal model in chapter 2.5.



possible though that the concept of climate change was explained to them by NGOs. When asked about climate change or changing weather, many interviewees indicated that the weather has always been the same, up until about three or four years ago. Then, the rain pattern started to change considerably. This section will describe the long-term trend of climate change, and will provide an answer to sub-question 2a: What influence will the climate change trend have on the land issue?

### **5.1.1 General effects of climate change.**

Climatic changes are already occurring and are having an effect on the type of land use and on poverty in the country. Lake Victoria, the world's second largest lake, is getting smaller<sup>30</sup>, ice caps on Mount Rwenzori are 40% smaller than they were in 1955, water streams that used to exist year-round are drying up, droughts occur more frequently and rains occur less often but with more intensity (Oxfam, 2008). Many farmers see themselves forced to switch from food crops to cash crops since the traditional crops (like beans, cassava, maize and matooke) are not doing well anymore, while cocoa is getting more and more popular because of its high economic returns. This change in crops has a massive impact on the food market. Farmers who used to grow their own food now have to sell crops in order to buy food. In 2007, Uganda published its National Adaptation Programmes of Action (NAPA), in which it states:

“Uganda’s agriculture is subsistent, rain-fed and, therefore, vulnerable to climate variability and climate change. Although it is predicted that climate change will lead to increased rainfall in Uganda, its distribution during a season is critical to agricultural production. Erratic rain seasons have been observed in the past few years. Floods lead to waterlogged fields or washing away of crops (Republic of Uganda, 2007, p. 12)”.

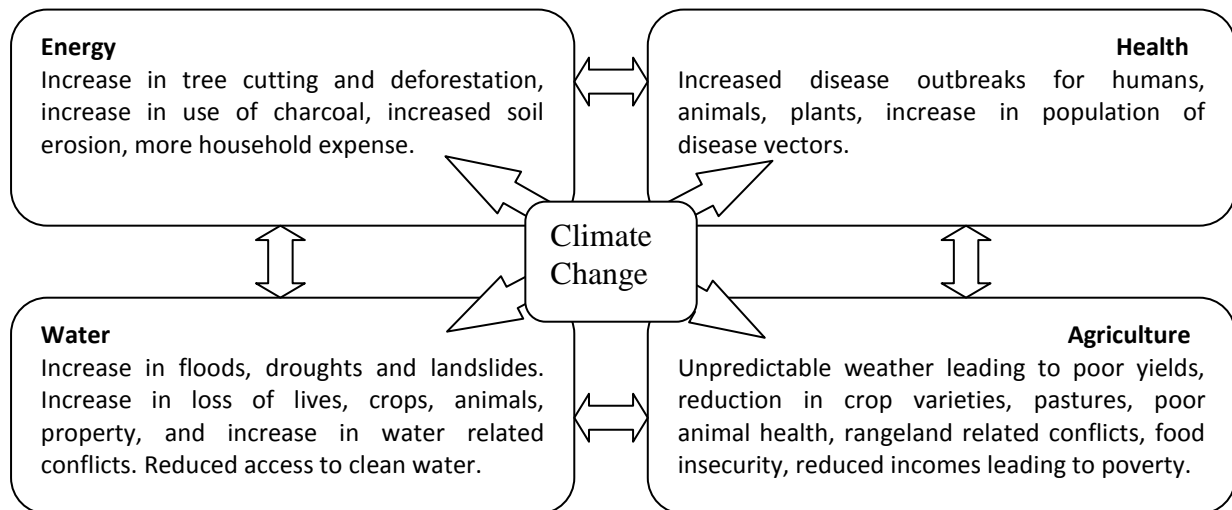
The IPCC Assessment Report of 2007 has briefly been discussed in chapter 3.3.1. This report showed that the African continent will suffer a lot from the changing climate. The most important conclusions concerning countries like Uganda were the likelihood of severe compromises in agricultural production and food security, and the increased water stress in the East African region (Boko, *et al.*, 2007). The report published by Oxfam in 2008 features a diagram, see figure 3, which gives a good overview of what kind of effects the climate change will have in Uganda.

The diagram clearly shows how the different features of climate change are interrelated. An increase in floods, for instance, leads to an increase in disease outbreaks for humans in the health

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<sup>30</sup> Although it must be said that the water level has been extremely high since the 1960's meaning the current low water level is actually the 'normal' water level.

section, but also to poor yields in the agriculture section. The same way, increased tree cutting can lead to an increase in landslides (water section) and reduced fertility of land (agriculture section, not



**Figure 4:** Impact of Climate Change on Livelihoods. Adapted from: Oxfam, 2008.

mentioned by Oxfam). These interrelations are important to note since it means that problems are caused not by just one section.

Addressing one of the issues will thus not take care of all the problems, while at the same time it is possible to address one issue and thereby prevent negative outcomes in other sections from occurring.

### **5.1.2 Changing rain pattern.**

Uganda has always had a very consistent and predictable rain pattern. The first and longest rainy season is from March until late May or beginning of June. After this, it is dry for a few months until it starts raining again from October till late November or early December. The long dry spell is from December till March. The presence of Lake Victoria provides for a few extra showers compared to neighboring countries like Kenya, making Uganda a bit wetter than its neighbors. The north-eastern region of Karamoja is somewhat of an exception to this, being a bit more semi-arid. In the north these two rainy seasons tend to merge into a single longer rainy season. Having this specific rain pattern is a blessing for farmers. The soil has always been very fertile and with two rainy seasons it is possible to have two harvests in one year.

However, the rain pattern is changing, especially in the northern and eastern parts of the country. Farmers and district representatives indicate that the last few years rain patterns are different. The rains are not coming in March, nor in April. Even during the fieldwork towards the end of the traditional first rainy season a lot of areas had not received any rain yet. Some had not even received any significant rain in nine months time. Without any rain it is impossible for farmers to

grow any crops and the farmers have indicated that crops are withering en masse. For people fully depending on the food they grow themselves this is a devastating development.

In her 2008 report, Oxfam states that rainy seasons will be shorter in the future, but much more intense. It gives an example of the years 2001 and 2006<sup>31</sup>. In 2001, a total amount of 1410,2 millimeter of rain fell. In 2006 this number went only slightly down to 1373,8 millimeter. However, in 2001 this rain fell over 136 days averaging 10,36 millimeter a day, while in 2006 the rain fell in only 98 days averaging 14 millimeter a day. This shows that in 2006 Uganda suffered from a prolonged drought compared to 2001 while the rains were more intense than in 2001.

### **5.1.3 Health risks.**

One of the predictions of the IPCC is the negative impact of climatic changes on public health. It specifically mentions malaria as a disease that may become more common in the highlands. As the average temperature rises, even if it is only slightly, highlands are not too cold anymore for the mosquitoes carrying the malaria disease. For instance, the south-western region of Uganda (Kabale and Kisoro districts) never really had problems with malaria due to their slightly higher altitude, and therefore cooler temperatures, but it has been indicated in interviews that recently there has been an increase in the number of malaria infections.

Next to increased temperatures, there is another reason for the increase in malaria. The IPCC report shows that countries will face more problems regarding water. In Uganda, the predictions are that this is not a lack of water like in some other countries, but increased rainfall. In the past few years there have been serious floods in the country, with various implications for public health. On October 17th, 2007 the African Medical and Research Foundation (AMREF), a UK-based organization for health development, reported on their website:

“Flash floods, after torrential rain in August and September, have caused huge health risks in the eastern and northern regions of Uganda. The heavy flooding has caused pit latrines to overflow, resulting in raw sewage finding its way into water sources, such as streams and rivers. As a result, high numbers of cholera cases and diarrhea have been reported. Malaria is also increasing because of the large stagnant pools of water left by the floods. And lack of nutritious food, as a result of poor harvests, is also taking its toll (<http://uk.amref.org>, retrieved on 14th August 2009).”

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<sup>31</sup> These years are too close together to showcase climatic changes and, above all, just single cases. However, it does show seasonal variability and may give an insight in what the future might bring.

Although this was a local disaster incident, situations like this may happen much more often in the (near) future. Especially if the droughts are becoming longer and the rains, as shown before, become more intense. In a country where malaria is the number one cause of death, especially amongst children below the age of five, the situation regarding malaria will only become worse if there will not be enough medicines to treat everybody, and access to health care remains relatively low.

The World Health Organization (WHO) report on malaria of 2008 showed that in 2006 Uganda, with an estimated population of almost 30 million, has had over 28 million fever cases that were suspected being caused by malaria, over 10 million confirmed malaria cases, and 47.000 malaria attributed deaths (down from 77.000 deaths the previous year). This last number is significantly higher than in any other country in Africa. As an indication, number two on this list, DR Congo, had 24.347 malaria attributed deaths on a total population of over 60 million. Number three on the list was Angola, a country with about 16 million people and 10.220 malaria attributed deaths (WHO, 2008). An increased temperature causing mosquitoes to go to areas they previously never went to, will only cause the number of deaths in Uganda caused by malaria to increase if access to medical treatments is insufficient.

#### ***5.1.4 Uganda's vulnerability.***

Uganda is trying to cope with climatic changes. In order to do so it has adopted the aforementioned NAPA<sup>32</sup>. In this program they clearly state the vulnerability of the country:

“Climate change will increase the frequency and intensity of extreme weather events such as droughts, floods, landslides and heat waves. The events of the past few years clearly illustrated the magnitude of the problem. (...) In Uganda the frequency of droughts has increased, for example seven droughts were experienced between 1991 and 2000. (...)An increase in intensities and frequency of heavy rains, floods, landslides in the highland areas as well as outbreaks of associated waterborne diseases with the floods was also observed and confirmed by the PRA (Participatory Rural Appraisal, BTB) results (Republic of Uganda, 2007, p. xiv).”

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<sup>32</sup> Many reports link a lot of the negative aspects of the last few years directly to climate change. This might be done because of the hype around the concept of climate change. One has to be cautious when looking at these reports though, and realize that not everything has to do with climate change. Africa has always been a continent with large seasonal fluctuations. For instance, the recent drop in water levels in Lake Victoria have often been attributed to climate change, while history shows that the water level in this lake is subject to extreme differences (see also Hepworth and Goulden, 2008).

The droughts that are noticeable more frequently have devastating effects on the people and the country. It leads to a lower water table, thereby leading to drying of boreholes. Also, the 'cattle corridor' which stretches from the southwest to the northeast of the country is a fragile ecosystem that heavily depends on rainwater. This corridor feeds both people and cattle, and drought thus affects the livelihood of cattle keepers. The severe drought of 1999/2000 caused a water shortage which led to loss of animals, loss of milk production, food insecurity, rising food prices and a generally negative effect on the economy (Republic of Uganda, 2007). Furthermore:

"Temperature rise has significant impacts on health as well as agriculture. The highlands, which were previously malaria-free, are now invaded by malaria. People in the highlands have not developed immunity for malaria and have therefore been susceptible to it. Equally, rise in temperature can lead to outbreaks of pests and emergence of new pests and diseases or to change of a crop growing area. For instance an increase of 2 degrees centigrade can have dramatic impact on coffee growing areas (...), This may also apply to other crops. Climate change also impacts negatively on other key sectors and therefore on the social and economic development of Uganda (Republic of Uganda, 2007, p. xiv)."

The vulnerability is also stressed in a previously discussed research by Hepworth and Goulden, commissioned by DFID. In their report, the duo states that the climate of Uganda may become 'wetter on average and the increase in rainfall may be unevenly distributed and occur as more extreme or more frequent periods of intense rainfall. Regardless of changes in rainfall, changes in temperature are likely to have significant implications for water resources, food security, natural resource management, [and] human health (Hepworth and Goulden, 2008, p. 3).' The increase in rainfall has not been mentioned during fieldtrips, but in recent years more extreme and intense periods of rainfall have been reported, leading to floods and washing away of crops (as has been mentioned before).

#### ***5.1.5 Consequences for the land issue.***

The global warming will have even larger and more dramatic effects in the long run, which is the core reason for selecting climate change as one of the most important long term trends in Uganda. The consequences for the land issue have been briefly touched upon previously. The specific consequences for individual landowners (in most cases farmers) will not be discussed. Instead there will be a macro view on the effects for the agricultural sector in general. Most of the consequences are directly linked to agriculture, and only indirectly to land ownership. However, aspects that influence agriculture influence about 90% of the population (as shown in chapter 1).

The situation in Uganda with regard to agriculture and land are quite difficult to predict. If the effects of climate change as described above are to be seen as a given, not a variable, than the effects on agriculture will be large, even in only twenty years time. It is unclear what will happen to the water level of the lakes but the icecaps on Mount Rwenzori will decrease even more, threatening water security in the country. Longer droughts will negatively affect the crops, causing them to wither. The amount of rainfall will stay the same, although it will fall in a much shorter period of time. This means the amount of rain per day will increase dramatically, causing valuable minerals in the ground to wash away, along with the seeds and crops just planted. The rain pattern will be more irregular and unpredictable, making it harder for farmers to decide when to start the planting process. More erratic and intense rainfall will also be the cause of floods in the country, having a strong negative effect on the economy, the agricultural sector and public health. Temperatures in Uganda may increase although it is still to be seen whether it will increase significantly within the next twenty years. If temperatures would go up though, it may be possible to grow different crops with higher returns. These would likely be cash crops, while the traditional food crops will be harder to grow. Also, it seems that the coffee production will suffer from increased temperatures. All in all, climate change seems likely to speed up other aspects like ecological effects of farming and the number of conflicts over land.

### 5.2 Population growth.

In a country with hardly a systematic administrative system for births and deaths it is quite hard to find out the exact number of inhabitants. However, it is possible to estimate the number of people in the country fairly accurately. The 1948 census revealed that Uganda had a population of about five million people. During the following half century, this figure grew to 24.2 million people in 2002; an almost fivefold increase. Although the data is less reliable, the first census of 1911 revealed a population of 2.5 million people. This means that during these 90 years, Uganda has experience nearly a 10-fold increase in population (UBOS, 2002). The next official census is planned for 2012, but the 2009 mid-year projection is a population of 30.7 million people. In this section, an

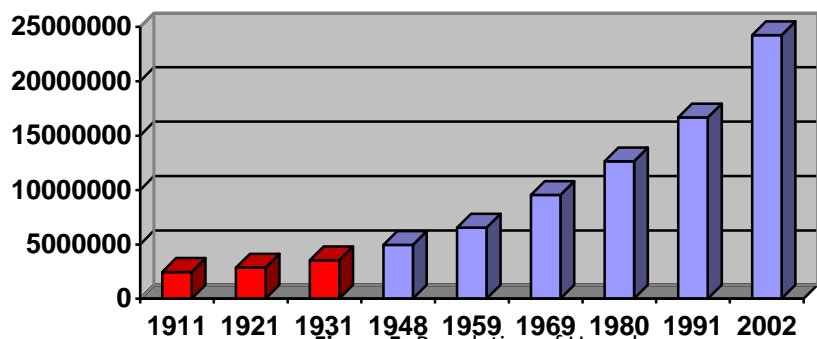


Figure 5: Population of Uganda.

Adapted from UBOS, 2002 (1911, 1921 and 1931 data not scientifically derived). Note that census years are not on a regular interval.

answer will be given to sub-question 2b: What influence will the population growth have on the land issue?

A total percentage of 14,7% (or 4.5 million people) of the population lives in urban areas, of which the capital city Kampala is by far the biggest with roughly 1.5 million people. This is a fairly low percentage and experts expect this percentage to rise as time goes by. Kampala is therefore expected to grow a lot within the next twenty years. Currently, the urban population growth rate stands at 5,9% per year (Republic of Uganda, 2008) meaning the population of Kampala will reach over 5.3 million in 2030 if this growth rate stabilizes at this percentage.

With a total land area of 199.807,4 square kilometers (or 49.373.188 acres<sup>33</sup>, the unit used by most Ugandans), one square kilometer in 2002 was shared with 123 persons. When the first scientific census was conducted in 1948, one square kilometer was shared by 25 persons. In acres, every individual had around ten acres to their disposal in 1948 while this number has gone down to only two acres in 2002. This number is likely to go down even further as every woman on average gives birth to 6,7 children in her lifetime. It has to be noted that this number is down from 7,1 children per woman in 1991. Life expectancy is up from 48,1 years in 1991 to 50,4 years in 2002. Life expectancy for women stands at 52 years old, while the life expectancy for men is 48,8 years (UBOS, 2009).

### **5.2.1 projections.**

The current population stands around 30.7 million people, while Uganda's population growth stands at a staggering 3,2% per annum (Republic of Uganda, 2008). Although the number of children per woman is slowly going down, the population of Uganda is expected to almost double again in 22 years, leading to a population of 55 million people in 2030 (MoFPED, 2008). The report also states that if the current trends continue, the population will reach 130 million people by 2050, only forty years from now. Since there is a lag in birth control and/or family planning and actual decrease in population growth, the projected population growth for 2030 is more or less inevitable. The reason for this is that almost half of the people (49,3%) is below the age of fifteen (Republic of Uganda, 2008b). Once they hit the reproductive age (roughly between twenty and thirty-five) the population will double caused by the 'population momentum', even if they would only get two children per family. It also means that between now and 2025 this entire group will enter the workforce. If the population of Uganda will indeed reach 55 million people in 2030 there will only be an average of 0,9 acre per person left. If the population would indeed reach 130 million people in 2050, each person on average will only have 0,4 acre left. These numbers will even be a lot lower since large areas are, officially, protected areas, like game parks, wetlands and forests.

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<sup>33</sup> See the conversion page for conversions for the most commonly used ways of measuring.

### **5.2.2 Economic aspects of population growth.**

Population growth is not only a demographic feature of a country. It has implications for many policy areas of a country. In a country where about 38% of the population lived in poverty in 2002 (World Bank, 2006), or even 51,5% if the universal line for extreme poverty is used (World Bank, 2008), the economy and economic development are very important. A high population growth has both challenges and opportunities. These are recognized by the government. It has been stated before that almost half of the population of Uganda is below the age of fifteen. On this topic, the national population policy of the government of Uganda states:

“Uganda will, sooner than later, enter a demographic window of opportunity often called the demographic gift or demographic bonus. Such an era occurs when a population witnesses a combination of factors like a declining fertility, and mortality. This leads to a surge in the working age group 15 – 64 years. (...) If such a labour force is healthy, educated, skilled and with increased employment opportunities, it will save, invest and spur economic growth of a nation. This is the demographic gift. This window of opportunity, if not planned for, can end up resulting into a demographic burden (Republic of Uganda, 2008b, p. 10).”

The concept of the demographic gift has been discussed in chapter 3.3.2. It was then shown that Uganda is more likely to suffer from a demographic burden than to enjoy a demographic gift since Uganda does not seem to be prepared for the population growth. Klasen, an economics professor at the University of Göttingen, proves that the current population growth has a negative effect on the economy of Uganda:

“[B]oth theoretical considerations as well as strong empirical evidence suggest that the currently high population growth puts a considerable break on per capita growth prospects in Uganda. Moreover, it contributes significantly to low achievements in education, health, and poverty reduction and will make improvements in these areas very difficult (Klasen, 2005, p. 1).”

Klasen herewith proves that the population growth is not only bad from a agricultural or demographic point of view, but also from an economic point of view. However, on various occasions president Museveni has indicated not to agree with alarmism over population growth. According to him, the high population growth is needed to achieve economic development (Daily Monitor, September 15th, 2008; New Vision, July 12th, 2008). With his research, Klasen tackles the president’s



argument that population growth is necessary to develop Uganda's economy and even proofs that it hurts the economy.

### ***5.2.2 Consequences for land issue.***

An increased population has various consequences for the land issue. These consequences can either be direct (more people means less land per person) or indirect (more people means less land per person leading to more intense use of the land).

A growing population puts more and more pressure on the environment. The availability of land per person is rapidly going down, very likely leading to increased pressure on land. Using land more intensively will then lead to soil degradation and erosion of the earth. Also, with more people there will be more pressure on the forests and wetlands. People have nowhere to go so encroachment of these protected areas is likely, and already occurring<sup>34</sup>. Since many people use charcoal for cooking and heating there is also increased pressure on forests from this perspective. Since most forests are protected this will lead to large conflicts with the government.

An increased population will also lead to more subdividing of land. It has been shown in chapter 4.2.1 and will be shown in more detail in chapter 6 that, as a rule of thumb, the father will subdivide his land between his sons, giving each of them a piece of land and keeping a piece of land for himself and his wife/wives to provide for their own livelihood. This subdividing of land means smaller pieces of land for each generation, leading to more difficulty to provide for the livelihood for each new generation. It is extremely likely that this will lead to large conflicts within families (son wanting more land from his father or brothers), between neighbors (trying to take land away from the neighbor for their own benefits; land grabbing), within clans (in case a clan has a common pool, claiming more of this because one has a big family) and with institutions (people trying to grab land from institutions like churches, schools, hospitals and government buildings). The issue of subdividing and the dangers of population growth are recognized by the Ministry of Lands, Housing and Urban Development, which states in their report:

“The rapid population growth, coupled with freehold tenancy land policy has predisposed rural areas to land fragmentation, increased intensity of land use to maintain income levels and subsequent lowered individual incomes due to reduced farm holdings. Individuals and communities are forced to encroach on forests, wetlands, riverbanks, lakeshores, and game reserves, creating undesired and unsustainable use of the environment and natural resources (Republic of Uganda, 2008b, p. 13-14).”

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<sup>34</sup> For more information, see chapter 6.1.4.

All in all, the inevitable population growth in Uganda to about 55 million people in 2030 will lead to many problems regarding land. Each person will have less land to their disposal and will therefore have a more difficult time to provide for their livelihood. This may lead to an increase in malnutrition as it becomes harder for someone to grow enough food for himself and his family. Also, land will be used more intensively and this will therefore lead to degradation of the soil, making it less fertile. Degradation of the soil will again make it harder for someone to grow enough food. This ecological effect will be discussed in more detail in the next chapter.

Moreover, decreasing amounts of land per person will lead to increased tensions between various groups of people over ownership of land. Already these tensions result in large conflicts between people, thereby seriously burdening the courts of law or even leading to injuries and deaths. These conflicts will only become more violent and more rampant, as we will also see in the next chapter.

Heinsohn has tried to explain terrorism from a demographic perspective. He hereby used the term terrorism very loosely, also including conflicts and civil wars. Heinsohn's general argument is that a large 'youth bulge', defined as at least 30% of the male population is between 15 and 29 years old, relatively well fed and educated, is an important and more or less essential factor for violence. Uganda has been, is, and will be in this group for a long time to come. Heinsohn supports this argument by showing that for every 1000 men in Uganda, there are 5880 sons (Heinsohn, 2008, p. 11). Also, between 1950 and 2050, Uganda grows with a factor twenty and has already experience many conflicts. According to Heinsohn, these will only intensify until the population growth goes down again. In his book on this subject, unfortunately only published in German and Dutch, he also clearly shows a link between youth bulges and emigration, civil wars and terror. However, Heinsohn is also the first to criticize himself, stating that this link will definitely be doubted by other scholars. On the other hand, he then states:

"Whoever states that the findings are purely accidental has to come up with an own explanation. (...) And even though there are specific causes of disruptions in every country, one ultimately cannot ignore the explanatory factor of the youth bulge: in countries with the same specific causes but without the factor of the youth bulge, the causes do not result in violence (Heinsohn, 2008, pp. 64 – 65, translation by BTB).

An agricultural society like Uganda needs enough land to farm in an economically viable way. An increasing population will make this more difficult though. Since land is a limited resource not

possible to expand, there are only two realistic options to keep agriculture feasible. It is already shown that the option to keep the population limited to a certain (viable) number of people is to be discarded. Although it is an option, it is not a realistic one. The only two realistic options is to either change the economic basis of the society from agriculture to a more industrial and/or service sector economy, or to drastically increase the yields and profitability of the land. Obviously, the ideal situation is to combine these two options.

However, the cultural, traditional and spiritual importance of land is vast. For instance, when a randomly chosen citizen of Kampala is asked where he is from, he will respond by telling you the village where his ancestors are from. Inheritance also provides every person with a piece of land in their ancestral village. It is very difficult for people to give up their land since people strongly feel this place is their home and they want to be buried there. This makes a change of economy very difficult. After all, in order to upscale agriculture people need to be able to buy large pieces of land to make the farm economically lucrative. However, in order to do so, others have to be willing to sell their land to pursue a life in another sector; one where land is not crucial per se. During interviews, however, even people with successful careers in the service sector or government, in fact even those involved in land issues and advocating a change in economy, still hold on to their land in the village and actually try to expand the amount of land in those villages. This is mainly because of the spiritual meaning of land and the lack of an efficient retirement program. If this concept of holding on to land does not change it will, given the population growth, gravely hinder economical development.

### **5.3 Regime survival.**

One very important long-term trend, though also very unpredictable, is regime survival. In the past, the president and his party have done various things to assure regime survival. The concept of regime survival in this research means that the person, party and/or group in power will do whatever he, she and/or they deems necessary to remain in power. Every politician to some extent seeks regime survival. In this context, however, the reference to regime survival means that the person, party and/or group in power will even do things that are not in the best interest of the people, and may even be illegal. In Uganda's history many of these examples can be given. The current regime led by president Museveni is no exception. The most extensive, open and recent report covering regime survival in Uganda is the World Bank's report on the Political Economy of Uganda of 2004. The report shows that the current regime in Uganda has changed drastically during its first two decades in power. One person interviewed for the report had even stated that the 1986 Museveni and the 2004 Museveni would not recognize each other. In this section of the chapter, an answer will be formulated to sub-question 2c: What influence will the desire to assure regime survival have on the land issue?

### ***5.3.1 Examples in Uganda of regime survival.***

During the past 23 years of reign by the National Resistance Movement (NRM) led by president Museveni there are very many examples of regime survival. Many decisions have been taken solely to assure the survival of the people in power. A few important ones, most of them identified by the World Bank, are showcased in this section. Although the report is relatively old, dating back to 2004, it is still quite relevant today and, according to reports, newspapers and interviews, the views represented in the report are still true or even more true now than they were five years ago.

In the run-up to the 1996 elections Museveni's opponent, Paul Ssemogere, promised free universal education. At first, Museveni was against this plan since he wanted to prioritize infrastructure. However, when Museveni's position was getting slightly weaker he changed his mind and vowed to abolish school fees for primary education. Five years later, enrolment in primary school had almost doubled (Therkildsen, 2006). Roughly the same thing happened five years later when, in 2005, opponent Kizza Besigye promised to abolish the Graduated Personal Tax (GPT). The president then decided to drastically reducing this tax from 10,000 shillings per person to 3,000 shillings per person. In the run-up to the 2006 elections the president abolished the tax (Thorkildsen, 2006).

When Museveni's National Resistance Army (NRA) won the bush-war in 1986, and its political arm, the NRM seized control over the government of Uganda, Museveni was welcomed into power by many western governments and development organizations. Within the first ten years, Museveni's political party, the NRM, achieved to establish a legitimate and effective government, restore the economy and managed to peacefully integrate the various ethnic groups into one single political system (World Bank, 2004, p. ii-iii).

However, in the last decade or so the positive trend of the first ten years is turning into a negative one. Corruption became more common and accountability, transparency and the rule of law were compromised on a regular basis. Whereas the 1996 elections were regarded by international observers as 'free and fair', this was no longer the case in 2001. Museveni's opponent Besigye was harassed and intimidated prior to the elections, and detained after the elections. Eventually he fled the country. In 2001 many supporters voted for Museveni on the premise that this would be his second and last term. After all, the constitution allowed the president two terms of five years in office (World Bank, 2004). However, in the run-up to the 2006 elections (which led to the president's third term) the president allowed multi-party elections in return for a lifting of the term limit. Former Supreme Court Judge Joseph Mulenga, who is now a judge at the African Court of Justice, presented a paper in August 2009 on electoral reforms. In the speech he gave, which was printed in the Daily Monitor the following day, he stated:

“The last three General Elections have indisputably demonstrated that despite the elaborate constitutional and statutory provisions to safeguard the right of the electorates to elect freely and the right of the aspirants to fair competition, irregularities in the form of voter intimidation and/or bribery, frauds such as multiple voting, ballot stuffing, disenfranchising of voters, falsification of voter registers, outright alteration of results and other forms of rigging continue unabated. (...) Although no Presidential election has been annulled yet, the Supreme Court has unequivocally found and held in the two election petitions presented to it after the 2001 and 2006 presidential elections that there were significant violations of the electoral system in all form and manner as I have just summarized. (...) How can a party (NRM, BTB) whose top leadership risked life and limb to engage in the bush war in protest against rigged elections and with a view to bringing in fundamental change and usher in good governance perpetrate or be linked to rigging of elections (speech by Mulenga, 2009)?”

Regime survival was and is most obviously assured in the form of widespread corruption in the Uganda People’s Defense Force (UPDF), the successor to the NRA, and a pillar of the Museveni regime. The World Bank states:

“Stated simply, the loyalty of senior commanders was bought—and maintained—by allowing these officers to loot (...) - looting and export of gold and other natural resources in the Congo by senior officers, including the former Army Chief of Staff and Commander, Major General James Kazini, and former Lt. General (Ret.) Salim Saleh (brother of president Museveni, BTB) (World Bank, 2004, p. 15).”

Furthermore, one is no longer promoted on the basis of competence, but on the basis of loyalty. The World Bank reports:

“Old comrades from the bush and those who were prominent during the President’s first fifteen years in office have either left government on their own volition, been marginalized or been unceremoniously dumped. [A]ll of whom have opposed the proposal for a third term. (...) They have been replaced by individuals who are inclined to go along with whatever Museveni wants, even if they disagree with his decisions. (...) Those who have left allege that President Museveni now places a primary emphasis on loyalty rather than on competence whereas the reverse was true prior to his re-election in 2001 (World Bank, 2004, p. 19 – 20).”

This section of the report clearly shows that the president is working hard to make sure he has loyal supporters around him who do not criticize or challenge him. It seems that it is no longer important to be able to get things done or to come up with your own innovative ideas, but you just need to dance to the president's tune if you want to get a job and to keep it.

It has been shown in chapter 1.2 and 3.3.3 that the current regime increasingly survives on a system of patronage and clientelist networks. The World Bank reports that the regime pleases people in rural areas by the distribution of offices and income to the supporters of the Movement. The best example of this is the letter president Museveni wrote to the Minister in charge of the Presidency, which was then published by the newspaper the Monitor on Sunday August 2<sup>nd</sup>, 2009. In the letter, the president proposes to ring-fence the offices of the LC V, LC III's and the representing Member of Parliament for the indigenous people of the Bunyoro area (Sunday Monitor, 2009). In the past the Bunyoro area has been flocked with people from other areas because of different reasons. Although the regime will strongly oppose the view, many experts view the president's proposal to protect the indigenous people, thereby making a division along tribal lines, as a clear attempt to secure votes from indigenous population of the area. A large discussion on this topic has started after that. At the height of this discussion the president delivered a speech at a Justice Law and Order Sector (JLOS) forum in Entebbe. The Daily Monitor reported: 'President Museveni yesterday warned that individuals engaged in promoting sectarianism, especially over the widely debated Bunyoro question pitting natives against immigrants would suffer grave consequences (Daily Monitor, 2009). This part of the speech took many participants of the forum by surprise since this was exactly what the president was doing himself.

Another example of patronage is the continuous creation of new districts. When the constitution was adopted in 1995, Uganda had thirty-nine districts. By 2009, this number had grown to over eighty, while around fifteen more will be created in 2010. Although the president defends it from a service delivery point of view (more districts means that these are closer to the people so they can serve the people better), it is fairly easy to see the actual reasons. By creating more districts, more (top) offices are created. The president, or government, can then give jobs to more people, thereby winning their support. Also, by creating such districts, the people in the district will be more in favor of the ruling party since they are made more important. A last reason is that as districts are made smaller, the power each separate district had is reduced, making them a smaller threat to the central government. Creation of districts is thus a very useful 'divide and rule' strategy to increase support and weakening potential opposition.

These latest developments of ring-fencing offices and creating districts make the quest for regime survival more and more apparent. However, it also makes it more and more difficult to predict what the president and his party will do next to ensure that they remain in power.

### ***5.3.2 Future of the quest for regime survival.***

The current government will be in power until the beginning of 2011. By then, new elections will be held to elect a president and the members of parliament, both for terms of five years. Although the original Constitution of 1995 stated that a person shall not hold the office of president for more than two terms (Section 105(2) of the Constitution of Uganda, 1995), this term limit was repealed by the Constitution (Amendment) Act of 2005. As stated before, this made it possible for the then incumbent president Museveni to pursue (and ultimately secure) a third term. The lifting of the term also makes it possible for him to pursue a fourth term in 2011, something he has already vowed to do. With most of the institutions and commissions administering the elections already in place<sup>35</sup>, the typical NRM background of these institutions and commissions, and the seemingly inability of the opposition parties to really challenge the current government, it seems likely that the incumbent president will win the next elections. However, with about a year and a half left to the next general elections anything can still happen.

Since the next elections will be the second under a multi-party system, the elections are likely to be more closely contested. Opposition parties are better established and are now more experienced. Also, there is a trend towards more opposition against the government. However, as has been stated before, the next elections seem unlikely to host a groundbreaking change of power.

Looking at the long-term (twenty years) political situation in Uganda proves very difficult. Under the current Constitution, president Museveni is not allowed to run for the 2021 elections due to the age restriction which states that no person is allowed to be elected president when over seventy-five years of age (Section 102(b), Constitution of Uganda, 1995). This means that, under the current regulations, it is impossible for president Museveni to still be president twenty years from now. All in all it is impossible to state anything with a high enough level of certainty about the political situation twenty years from now. It is, however, fairly safe to say that in 2011 the NRM will keep its majority in parliament and the current president will win the presidential elections. Whether these elections will be free and fair is doubtful, given the downward trend shown by the World Bank report (2004) and the study by Therkildsen (2006).

### ***5.3.3 Consequences for the land issue.***

Land is expected to play an increasingly important role in politics during the 2011 elections. Depending on the exact timing, this can be increased or decreased by the proposal for the NLP. In

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<sup>35</sup> The heavily criticized Electoral Commission that administered the 2006 elections was largely reappointed in August 2009 for another seven year term, thereby guaranteed to administer both the 2011 and 2016 elections. One of its members was not reappointed because of retirement.

late September 2009, the fourth draft of this NLP was published. Debate over this draft will held during a large conference to be held in the fall of 2009. After this conference, the final draft version will be issued which will go to parliament for approval. If this entire process of getting it to parliament is finished well before the election campaigns begin, it may be a relatively objective procedure. That is, there will still be intense discussions and debates on it and many stakeholders will strongly support or reject it, but it will be relatively limited. If, however, the NLP becomes part of the campaigns and a decision on it is taken just before or after the elections, it may very well become a hot political subject. Politicians from all parties are then likely to make largely unattainable and impossible promises to different groups in order to win their support.

Especially important in this respect is the role of the kingdoms in Uganda. It is often proclaimed that support of at least three out of four kingdoms is necessary in order to win the elections. Although the kings are formally not allowed to get involved in politics, their status and influence is still important to their subjects. Johannessen (2005) indicates that the Kingdom of Buganda played an important support-base for politicians running for office during the 1996 and 2001 elections. Although during the 2006 elections the Kingdom was unsuccessful in its lobby to become a federal state within the state of Uganda, it may play a more important role in 2011 if the elections turn out to be closer than those in 2006. Tension towards this goal is already building up, resulting in riots and, ultimately, mayhem in Kampala in September 2009. If close elections are the case, the candidates may have to compromise certain things in order to secure the kingdoms approval. However, although the Buganda government more or less supported the opposition candidates in 2006, the elections in the Buganda region were won by Museveni. Therefore, support from the Kabaka does not automatically mean support from the entire Buganda population.

Although nothing can realistically be said about the actions the current regime will take in the future to ensure its survival, there are a number of general moves the regime is likely to make. First of all, the regime is likely to try the 'divide and rule' tactics on land issues. The president has already started by the previously mentioned proposal to ring-fence certain political offices in certain areas in the country.

Secondly, the regime is likely to openly support tenants of mailo land in order to gain their support. However, it remains a question whether or not this support will be acted upon. After all, it has been noted before<sup>36</sup> that many of the mailo landlords are either politicians, very rich people who can support the regime and/or are very influential people and it will prove difficult to oppose them.

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<sup>36</sup> See chapter 1.2 on the difficulty of changing a system based of patronage and nepotism.



This chapter has explained how the various trends affect the land issue in Uganda. The trends are discussed as affecting the *relationship* between land ownership and the various aspects. It is thus handled as an indirect influence, as explained in the methodological second chapter. In general, the influence of the trends is vast, though not entirely predictable. Also, the trends have been discussed as if no policy changes will take place on this topic within the next twenty years. Although this assumption is fairly unrealistic, it is the only way to describe the influence of the trends since future policy changes are virtually impossible to predict.

The various consequences of the trends for the land issue have thus been discussed in this chapter. The next step is to discuss the consequences land ownership has on the aspects conflict potential, ecology, and economic development, while taking into account the long-term trends and their respective influence. This will be the focus of the next chapter.

## Chapter 6 Aspects of land ownership

This chapter will focus on the different aspects of land ownership, as identified in the theoretical chapter<sup>37</sup>, while taking into account the long-term trends that have been identified in the literature review and have been elaborated upon in the previous chapter. In order to describe these aspects and to fully understand the importance and characteristics of the aspects, a large number of fieldtrips and interviews were held<sup>38</sup>. Descriptions of the aspects will therefore be largely based on these empirical findings, although some documents are used as well.

All three aspects of the land ownership will be discussed in this chapter. First, the conflict potential of land and land ownership will be discussed. In this section, the focus will be on the drivers of conflict and how this affects communities and ownership. After that, the ecological effects of land use will be addressed. The way people farm their land and the overall practice of farming has a large influence on soil fertility and on country-wide effects. Finally, economic features will be discussed. This section will address issues like poverty, economic potential and constraints for development. The overall goal of this chapter is to provide an answer for the third sub-question, formulated in chapter 1: Accepting the identified trends as a given, what effect will the current system of land ownership have on each identified aspect (conflict potential, ecological effects and economic development)?

### **6.1 Conflict potential.**

Ownership of land leads to many conflicts in the country. If one would open a randomly chosen newspaper on a randomly chosen day, articles will be found on land ownership and conflicts over land. During fieldtrips, specific kinds of conflicts were found in specific areas of the country. Therefore, these will be dealt with separately.

#### **6.1.1 Conflicts on mailo land.**

Chapter 1 has explained the history of land in Uganda. The 1900 agreement between the British government and the Buganda kingdom in the center of the country gave large quantities of land to the king and notables of the kingdom. This land became known as mailo land, named after the square miles of land people received. As indicated in the first chapter, the land received by the king and notables was already in use by farmers. These farmers, upon signing of the agreement, suddenly became tenants of the land and they now had to pay rent to the landlord. Although many things have changed during the last century, in essence the situation is still this way. Landlords who own

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<sup>37</sup> For more information, see chapter 3.

<sup>38</sup> For more information, see chapter 2.3.

large pieces of land still receive rent from the tenants. The tenants are by law allowed to use the land and sell their rights to others, but they do not have full ownership of land. The landlords have ownership of the land, but do not have the usufruct rights that the tenants have<sup>39</sup>.

Conflict on this type of land occurs when the landlord wants to invest in his land, sell his land to someone else or basically wants to alter the way the land is used. After all, since the amount of rent is limited by law to one thousand shillings per tenant per year, the landlord does not receive much rent from the tenants. Therefore, many landlords want to make the land more profitable by investing in it in one way or another. Also, many owners are so-called 'absentee landlords'. They own the land but live somewhere else and only collect rent every year, without really being involved in what happens to the land. Although the government is slowly trying to reduce this number of absentee landlords by buying their property and redistributing it to indigenous people, it is a costly and lengthy process that may take years before completed. According to the Uganda Lands Commission (ULC) there are 3.636 absentee landlords in the Bunyoro region of Uganda alone, of which most are located in the Kibaale district in the western part of Uganda. Allegedly, around 90% of them do not even know where their land is precisely (New Vision, 2009). If every landowner in this district would sell his land to the ULC, this would cost between 12.4 and 18.5 billion shillings (roughly between 4.3 and 6.3 million Euros).

Although it would cost a lot of money, buying out the absentee landlords on a willing-buyer, willing-seller basis, or even under compulsory acquisition, would likely spur economic development<sup>40</sup>. Also, it could take away a lot of the conflicts over this type of land.

At the moment it seems quite unlikely that all (absentee) landlords will be bought out and land would be given to the indigenous people. Funds are simply not sufficient and many landlords are unwilling to sell their land. Besides, many landlords are wealthy and powerful people within the government or army who can easily block such compulsory acquisition.

When a landlord wants to invest in the land or sell it, this threatens the livelihood of the tenants on the land. They then rise up to protest, which could end in a court case or in violence. An example of the last often makes the newspapers. The worst example, which was the opening of this report and was mentioned in chapter 4.3.2, was in the newspaper of August 18, 2009, when tenants lynched a landlord who came with two surveyors to survey the land in order to be able to sell it. The surveyors barely made it out of the scene unharmed, but the landlord was killed by angry tenants (Daily Monitor, 2009).

Luckily conflicts do not always lead to such extreme violence, but cases are definitely on the rise. This is also indicated by the NGO Rwenzori Forum for Peace and Justice (RFPJ), which state that

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<sup>39</sup> For more information on legal rights, see chapter 4.1.3.

<sup>40</sup> For more information, see chapter 3.2.3.

conflicts are more rampant and more violent. According to the RFPJ, conflicts occur more often during political peak-points, like elections (RFPJ, personal correspondence). All in all, conflicts over mailo land are rife, but the cause and possible solutions are still rather easy to identify.

### **6.1.2 Land grabbing.**

The second important reason for conflicts is land grabbing. The concept of land grabbing is that someone will knowingly take some land from his or her neighbor, cultivate it as his or her own and claim it accordingly. In essence, it is theft of land, but since someone cannot actually take land with him and move it somewhere else, it is often called grabbing. In order to fully understand this, one has to note that in Ugandan society, the clan is still very strong. Even when this report states that clans have lost power, this is relative to what it used to be. This means that ties between people and traditions and customs are still very strong compared to Western standards. In villages, people are all related in one way or another and family ties are very important. Since land is often subdivided after a head of family dies, people often neighbor their own relatives.

LEMU has done extensive research on land grabbing, and has come up with a number of most common forms of it<sup>41</sup>. The following nine forms of land grabbing are based on their research.

The first form of land grabbing is by gradual encroachment. Every year, a neighbor takes a little bit more of your land. By doing this gradually, it seems like it could just be a silly mistake. Also, since it is not a whole lot every time, the victim is less likely to protest. If the victim does not show to be a strong person, the grabber is likely to quickly take more land.

The second form of land grabbing is by borrowing. The grabber borrows land, often from an in-law, and simply refuses to give it back.

The third form of land grabbing is by seizing opportunities. Land is grabbed when the victim is, temporarily, weak, for instance when a husband has recently died. The grabber takes this opportunity to grab land.

The fourth form of land grabbing is by excuse. The grabber takes an entire field by claiming that the person occupying it, usually an in-law, behaves badly (in case of a widow) or fail to respect the father-in-laws wishes. Another excuse is that the grabber has more need for the land since he has more dependents than the other person.

The fifth form of land grabbing is by compromise. Usually people first go to the clan elders to settle a conflict. These clans have, more than anything, always promoted unity and harmony. Therefore, they usually try to find a compromise. A grabber takes advantage of this by grabbing two meters, since he knows the likely outcome is giving back one meter, a solution that still provides him

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<sup>41</sup> Land grabbing has been briefly touched upon before in chapter 4.3.1. In that section, it was just mentioned, while this section explains the concept in more detail.

with an extra meter. The victim knows his rights to the entire piece of land, but going to a state court is not only very expensive, it is also socially unacceptable.

The sixth form of land grabbing is by intimidation. It is important for the land grabber to make the victim give up his quest for justice. People are intimidated verbally and non-verbally (by letting cattle graze on the neighbors land or slashing crops) until they finally give up because of sense of worthlessness, powerlessness and being afraid.

The seventh form of land grabbing is by exploiting ignorance. Although adults know their rights, children do not know these and are easily tricked into agreeing on an illegal move by a guardian.

The eighth form of land grabbing is by exploiting dependency. Orphans, elders and divorced women find it very hard to go to clan elders or even court over injustice done to them by the person who is supposed to look after them.

The ninth and last form of land grabbing is by using the justice system. Grabbers are often the more wealthy and influential people in the area. They can let the victim go to court and keep the process going, making it more expensive for the victim. The other option is to bribe the judge; unfortunately a widespread phenomenon.

With their studies and reports, LEMU adds a lot of knowledge to what is known about land grabbing in Uganda. For outsiders it is very difficult to retrieve the information LEMU and similar organizations can get, making the contents of their report valuable information. Land grabbing silently happens throughout the country, without ever making it into the newspapers since each case is of relatively minor magnitude, yet every case is of high importance to the victim since it affects their livelihood. Injustice is done to these people while corrupt institutions make it extremely difficult for them to do something about it. Land grabbing is therefore a very important form of conflict that affects many people on a daily basis.

### ***6.1.3 Population growth.***

The growing population is a phenomenon that has been touched upon before in chapter 3.3.2 and 5.2. It is an important driver of conflict and it happens countrywide, although the northern area is not affected as hard as the rest of the country yet.

Traditionally, when a man marries a woman, they are given land by the father of the man. Land has always been abundant, so if the father did not have much land, the son would simply go a little further away from the town where land was still bare and uncultivated. Time has gone by though, and the practice of going out further to find unused land is no longer possible. Even if uncultivated, all land in the country now belongs to someone. The tradition of giving land to your

children upon marriage still stands though, so if a father owns fifty acres of land and he has four sons, each son may get ten acres upon marriage, leaving the father with ten acres for himself. However, when the son gets children and they get married, he again has to give them land. If he also has four boys, each son may get only two acres. In this realistic example, land ownership has gone down from fifty acres for a family to two acres for a family in only two generations time. Since the population has increased six fold in the last sixty years<sup>42</sup>, available land per person has also gone down six fold.

In many areas of Uganda, the population growth has become a big issue. Fathers have to subdivide the little land they have between their children. Since the land children receive from their fathers is not always enough to establish an economically healthy subsistent farm on, children can get into conflict with each other, with their parents and with other family members. This happens on a regular basis, with children even killing their siblings or parents over land. Also, plenty of cases are known in which the elderly mother was chased off of her land by her children because the children needed the land for farming purposes.

During the research, the most imminent case of population growth was encountered in the western part of the country. The LC I usually solves many conflicts, and the LC I interviewed indicated that everyone face the threat of eviction, and that about half of the people in his town were facing land conflicts related to population growth. People simply did not have enough land anymore to pass on to their children. When asked how much land the LC I had himself, he replied he only had half an acre, which was not enough to feed his family. When asked how many children he had himself, he looked away for half a minute, started laughing and replied that he had ten children, while he was 'working on an eleventh'. Assuming he, as a leader and man with experience with conflicts, would have planned ahead and has somehow taken care of his children's future, it turned out this was not the case. He had no idea how he would take care of these children, and what kind of future he would give them.

In many areas of the country, stories like these are heard. People have many children, a phenomenon due to several reasons. Most importantly, people have many children since these will take care of them when they become old. Other reasons include culture, lack of family planning and contraceptives, early marriage, status, and high infant and child mortality levels. All these reasons help sustain Uganda's high fertility rate of 6,7 children per woman.

The regions most affected by conflicts due to population growth are the already populous areas in the west, south-west and east of the country. The northern part is experiencing more population pressure, though it has not nearly reached the levels of the aforementioned parts yet. As

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<sup>42</sup> For more information, see chapter 5.2.

stated in chapter 5.2.1, president Museveni is not at all worried about the high fertility rate and population growth. He keeps comparing Uganda to Western countries which are a lot more densely populated yet much wealthier at the same time. He seems to, likely intentionally, forget that these countries have a completely different economy, not depending on land for their wealth anymore. The official government policy on population, as stated in the National Population Policy, only addresses problems and challenges inflicted by high population growth, yet it does not advocate a lower fertility rate. It only indicates that the unmet need for family planning needs to be reduced. As long as the government does not actively advocate family planning and urges people to reduce fertility rate, the population will keep growing, especially with the population momentum described before. Therefore population growth will continue to seriously affect land ownership and conflicts for decades to come.

#### ***6.1.4 Encroachment.***

Conflicts caused by encroachment of ecologically precious areas are on the rise, mainly because of the aforementioned population growth. When people cannot receive any land from their parents and they also cannot go and find a piece of unused and bare land, they increasingly decide to use 'protected' areas. Wetlands, forests and game reserves are all by law protected. For instance, nobody is allowed to settle within a hundred meters from a wetland. In practice, however, people are more and more settling in these wetlands.

There are multiple reasons why people enter these areas. First of all, as stated before, population pressure forces them to find another place to farm. Second of all, these areas are extremely fertile, which makes it attractive for people to enter these areas. Third of all, the responsible authorities hardly ever check if anyone has settled in the area, and if they do, they do not have the capacity or power to remove these people from the area, thereby enabling the illegal encroachment.

Encroachment thus happens a lot, and none of the regions in the country is exempted from the phenomenon. Obviously the central part of the country suffers most from the encroachment of wetlands, while the west and north suffer most from encroachment of forests. Encroachment then leads to conflicts between the government and the people, since the government tries to remove the people from the areas while the people have no place to go to.

#### ***6.1.5 Internally Displaced People (IDPs).***

Conflicts concerning the return of IDPs to their old homes occur only in the northern part of Uganda, in the Acholi and Langi region<sup>43</sup>. The long presence of the LRA in that area has caused many people to flee the area and has resulted in the presence of many refugee camps. Until only a few years ago, the LRA was a serious threat to the region causing death and destruction while looting the area, raping women and children and recruiting child soldiers:

“During active hostilities children in the LRA were forced to participate in combat and to carry out raids, kill and mutilate other child soldiers and civilians and loot and burn houses. Children were forced to kill relatives, including their younger siblings, often to "initiate" them into the LRA. They were trampled to death, beaten or mutilated either as punishment or if physically unable to keep up with their unit. Girls were routinely raped and many bore children while in the ranks (Coalition to Stop the Use of Child Soldiers, 2008).”

After peace talks in 2007 the LRA retreated to the eastern part of the DR Congo. More recently a military operation against the LRA has further weakened the organization, limiting their possibilities and strength.

Since peace and law and order have more or less been restored in the area, people in refugee camps are able to return to their homes again. This is a long and difficult process for the IDPs: from being dependent on government support and NGOs to working on a piece of land again is a big step. Furthermore, some of these people have lived in refugee camps for over twenty years. Returning to the land they used to have has challenges and opportunities.

A very positive side is that people are independent again. They have to take care of themselves again and can grow their own food instead of being in the reliable and somewhat humiliating position of depending on others. It brings pride and self-esteem back to the people.

However, there are many challenges for these people as well, and the longer someone has lived in such a camp, the bigger the challenges. While people were away from their homes and land, it was taken over by others who did not deem it necessary to flee. Returning IDPs often face people that have taken over the land and refuse to leave it. Often, these are neighbors or family members of people from the same or neighboring clan. Land conflicts are therefore vast. The specific nature of these conflicts make it even more difficult. After all, someone cannot really be blamed for using land that has been uncultivated for a long period of time. The conflicts returning IDPs face are therefore complex.

A research conducted by the World Bank published in May 2009 revealed that displacement and return of IDPs had worsened the tenure security in the north. The report states: “The study

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<sup>43</sup> See the ethnographic map of Uganda on page VIII.



findings show that 85 percent of the respondents had experienced threats to tenure security of which 59 percent felt these threats were significant (World Bank, 2009).<sup>7</sup> The report furthermore indicates that many respondents fear land grabbing by the government, and there is a strong feeling that land registration is the government's design to do so. In case the GoU ever decides to title all the land in the country, it is thus very important to note this fear and to address it properly.

Furthermore, when IDPs return to their homes they have to start anew. Without money to make some necessary investments this can prove to be very difficult. Also, not having farmed for a long time results in people not being used to it anymore, and they have not caught up with the new farming techniques, thereby facing disadvantages compared to their competitors.

One last challenge is that many of the IDPs have not had to work for a long time. Life in the IDP camps has led many men to turn to alcohol. The level of alcoholism, in general in Uganda already at a high rate, is extremely high in the northern part of Uganda. Sachets of waragi, potent gin and local brew are found throughout the region and people even drink in the morning. This leads to conflicts between people and to a high level of idleness, predominantly amongst men. This idleness obviously is very bad for the local economy and is a part of the reason of high poverty in the region.

All in all, when refugees return to their land they tend to face many problems. It is important to solve these since it may lead to large-scale mayhem if left unattended.

#### **6.1.6 Oil.**

Although commercial drilling has not yet started and contracts have only been signed a few years ago, the presence of oil in the western part of Uganda can cause many conflicts. Already land prices are rapidly going up in the area due to opportunistic behavior of investors, mostly from the capital city. Although land used to be owned communally in the Hoima district, it is now more individualized since people hope that oil will be found on their land. People indicate that most of the court cases are related to land. This is, again, because of individualization of land in the area.

There is very limited awareness on oil in the region. Many people think that oil production has already started while in reality Tullow, the oil company, is only in the exploration phase. The environmental officer in Hoima indicated in an interview that, instead of producing crops and selling them to the oil drillers and workers, people relax and are waiting for the government to present them revenues from the oil drilling (Interview with Joseline Nyangoma). In quite stark contrast, the law clearly indicates that any oil in the country is the property of the government of Uganda (Section 2(1) of the Petroleum (exploration and production) Act, 1985, Cap. 150). The oil found is therefore not property of the people in the district, let alone of the particular person who lives above the oil. However, lack of information has caused many people to still believe that the oil is theirs and they will receive money for it. People in the area even expect the oil company to improve infrastructure

and education in the area, and are genuinely appalled that only the road straight to the oil fields will be tarmacked.

The presence of oil is thus causing a lot of confusion, discussion and conflicts in the area. The government is adding to this confusion and lack of information by not disclosing the contract they have signed with Tullow. People have thus become suspicious of the contract and the way the revenue is shared by the parties to the contract. All in all, oil is thus likely to become a more important issue which is likely to cause many conflicts in the oil-rich area in the western part of the country.

## **6.2 Ecological effects.**

The current system of land ownership has important implications for the ecology in Uganda. In general, the country is blessed with exceptionally good soil quality and a climate that facilitates two planting seasons. However, long term trends described in the previous chapter are increasingly influencing the ecology, generally in a negative way.

### **6.2.1 Land use.**

Most farmers in Uganda are subsistent farmers with little means. They usually farm with nothing more than hand plows and hoes. The use of fertilizers is traditionally very low, and even discouraged by many clan leaders. Part of the reason for this is that the soil is deemed so good that it does not need fertilizers.

Intensive farming depletes land. Therefore, people have always rotated crops and have left land fallow for it to recover. Increasing population pressure has made this custom in many places impossible though. People now often have an insufficient amount of land to just let a few acres recover from the farming conducted last year. Continuous use of land is thus leading to depletion of the soil, especially if not compensated for by using fertilizers. Although research has shown that crop rotation is a suboptimal solution (in the short term it has lower returns), it is a lot better than planting the same crop on the same field every year since this depletes the soil even faster<sup>44</sup>.

The most dramatic part of the depletion of soil is that it is a circle that is hard to break out of. Once the process starts, it is difficult to reverse it, even if subdividing of land is left out of the equation. Once the depletion starts, the returns will be less, forcing the farmer to plant more seeds the next year (thus leaving less land fallow) which will deplete the land even more. This is a process that will continue year after year. Moreover, if returns are lower it is even more difficult for the

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<sup>44</sup> For more information, see chapter 3.2.2.

farmer to buy fertilizers to restore the fertility of the land. The current system of subsistent farming with ever decreasing plot-sizes is therefore not a sustainable system.

### **6.2.2 Encroachment.**

A very dangerous trend is the increasing encroachment of various types of land. Partly due to population growth and partly due to the high fertility, certain types of land are now occupied by encroachers who settle on the land and start farming it. Land encroached upon by farmers includes forests, wetlands, a national park, churches, district institutions and schools. Particularly vulnerable are the wetlands and forests.

Wetlands are found in proximity to water bodies and swamps in the country, mainly in the center of the country (near Lake Kyoga<sup>45</sup>), and form a vital part of the ecosystem in Uganda. Papyrus is one of the most important plants in the wetlands and it protects the water from evaporating since it blocks direct sunlight. However, farmers tend to enter the wetlands and slay the papyrus plants, only to replace it by planting rice. The economic returns of rice are high, making encroachment of wetlands even more attractive to farmers. However, the water is no longer protected from sunlight and it evaporates rather quickly. This results in the shrinking of the wetlands. Although the law states that nobody is allowed to farm or live within a hundred meters from the wetlands, it is done in many areas. Furthermore, the authorities in general do not have the capacity or power to force the farmers out of the wetlands. The consequences for the wetlands are thus vast and every year there is less and less left of it.

Forests face similar problems. Due to population growth and the fertility of forestland people are encroaching these areas. The authorities again do not have the capacity to keep encroachers out of the forests. People thus cut the trees in order to farm the land. The cutting of the trees is not only bad because this releases the carbon dioxide stored in the trees, but also because charcoal burning (which usually follows the cutting of the trees; charcoal is a very important fuel for cooking in Uganda) is extremely bad for the environment. Above all, trees hold water in an area. Once the tree is gone, the water will simply pass through the land without having an added value to the soil anymore. This is why people who farm on a hill indicate that their land is much less fertile after trees are cut. Although cutting trees and encroachment of forests is rewarding in the short term, the long term effects for both the particular farmer as well as for the community are very negative.

The last type of land discussed in this section is the national parks. Particularly Queen Elizabeth National Park is being threatened by encroachment. The Basongora tribe has been in the national park on and off for a few years now. This is due to the fact that they, as traditional

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<sup>45</sup> See map on page VII.

pastoralists, were evicted from their land many times, forcing them to move between DR Congo and Uganda. Their original land is now reserved for the national park though, but since the Basongora have nowhere to go anymore, they are found within the borders of the national park every once in a while. Luckily, this is one rather select group of people making it still fairly manageable. However, as population pressure increases other national parks may become more vulnerable and a close watch need to be held on them.

### **6.2.3 Climate change.**

It has been state before that Uganda has one of the best climates in the world for agriculture. The temperature in general is good, there were two distinct rain seasons and the soil was very fertile. However, things are changing. The last few years people are noticing less predictable rains and more droughts. Also, the temperature is slowly rising, making it more difficult to grow certain types of crops.

Although the exact outcomes of climate change are unknown, it is very likely that farmers in Uganda will be greatly affected by climate change. They will have to adapt to the new conditions and may have to change the crops they plant. Also, longer droughts combined with shorter yet more erratic rains makes the timing of the crops even more important. In this light, farmers need to consider certain innovative techniques in order to assure their income and livelihoods. For instance, it may be necessary to invest in an irrigation scheme to hold water for a longer period of time in an area. Depending on rain-fed agriculture like farmers do now will be quite dangerous, to say the least.

However, the exact implications of climate change for the ecological changes are still unknown. Therefore, it is very difficult to predict the outcomes.

### **6.3 Economic effects.**

The current land ownership system has important implications for economic development and poverty eradication. The level of poverty in the country has been touched upon previously<sup>46</sup>, as well as the theory of ownership and economic development<sup>47</sup>. The high level of poverty is linked to lack of tenure security and investment deadlocks, which is according to theoretical notions.

Optimists may indicate that the Ugandan economy has witnessed incredible growth during the last two decades. This growth, however, has only been achieved in a few sectors. Unfortunately, the agricultural sector, which provides a livelihood to around 90% of the population (MoFPED, 2008), is not one of these sectors. The following table clearly shows that the Ugandan economy in general is

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<sup>46</sup> For more information, see chapter 1.

<sup>47</sup> For more information, see chapter 3.2.3.

thriving and that GDP at market prices is rapidly growing. This is incredibly positive for the country, although it would be even better if the agricultural sector would also benefit from this.

	2004/05	2005/06	2006/07	2007/08	2008/09
GDP growth at basic prices	6.6%	10.3%	6.9%	8.3%	6.7%
GDP growth at market prices	6.3%	10.8%	8.4%	9.0%	7.0%
Agriculture, forestry and fishing	2.0%	0.5%	0.1%	1.3%	2.6%
Industry	11.6%	14.7%	9.6%	9.1%	3.8%
Services	6.2%	12.2%	8.0%	10.2%	9.4%

**Table 3:** GDP growth per sector, adapted from MoFPED, 2009.

This section will now take a look at the economic effects of land ownership as encountered during the empirical research.

### **6.3.1 Mailo land: Investment deadlock landlord- tenants.**

Next to the many conflicts over mailo land, and the increasing land erosion due to the often cited (illegal) prohibition to plant trees, mailo land faces an investment deadlock which hinders economic development and poverty eradication. The theoretical framework has explained how landlords are not likely to invest in the land since they have ownership rights but lack usufruct rights. The tenants, on the other hand, are not likely to invest since, although it is highly illegal, they risk getting evicted from the land so any investment which is beneficial to them in more than one year time is a risky one. Moreover, making such investments in fertility of land or in otherwise economically attractive things only make evictions more likely to happen.

From an economic point of view mailo land is thus suboptimal at best, and devastating for development at worst. The draft NLP, for instance, indicates that:

“In Buganda, studies reveal that over 80% rural mailo land is tenanted, hence it is of no actual value to the mailo owner — he/she can hardly sell the land (*it falls out of the open land market*); cannot easily mortgage the land (*it falls out of the credit system*); can hardly evict the many *bibanja* holders even on compensation thus cannot utilize the land (MoLHUD, 2008, p. 4 – 5, italics in original).”

The landlord is unable to use the land or engage in any economic activity with it. Furthermore, since the amount of rent is laid down in the Land Act of 1998, he cannot adjust the rent to market value.

The draft NLP therefore rightly asks itself: 'Can the (...) occupants co-exist on the same piece of land in this era of agricultural modernization/commercialization, industrialization and rapid urbanization? If the two parties cannot exist, which party should surrender the 'bundle' of rights it holds and on what terms (MoLHUD, 2008, p. 5)?' Earlier in this chapter<sup>48</sup> it has been noted that the government of Uganda is in the process of buying out landlords in order to give, or sell for a favorable price, the land to the tenants. However, this is an extremely costly process and not every landlord will be willing to sell his land. In the Kibaale district alone, the process would cost between 12.4 and 18.5 billion shillings. If it is done for all mailo land, the costs would be exorbitant.

From an economic point of view though, the current situation is unsustainable. The country is simply losing out too much on crop production and thus in the end money to sustain this situation. It has already been noted that any plan for economic development in the country would have to involve agriculture since 90% of the people base their livelihoods on it (MoFPED, 2008). Mailo land and its investment deadlock is thus a very important aspect to look at, even though a change of the status quo will be strongly opposed by one group or another.

### ***6.3.2 Customary ownership: Investment difficulty.***

Customary land faces investment problems of its own right. Although customary land in general is fully owned by a family (however, there are clans that claim that they have the ultimate ownership rights and can reallocate land to others) and they are more secure of their land than tenants, owners of customary land still face investment problems. Customary land, as has been explained before, is land that is not demarcated or registered. Therefore, the government does not know who owns which piece of land, and land tenure is secure as long as the elders and clan leaders acknowledge your ownership of the land. Without a title or a certificate, it is impossible to get a loan or a mortgage from a bank though, thereby making it very difficult to invest in your land. Without a (large) sum of money to start the investment with, it is difficult and a lengthy process to accumulate more and more money.

A cheap alternative is the certificate of customary ownership. This is a certificate issued by the government but without demarcation of the land. The community acknowledges that you own a piece of land but the exact size and location are not determined by surveyors. The law more or less introduced this certificate to increase tenure security, not so much to acquire a loan or mortgage. Banks in general therefore refuse to accept the certificate as sufficient guarantee to issue a loan. In effect, this means that the 75% of the population owning land under customary tenure do not have

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<sup>48</sup> For more information, see chapter 6.1.1.

access to a loan or mortgage to invest in their land or to try to upscale their farming. This, along with the limited tenure security of customarily owned land, is a huge constrain for development.

### **6.3.3 Investments and tenure security.**

Although it has already been touched upon a number of times, the importance of tenure security for investments, as proven by scholars, cannot be stressed enough. If a farmer has absolute certainty that, if he wants to, he will live on the same piece of land for the next ten or twenty years without being challenged by anyone, he is far more likely to plant trees which foster higher returns and keep the land fertile, and to invest in soil fertility. However, at the moment only people holding land under freehold or leasehold titles are sufficiently certain of keeping their land to invest in it. Unfortunately, only about 6,5% of the people have these titles.

This observation could easily let someone jump to the conclusion that all land in the country should be demarcated, registered and be turned into freehold or leasehold land. Although many believe that ultimately this is the only way to avoid large-scale conflicts and to have a thriving land market, economy and foster agricultural transformation, this may lead to unforeseen problems if done too quickly and too radical.

In this respect, mailo land would likely have the most issues since either one of the parties with rights to the land, or both, will be unhappy with the solution. Only the extent of this unhappiness can be influenced. Customary land may seem a bit easier to demarcate and register, especially after studying the findings of the World Bank in other countries<sup>49</sup>. However, at the moment the traditional institutions govern the way land is issued and allocated, and solve conflicts according to cultural customs. Although there are many arguments against this system, it is not necessarily bad altogether. For instance, the government does not nearly have the capacity or training to take over the traditional institutions within the next ten years or so. Furthermore, and a more fundamental reason, culture and traditions still play an immense role in people's lives in Uganda and there is no clear reason why this should be changed, other than to align it with Western standards and practices.

This is harsh criticism, but very true for the people of Uganda. After all, customs, traditions, and their way of solving conflicts, work, *as long as the institutions have the capacity, power and authority to act upon the verdict*. The biggest fault of restoring the traditional institutions for matters related to land is that the institutions do not have legal ways of enforcing their verdicts. Not being able to enforce their verdicts weakens the legitimacy of the institutions. If verdicts against violations of tenure security are not enforced, this in effect leads to a decrease in tenure security. This decrease

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<sup>49</sup> For more information, see chapter 3.

will then lead to lower investments in the land. Thus, strengthening the customary institutions by increasing capacity and knowledge, as well as giving them the opportunity to legally enforce their verdict will lead to more tenure security, more investments and ultimately economic development.

Another difficulty for titling of land in order to increase investment, economic development and poverty eradication, is of much more practical nature. In general, a farmer does not have one big square field. In reality, fields are crooked and oddly shaped with many bends and corners. Due to subdividing of land, a farmer may also have one field near the river to grow a certain crop, then one field more uphill for another crop and two fields somewhere near his house. This makes demarcation and registration of land very complex and expensive. Also, transferring and further subdividing of land would lead to large costs as well. Although this problem is not unsolvable, it has to be taken into account when discussing the process of titling with the aim to increase tenure security. After all, the initial process of titling every piece of land and registering it is one thing, maintaining the database is even more challenging and requires dedication.

Ultimately, however, the current system of land ownership as it is now is unsustainable. This is recognized by the third draft NLP as well, which indicates certain options for both mailo and customary land that have to be closely looked at. For both types of land, this includes going towards a system in which land in rural areas is held under freehold tenure, and land in urban areas is held under leasehold tenure<sup>50</sup> (MoLHUD, 2008). The reason to move towards more leasehold titles in urban areas is that, according to the government, this is a more dynamic system that encourages development. It seems that this draft NLP shows the right path towards the future. However, since it is still merely a draft version, one cannot be sure that this will actually be the policy that will be adopted by parliament. Before that happens it will have to undergo an influential political process.

#### ***6.3.4 Farm sizes and development.***

Theories clearly show that small scale subsistent farming is not the way forward for the country. Large scale farming is also not the best option because the size discourages efficient use of the land. Therefore, middle sized farms are the best drivers of economic development. However, subdividing of land in Uganda leads to smaller and smaller plot sizes which are not economically viable. Furthermore, small plots can only sustain the farmers' family and thus does not lead to an improved situation of the family. After all, families do not grow enough food to sell it on the market and make sufficient money to reinvest it in the land.

It is therefore needed that plot sizes increase. However, with little job opportunities, which will be touched upon later, it is very difficult for a farmer to give up the only means of livelihood he

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<sup>50</sup> For more information, especially see sections A.3.2(vi), A.3.2(vii), A.4.2.(v), and A.4.2.(vi) of the third draft NLP.



has for an insecure and unpredictable future. Many people thus hold on to the land they have, although traditional, cultural and spiritual reasons for this are also present. Even people who have moved to the city and now have a job and a reliable source of income still hold on to the land they have in their villages. From a macroeconomic point of view this is an undesirable situation since in an ideal situation land is owned and used by the person who can economically use it best.

Section 6.3.3 shows that Uganda is on the path to ultimately title all land in the country, and that, according to the third draft NLP, only two types of ownership will remain. If this scenario is true, the land market will eventually become bigger and will gain importance. Farmers can then acquire more and secure land, while others can decide to sell their land to pursue a different career.

### ***6.3.5 Other economic constraints and opportunities.***

Very important for economic development in the country is the infrastructure. Except for the main roads out of Kampala there are hardly any tarmacked roads in the country, and even these often have large potholes. Secondary roads made out of murrum connect most of the district capitals, though most of these roads are of dismal quality. In general, a town that is not a district headquarter is very poorly connected to the rest of the country. Lack of (good) roads is a very important constraint for economic development since it disables people to offer their goods and crops to a regional market, let alone a national market, especially if the crops have to be consumed quickly after harvesting. Improvement of infrastructure is thus of huge importance for the development of the country.

Another important challenge is the electricity supply in the country. Although in a country like Uganda electricity is not essential for farming, lack of electricity makes life more expensive (running generators is much more expensive than having normal electricity), complex and limits the entrepreneurial opportunities. Kampala in general does have electricity, though many other large towns in the country face many power cuts. Smaller towns in general hardly ever have electricity, let alone the rural villages. Lack of electricity in the countryside is a constraint for development.

Uganda is facing an ever-increasing landless and jobless class. A rule of thumb is that everyone has land rights; you only need to know where. However, an increasing group of people, often young males, sell their land (rights) in the village in order to go to the city, buy a boda-boda (small motorcycle used for taxi-purposes) and make a (rather small) living there. Unfortunately, these boda-bodas are not always of the best quality. If it breaks down before the person has made enough money to be able to replace it, the person is left with no money, no land, and no job, and the situation thus becomes very pessimistic.

There are also many young people who move to the city hoping for a job since the plot in the village has become too small to farm or because they are denied their rights to land. Because of

these trends, the level of urbanization in Uganda is rather high. However, jobs are few and the large number of young males combined with a lack of enough (well-paying) jobs is creating a dangerous and explosive situation. This is also described by Heinsohn who identifies large youth bulges as the real explanation for terrorism and violence<sup>51</sup>. If the ever-growing population of Uganda and the increasing urbanization is not met by enough job opportunities, which would require hundreds of thousands of new jobs per year, Uganda may face large problems that are devastating for the economy. However, if these jobs are created this could boost the economy in an incredible way.

Lastly, the importance of education cannot be understated. Giving children a good education that prepares them for the future is essential. Critical thinking, proficiency in the national language, perhaps economic entrepreneurship and vocational training are very important for the future of a country. It is therefore extremely important to give every child in the country at least basic education. Although it requires a large initial investment, the returns will easily outweigh these initial costs once these children enter the workforce.

#### **6.4 Conclusions.**

If the trends described in the previous chapter are to be accepted as a given, the consequences of land ownership on the identified aspects will be large. Climate change and population growth, the most obvious trends and the ones with the most predictable outcomes, will have vast effects on the land issue. It has been stated in the previous chapter that the long term trend of regime survival is a very difficult one to predict.

When looking at the long term effects of the trends on conflict potential, it is fairly easy to see that the ever-increasing pressure on land will lead to more conflicts between people. This will manifest itself in various ways, like land grabbing, violation of rights, illegal evictions and encroachment of protected areas. This last form of conflict will also seriously affect the ecology of the country, since encroachment leads to a depletion of the protected areas.

Population growth and climate change will together lead to more erosion of the soil. Land has to be used more intensively due to the population growth while the increasing temperature, longer droughts and more erratic rains will affect the soil as well. This way, the overall ecology in Uganda will deteriorate.

Lower fertility of the soil leads to less production thereby affecting the farmer economically. Although fertility can be enhanced by using fertilizers and growing trees, people often do not have the money or sufficient security of tenure for these investments. This tenure security is extremely important for economic investments, as has been shown by literature as well as by empirical

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<sup>51</sup> For more information, see chapter 5.2.2.

research. Population growth lessens this tenure security since competition over land increases, making conflicts more likely. Therefore, population growth, through tenure security, is likely to have a negative effect on investments. Climatic changes like longer droughts, more erratic rains and floods affect the economic position of farmers. When crops and/or the top soil are washed away or when crops wither due to drought, the farmer will lose a lot of money.

The current practice of farming is in most cases considered outdated or backward. People plough their land with hand ploughs and hand hoes. If someone in a village has an ox he may be paid to plough everyone's land. Tractors are rare. Fertilizers are only used in small areas of the country, especially in the tobacco-producing north-west of the country, often because of customs and cultural objections, but also because of the costs. All of this combined leads to a decrease in fertility since people are mining the minerals without ever adding minerals. Only if people have enough land to leave parts fallow for one or two years the land has enough time to recover. Although this was common practice in the past, the current population pressure is making this more and more difficult.

All in all, the agricultural sector is getting in a more vulnerable position. Plots are too small and farmers face tenure insecurity, reducing soil quality, unpredictable rains, more droughts and more conflicts. GDP growth rates show that the Ugandan economy is growing rapidly, but this is not creditable to the agricultural sector. Although this is depressing news for this sector, the fact that the growth is caused by other sectors is very positive for Uganda's economic future. Rapidly growing other sectors indicate that more businesses are thriving and therefore jobs are created. Creation of jobs is exactly what Uganda needs if it wishes to transform its economy into an economy more relying on industries and the service sector, and less on agriculture, and if it wishes to mitigate the inevitable problems caused by a growing population.

The population growth makes even more rapid growth in these sectors necessary though, since hundreds of thousands of people are entering the workforce every year. If the economy is able to host all these people and is even able to relieve some of the population stress on agricultural land, the agricultural sector will be able to transform into a more modern sector with middle-sized farms where a farmer is a full-time farmer and can perhaps even hire others to work for him. For this to happen, a more open and flexible land market is needed though, with increased tenure security and a lower cultural and spiritual importance of land enabling land to be freely transferred to someone who can use the land more productively.

Chapter 4 ended by briefly stating the consequences of the practice of land ownership in regard to the three main aspects. This chapter has taken a look at this relationship again, but this time while taking into account the long-term trends. It finds that the trends will make the general findings at the end of chapter 4 even more true for the long-term. In essence, the trends will work as

accelerators for the already described findings. These conclusions are now put in a table for more clarity. The table represents the causal model as shown in chapter 2.5.

	<b>Climate change (X)</b>	<b>Population growth (Y)</b>	<b>Regime survival (Z)</b>
<b>Ownership → Conflicts (A → Q)</b>	<ul style="list-style-type: none"> <li>- More competition over fertile land and land not severely affected by drought and floods</li> </ul>	<ul style="list-style-type: none"> <li>- more people = less land per person</li> <li>- more competition over land</li> <li>- increased land grabbing</li> <li>- more difficult to secure livelihood</li> <li>- encroachment of precious areas</li> </ul>	<p>Difficult to predict, but likely:</p> <ul style="list-style-type: none"> <li>- enablement of illegal evictions</li> <li>- Selective implementation of law</li> <li>- Selective charging of violators</li> <li>- increased tribalism (also due to scarcity of land)</li> <li>- Certain groups being favored over others</li> </ul>
<b>Ownership → ecology (A → P)</b>	<ul style="list-style-type: none"> <li>- desertification</li> <li>- deforestation</li> <li>- increased soil erosion</li> <li>- higher temperatures; effect on water supply</li> <li>- longer droughts, intensive rains, washing away nutrients and top soil</li> </ul>	<ul style="list-style-type: none"> <li>- Increased use of land decreases fertility</li> <li>- increased soil erosion</li> <li>- more encroachment of precious areas</li> <li>- more need for charcoal leads to more deforestation</li> </ul>	<p>Likely:</p> <ul style="list-style-type: none"> <li>- lack of implementation of laws &amp; policies</li> <li>- (Illegally) selling/donating of land to investors (as was initially done with Mabira forest)</li> </ul>
<b>Ownership → economic development (A → R)</b>	<ul style="list-style-type: none"> <li>- soil erosion leads to lower yields</li> <li>- change in crops</li> <li>- Adaptation to increased temperatures</li> <li>- risks of floods &amp; droughts</li> </ul>	<ul style="list-style-type: none"> <li>- downsizing of farms</li> <li>- small-scale (subsistent) farms economically less viable</li> <li>- increased conflicts negative for economy</li> <li>- Opportunities for innovative ideas</li> </ul>	<p>Likely:</p> <ul style="list-style-type: none"> <li>- involvement in mailo-land issues, either positive for landlord or tenant (or neither).</li> </ul>

**Table 4:** Conclusions with regard to the causal model presented in chapter 2.5.

## Chapter 7 Conclusions

The previous chapters have tried to explain Uganda's difficult and complex system of land ownership and the consequences this system has for several very important aspects. Also, various long-term trends have been identified which have and will be having an influence on the land issue in Uganda. By adding these trends to the research, it has become more than just a static description of the issue. In contrary, by including the trends the research is made into a lively and dynamic document, very relevant for policy makers, politicians, diplomats and NGOs for the years to come.

This chapter will now look back on what has been found in the previous chapters, and will provide an answer to the main question of this research, as formulated in the first chapter:

*What consequences does the current system of landownership in Uganda have for the conflict potential, ecological effects and economic development, and how will this most likely be affected by the long term exogenous trends climate change, population growth and desire to assure regime survival?*

### **7.1 Land ownership.**

Land in Uganda can be owned under various tenure systems. The most common system is customary tenure, which covers around 75% of the land in the country. In this system, the government is not aware of who owns what piece of land. Instead, the local community knows what land belongs to whom, and local customs, traditions and culture govern the allocation of and disputes over land.

The next biggest form of land tenure is mailo land, which comprises about 19% of the land in the country. Mailo land stems from the agreement the British Empire made with the Buganda kingdom in central Uganda. A few other similar agreements were made with other kingdoms, although the officially the name of the type of land was slightly different. Land rights under the mailo system are divided between owner rights, held by the landlord, and by usufruct rights, held by the tenant. The tenant uses the land and can participate in any transaction involving his rights. As long as he keeps paying the rent of one thousand shillings per year to his landlord, he holds the land in perpetuity.

The third form of land ownership is freehold, which comprises about 4,5% of the land in Uganda. Land is owned in full by one single owner who holds the ultimate rights to the land, being able to participate in any legal transaction he wants involving the land. It is the form of ownership most commonly seen in most other parts of the world.

The last form of ownership is leasehold. All the rights except for the ownership of the land are leased to a person or company under specific conditions and with a specific end date. This form of ownership comprises around 0,85% of the land.

Although the laws governing land in Uganda are formulated quite well, the implementation is a rather big problem. Institutions are either not installed or underfunded, people are not at task or corrupt, and enforcement of verdicts, particularly of the ones decided upon by traditional institutions, is severely lacking. Luckily this pessimistic view is not true for each and every institution, though it applies to many of the institutions in the country. The result is a certain level of lawlessness and chaos in the country. If it comes to a court case, people can 'shop' for a favorable verdict, can simply ignore an unfavorable verdict, or bribe the judge. Needless to say, this undermines the judicial system and, thereby, the level of trust people have in the system and the government. Legal institutions are thus not strong enough to govern issues concerning land the way the law states it should.

A very important, recently started phenomenon on mailo land is the eviction of tenants, which, as a rule of thumb, is an illegal eviction. The landlord usually is a rich and/or influential person and tenants are 'thus' denied their legal rights or verdicts prohibiting the eviction are not enforced.

On customary land the rights of certain groups of people are often denied. Women, orphans, elderly and disabled people are often marginalized, even though the law is on their side since the Constitution, which specifically protects women, children and people with disabilities, is ultimately the supreme law of the country. In many areas of the country, the old, and very untrue, myth that 'women don't own land' is still taken to be the truth though.

Although land under customary tenure is to be governed by the traditional institutions and according to traditional rules, this does not mean traditional rulers are sacrosanct. Verdicts by traditional institutions are never allowed to violate the Constitution of the country. The level of freedom for these institutions is thus fairly low. However, in reality there is no institution that checks the verdicts of the traditional institutions, and traditional rules are rarely written down, making it easy to reach a verdict not in compliance with the law. Also, maintaining harmony within the clan is often more important than doing what is just. If this means that a consensus in which a land grabber is given half of the land he has grabbed from his neighbor, then so be it. The fact that true justice is not done in that case is not the most important to them.

Security of tenure is an important aspect of land ownership. Scholars have shown time and again that tenure security is an important prerequisite for investment. If tenure is more secure, people will invest in it more easily, thereby spurring economic development. It has been indicated however, that over 90% of the land in Uganda (customary land and, under certain conditions, mailo land) is owned with limited tenure security, to say the least. Since most of these people also do not have a title to their land (even certificates of customary ownership have not been encountered

during the research), they are not able to obtain a loan or mortgage from a bank since these demand such a title.

Not having a title also means a person is more vulnerable in case of a conflict. If someone else encroaches upon the land, the owner of the land has to heavily rely on neighbors and clan members to testify that the land is actually owned by the rightful owner, and not by the encroacher.

In Ugandan society, customs and traditions are very important. Land plays a very important role in this, since it marks where people are born, where they are from and where they are likely to be buried. It is also what people use to derive their livelihoods from. Ultimately people are buried on their land, and it is where their ancestors are buried as well. The draft NLP, which was already quoted in chapter 1, was thus very right when it stated that land is the basic resource, but also a commercial asset, a factor of production, part of the national patrimony, key factor in shaping individual and collective identity through its history, is essential for cultural expressions, influences spirituality and aesthetic values of human societies.

Land is thus of very high importance to the people. It is therefore that, to a foreigner, Ugandans try very hard to hold on to the land they have. However, this is simply because it is impossible to understate the importance of land.

Upon marriage, and thus upon becoming a man, a father in general allocates a part of his land to his son. This way, he subdivides his land and thereby provides his son with a place to farm and to start a family on. His daughters receive land from their husbands' father. This way, each person receives land from someone. It was, especially in the past, fairly unlikely for someone not to get married.

This system of allocating some of your own land to your children has an important implication. It means that, if you have more than one son, your land becomes more and more fragmented. The example has been given before of one man having fifty acres of land. If he and his son both have four sons and there is completely fair distribution of land, the grandson will only receive two acres of land. Unfortunately, the example of a man having four sons is not too unrealistic as the current fertility rate stands at 6,7 children per woman. The subdividing of land thus leads to smaller and smaller plots, and people thus own less land to grow crops on to feed their family with.

Having given this description of land ownership and the way people acquire their land, it is now time to describe the relationship between land ownership and the identified aspects, while taking into account the identified long term trends.

## **7.2 Conflict potential.**

Conflicts related to land are plenty in Uganda and are on the rise. It is estimated that about half of the court cases is related to land, and many more conflicts are outside of the court rooms. Many of

these conflicts stem from the ownership of land as described in the previous section. However, not only ownership of land leads to conflicts; the lack thereof does as well. The high urbanization rate in Uganda is creating more problems in the city. People, often young males, have sold their land (rights) in the village in order to go to the city. There, they often try to get a job as a boda-boda driver, driving commuters around town. However, if for some reason the motorcycle business fails them, they are left without money, land, job and, ultimately, future prospects, leading to tensions and volatile situations.

Ultimately though, the ownership of land causes the most problems. Although land under freehold and leasehold titles are mostly exempted from conflicts, the remaining two types of ownership lead to many conflicts. Therefore, these will be discussed separately.

### ***7.2.1 Conflicts due to land ownership.***

Customary ownership of land is a very vulnerable type of tenure for land grabbing by neighbors or family members. Important conflicts are also within the family over allocation of land from father to son. Brothers get in conflict with each other because one gets more than the others (or one thinks he should get more than the others) and brothers get in conflict with their parents claiming they should get more land and that the parents should give up their land. Luckily, so far there have not been many cases of tribes claiming land from each other, although migration of people and tribes do lead to problems. The increasing scarcity of land may well make tribal tensions more rife though. As stated, so far there have not been many large conflicts between tribes, but tension is building up rapidly. Somewhat generalized examples of the building up of tensions between tribes over land are the Bunyoro versus the Bafuruki, Teso versus Karamoja, Banyoli versus Teso, the Basongora versus the State in Queen Elizabeth National Park, and Buganda versus the rest. Also, conflicts with pastoralists are on the rise, who are said to encroach on other people's land for grazing and watering.

Mailo land has its own specific type of conflict, stemming from the division of rights to the land. The rent of mailo land is limited to one thousand shillings per occupant per year, meaning that the landlord does not receive much rent. Therefore, the landlord will consider any option that will increase the amount of money he receives. The best solution from the landlord's point of view will be to get rid of the tenants and to invest in the land or to sell it to an investor. However, this would mean that the tenants lose their land, their usufruct rights and their livelihoods. There is thus a tense relationship between landlords and tenants, who both think that in an ideal situation the other person is gone and they receive all the rights to the land themselves. Often the landlord tries to evict the tenants from their land, which is very illegal if the tenant simply keeps paying the rent. Since



tenants in general are poor and unorganized, while landlords are rich and influential, the landlord is usually able to evict the people anyway.

The third reason for conflicts is encroachment. Although many precious areas of land are protected by the government, like forests, wetlands and game reserves, there are many cases of encroachment on such land by farmers. Other types of encroachment include encroachment on land owned by institutions like churches, schools, and hospitals and on government institutions. This type of conflict is of specific importance since it is on land that not belongs to a single person who suffers from the encroachment personally. People working for such institutions will likely fight for the land of the institution, but it is not their direct and foremost priority. Therefore, encroachers of forests and wetlands can sometimes be in the area for some years before someone actively picks up the issue and tries to do something about it. The longer such person is on the land, the worse it is for the environment, and the harder it becomes to force him off of the land.

### ***7.2.2 Future of conflicts.***

Unfortunately, the naked truth of the future of conflicts over land is that, if the policy framework and context does not change, it will only increase as time goes by. The most important reason for this is the ever-increasing population, which in twenty years time will stand at around fifty-five million people, while currently there are around thirty-one million people. While conflicts are already rampant due to plot sizes which are too small for real profitable farming, the plot sizes will only further decrease as fathers pass their land on to their sons.

More intense use due to smaller plot sizes leads to soil erosion<sup>52</sup>, thereby leading to more difficulties to make ends meet. Farmers will thus have more difficulty to feed their families and this stress may well result in increased tension and conflicts over land. The slightest reason why the neighbors land would be his (for instance because his grandfather gave land to the neighbors' grandfather fifty years ago) will be used to legitimize a claim over the land.

Although the long term impacts of the current regime's quest for survival is largely unknown, it is fairly safe to say that the entire land issue will be used by the current regime to stay in power. The regime will very likely embark on a 'divide and rule' strategy, both concerning landlords versus tenants and tension between different neighboring tribes. An example of this last division is the president's proposal in July and August of 2009 to ring-fence certain offices for indigenous people, thereby excluding migrants from other tribes. These kinds of moves by the current regime are likely to increase as they seek to ensure winning people's votes for the election of 2011. However, as has been stated before, it is very difficult to predict what the regime will do exactly after that.

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<sup>52</sup> More on this in chapter 7.3.

Nonetheless, it is safe to say that after the next elections, the regime will continue to use the land issue to stay in power.

### **7.3 Ecology.**

The ecology of Uganda has been in a downward spiral for a long time. The increasing population puts more and more pressure on the ecology. Unfortunately, a typical agricultural society like Uganda relies heavily on its ecology, since agriculture provides people with their livelihoods. A deteriorating ecology is thus a direct threat to people's livelihoods.

#### ***7.3.1 Ecological effects of land ownership.***

The ecology of Uganda is likely to suffer due to the system of land ownership. Although this may sound strange, the *system* of ownership in the country will result in further subdivision of land since land has to be given to each of the sons of a farmer. As in general every son will commence farming himself, every next generation uses the land more intensely than the previous one. Since hardly any farmer in Uganda uses fertilizers or other techniques to make soil more fertile (may it be due to cultural and traditional objections to this, economic reasons, or due to the fact that Uganda has always had such fertile soil that it is deemed unnecessary), this ultimately leads to increasing soil erosion in the country.

Soil erosion, for instance, stems from the practice of land ownership and dividing the land to provide your sons with land for their families. In the past, farmers had large plots and if more was needed, he could simply go and find land somewhere else that was not cultivated yet. When the population started growing, plot sizes started shrinking. As a result, a farmer does often not have enough land left to leave parts of his land fallow to let it recover after using it for two or three years. He therefore has to use all the land he has now, which will lead to increasing erosion of the soil. This will result in more intense use in order to still produce enough crops for the family, leading to even more soil erosion. This negative circle will continue unless farmers can stop soil degrading, for instance by adopting more modern farm techniques or by using fertilizers.

It has been mentioned before that people encroach on protected areas. By doing so, these people severely harm this particular environment and the general environment at large. By chopping down trees while encroaching on forests, the farmers gain short term fertile soil that will foster great harvests for one or two years. After this, however, the soil is degraded and depleted and the soil is just as fertile (or just as eroded, if you will) as the rest of the soil. Unfortunately, in the process the particular farmer has chopped trees which hold water in the area, store carbon dioxide, produce oxygen and, in case of a hill, keep soil from washing away after heavy rains. Furthermore, chopped trees are often used for charcoal burning, with all the negative effects for the environment involved.

In general, in Uganda short-term gains prevail over long-term results, which often leads to decisions that are very destructive for the environment.

### ***7.3.2 Future of ecology.***

With the current high reliance on agriculture (needless to say, agriculture to a large extent uses the ecology of a country), the growing population, the predicted climatic changes, the encroachment of valuable and precious areas and the lack of enforcement of laws concerning Uganda's ecology, the ecology is severely threatened. Although Uganda has always had extremely fertile soil and climatic circumstances very favorable to agriculture (accommodating two harvests per year), the circumstances are likely to become a lot less favorable due to the trends indicated before.

Needless to say, this described future is pitch-black for most of the farmers in the country. Most of them do not have the means to invest in fertilizers (or face institutions that prevent them from using it) and have less land than their fathers used to own, yet rely on it more heavily. In this scenario it will be harder and harder for them to grow enough crops to feed their family with, and even harder to sell a little bit on the market in order to earn some money for medicines, school fees and other essential expenditures.

This scenario also has influence on the other aspects of the land issue. If the soil is depleted there will likely be more conflicts over good soil. Also, depleted soil leads to lower economic returns, thereby affecting the economic development of the country.

## **7.4 Economy.**

The economy of Uganda has experienced incredible growth over the last two decades. A closer look at the figures<sup>53</sup> shows that the growth was achieved in the industry and service sector; not in the agricultural sector. Although this is promising for the future of the country, it is worrying for the ninety percent of the people who depend on agriculture for their livelihoods. Agriculture lagging behind means that these people are lagging behind, and that the majority of the economic growth is thus achieved by the remaining ten percent of the population.

### ***7.4.1 Economic effects of land ownership.***

The current system of land ownership offers a too limited stimulus for development. With 75% of the land not demarcated or registered, and therefore outside of the financial money lending system, investment in land is severely hindered. Furthermore, 19% of the land is held under mailo land

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<sup>53</sup> As shown in table 2 in chapter 6.3.

tenure, which features multiple layers of rights creating a deadlock for investment and increasing the chances of conflicts erupting (which also have a negative effect on the economy).

This means that in effect around 95% of the land in Uganda is owned under a form of tenure that does not stimulate economic development and investment to its full potential. It thus seems that the economy could grow further if this hindrance is removed. This could then also help to reduce the poverty in the country, in which around 38% of the population finds themselves.

So far, freehold titles prove to guarantee tenure security. Having a title which clearly states what area of land belongs to whom severely decreases disputes over it. A person holding land with a freehold title, or even a leasehold title, is thus more likely to invest in his or her land since he or she do not have to fear losing the land to a random person claiming the land. It is therefore promising that in Uganda a clear trend is visible indicating that people understand the value of a title and are (trying to) acquiring one. The result is a slowly growing number of freehold and leasehold titles, partly because of stimulation by government institutions. This is a lengthy and expensive process though, made more difficult by the characteristics of plots, which are oddly shaped and an owner usually has multiple plots.

#### ***7.4.2 Future of economy.***

The future of the economy of Uganda is closely intertwined with the future of agriculture in the country. It has been stated before that 90% of the people derive their livelihoods from agriculture in one way or another. Although other sectors are thriving and thus becoming more important for the country, the importance of agriculture in Uganda in the years to come cannot be understated.

Issues concerning land play a major role in this economy. The increasing population is both an opportunity and a challenge. If handled properly, the increased workforce can result in a massive boost for the economy. Failure to create jobs and job opportunities, on the other hand, may lead to mayhem and increased poverty as people cannot find jobs and have sold the land they had or have too little land to provide for their livelihoods. It has often been said by scholars that a larger population and people living in closer proximity to each other can lead to more innovations and creative solutions to problems. This could then spur economic activity and development. A secure and flexible land market in the cities is needed for that though.

The slow trend towards more secure land tenure in the form of freehold titles and leasehold titles will very likely lead to increased investments, an expansion of the land market, and more mortgages and loans to kick start companies with. This thus is a very promising development. Ecological degradation in all the forms previously described will be a burden on economic development though. It is therefore in the best interest of the country to prevent these degradations as much as possible.

Climatic changes will have a large effect on the economy. In cases of floods, droughts and erratic rains, this will be a negative influence. Desertification and deforestation also would have a negative effect since it requires more investments to maintain the fertility level of the land. A warmer climate will have large effects on the type of crops that can be planted. Whether this will be a negative or a positive influence is yet to be seen.

It is to be expected that political interference will influence the economy. This could be positive if more investors come in and the government promotes entrepreneurship. However, the divide and rule tactics the government will need to stay in power are very likely to only be positive for a certain group of people, and not for the country at large. The specific outcomes of the regime's desire to stay in power for the economy are not very clear though.

### **7.5 General conclusions.**

This research has given a description of the Uganda land issue. It has shown what the most important aspects of the issue are, and how these are interlinked. On top of that, it has taken a look towards the future. It has done so by identifying the important long-term trend and it has described how these will likely affect the land issue in twenty years time. By combining the issue of ownership of land with the aspects conflict potential, ecological effects and economic development, while also including the long-term trends of climate change, population growth and regime survival, it has provided stakeholders of the Uganda land issue with a unique and truly comprehensive description of the issue.

However, this is not to say that this is where the issue ends. Identifying the issue and laying the aspects bare is only the first step. The report has made clear that, without any major policy changes and goal-oriented actions by stakeholders at all levels of society, the future of land issues in Uganda is fairly grave and pessimistic. It is therefore of the utmost importance that the issue is now picked up by these stakeholders to come up with solutions to the identified problems, to tackle the challenges and to embrace on the opportunities. Further research is needed to identify these solutions though, as well as to discover the implementation strategy likeliest to lead to optimal results. Without such research and the follow-up on it, the situation will remain the same and the pessimistic view on the future will be likely to become reality.

The current system of land ownership has important consequences for the identified aspects. Throughout the report, it has been shown that conflicts are rampant already, and will only increase as time goes by. Furthermore, the current system of land ownership has largely negative consequences for economic development and the ecology at large. The system results in tiny plots

that are overused and hardly profitable. It also leads to small-scale subsistent farming without real opportunities for the future.

In the long run, the exogenous trends climate change, population growth and the regime's desire to assure its survival will have a large impact on the issue of land ownership in Uganda. Population growth will result in smaller plot sizes and more competition for land, resulting in less economic development, more poverty and more conflicts. Furthermore, climate change will have large effects, although the specific outcomes are still to be seen. The same applies to regime survival. Although there is not really a question whether or not the regime will want to stay in power, the imminent question really is what the regime will do to ensure their survival. Unfortunately, reports, interviews and the past have all shown that the rulers will likely prioritize their own interest over the national interest.

As a concluding remark, it has to be said that the future of Uganda's land issue does not look very bright. Although there are some positive developments, the overall view is rather negative. In this respect, a quote from an anonymous top district official who answered a question regarding the future of land issues in Uganda may say it all: "I have absolutely no hope for this district if things remain the same around here. The situation will be horrible."

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## Annex A

### Annex A1, Fieldtrip report Greater Kampala.

Facts about the trip:

Date: 07-05-2009 – 09-05-2009

Total kilometers travelled: 326 km

Total districts visited: 3

The very first fieldtrip of the research was performed in the Greater Kampala area. A relatively short fieldtrip of only three days, it was to become more familiar with the roads, car, driving in Uganda, interview techniques to be used with locals, et cetera. Basically, it was thus a preparation fieldtrip for the long, far away fieldtrips that were about to start.

However, this does not mean that the fieldtrip was useless. Quite contrary to this, there were some important findings during this fieldtrip. For instance, one farmer got evicted from his land by a foreign investor. In hindsight, this farmer was happy about this because the Dutch company paid him good money and compensated him right away while he indicated that he would not have been so lucky would it be the government or another Ugandan evicting him from his land. With the money he received, he could buy a piece of land and still afford to get a freehold title on it, resulting in him now having a better piece of land that is more secure than his last piece.

Certainly not everybody gets this lucky though. People indicated that evictions were rampant and feared these all the time. Although most people indicated to have had some sort of education, attributed to the proximity to the city, and said to know that the law was on their side, they still feared evictions since they said they knew they would be powerless to rich influential investors and landlords.

The proximity to the capitol city of Uganda has a positive influence on the economy. People are able to sell their crops for a fair price in Kampala. Real effects of the way people use their land for the ecology and fertility of the land could not be determined. The same applies to climatic changes, although people did indicate that the last few years have given the farmers less rain than it does normally, which makes it very difficult to grow enough crops. Also, the difficulty to accurately predict the rains makes it difficult to time the planting of the crops. If this happens too soon, the crops will wither. If it happens too late, the crops will not benefit enough from the rains.

Annex A2, Fieldtrip report Western Uganda.

This 10-day fieldtrip to the (south)western part of the country has been important in several respects. First of all, a fieldtrip like this one is good to see a little more of the country and see how people farm, what they grow, what the vegetation is like and how people live and travel.

Second of all, it is good to talk to people and hear their stories regarding land issues.

Third of all, it is good to talk to leaders who have oversight and now what the different government agencies are doing to tackle possible problems.

Facts about the trip:

Date: 11-05-2009 – 21-05-2009

Total kilometers travelled: 2538 km

Total districts visited: 21

Total experts interviewed: 13

Total farmers interviewed: 14

Important findings:

Apart from villages on the main roads in a district, it is quite hard to reach villages. Roads are of dismal quality (let alone during the rainy season), signs are unheard of and few people have a car. This is not just a finding that is 'too bad for the researcher', but also has important implications for locals. Lack of roads and miserable quality of both roads and cars make it extremely difficult for local farmers to get their crops or cattle to a market. Economic development is therefore very difficult in areas with poor infrastructure. It seems that infrastructure must improve drastically, since a farmer might have plenty of crops, but without a market to sell it on, or mode of transport to get it to companies/customers, economic development is not going to happen.

Almost all the respondents say there are plenty of conflicts, and it is only getting worse and worse. However, hardly anybody says they have had a conflict themselves. This could mean two things: 1) people are exaggerating and conflicts are not that rampant at all; 2) people do not want to acknowledge their own conflicts, either because of shame, own responsibilities, pride or something similar. This makes it very hard to find out crucial information, like the way things are resolved and very personal feelings of people involved, like happiness with solution, feelings towards the opponents, and the feeling of justice served. However, this problem does not seem to be able to be dealt with in an easy way. Even Ugandans themselves acknowledge this problem and indicate it would not change if a Ugandan asked the question (e.g., it does not have to do with the interviewer/researcher being a foreigner).

Different systems of tenure have different issues. It has become clear that the mailo tenure found in (former) kingdoms leads to different problems and conflicts than customary land. Mailo land has a serious problem with regard to land use, conflict potential and economic development. Mailo land typically has one owner to a very large piece of land, having very many legal squatters on their land.

Land use; some (not all!) owners do not allow tenants to build permanent buildings or to grow trees, since these are long-lasting and permanent things.

Conflict potential; many (not all!) owners of mailo land want to get rid of the tenants so they can use the land for themselves, to rent to someone else or to get investors/invest themselves. This leads to owners trying to evict the tenants (or actually doing so, which is very illegal).

Economic development; by law, an owner is only allowed to ask a certain fixed amount of rent, being 1.000 shillings (around 35 eurocents), while he is not allowed to get rid of the tenants. Furthermore, it does not matter how much land a tenant has, the amount is fixed. Mailo land is underdeveloped since an owner actually owns the land, but cannot invest because he cannot get rid of the tenants, while the tenants cannot invest because they have the right to use the land, but they do not actually own it. This leads to serious underdevelopment and basically a catch-22.

Customary ownership does not have this problem. However, it has a problem of boundary disputes (either people actually honestly do not know where the boundary is, or it is a case of land grabbing). These boundary disputes and land grabbing is possible because someone who owns a piece of land under customary rule does not have a title to this land. The land has never been demarcated, no one has ever established clear boundaries. People just know where you own the land. It is not hard to imagine this could lead to conflicts.

Often, these conflicts occur when the head of family dies. Such an event leaves a widow or just children in confusion with no real knowledge of where the boundary is. This makes it easy for a neighbor to claim that the border is actually about 2 meters further away. Also, in such a case, land grabbing often happens by a brother of the deceased, who in many local cultures inherits the wife and children. However, even in these cultures, he does not inherit the land. The land always stays within the family (either the widow becomes the official head of family or the orphans divide the land among themselves).

The biggest problem seems to be the subdividing of land. Traditionally, in all cultures of Uganda, land is given to children upon marriage. So when a head of family has 10 acres and 7 children (of which in this example are 5 boys), upon marriage the girls leave the clan to claim land at



their husbands clan, and upon marriage the boys each get a piece of land. Say that each boy gets 1,5 acre. This leaves a fair 2,5 acres to the head of family. Not every piece of land is equally fertile though, and an older boy might claim to have rights to more land than the younger ones. This may lead to conflicts between brothers or between father and sons. Also, when the head of family dies, the remaining 2,5 acres have to be divided. This is likely to cause conflict.

Furthermore, this example shows that every future family (each boy has a wife and ultimately a couple of children) owns less and less land. Without going into a debate about how much land is needed to sustain a family, at some point there will be a generation that simply does not have enough land to survive anymore. On top of that, subdividing land leads to smaller and smaller scaled farming. Since a person cannot have crops all the way up to the border, a small part of the field cannot be used for farming, while, if not divided, these boundary areas will still be able to be used. This means that the returns for the family would be more when his land is not divided than the combined returns of his sons and himself after subdividing.

Subdivision does not only have this economic effect, but also an ecological effect. If a family has 20 acres, it has enough land to grow crops and still leave a little bit fallow to recover. The less land a family has, the slimmer the chances of the family being able to have land fallow. This leads to depletion of the soil.

Forests and wetlands are being encroached upon, which also leads to serious soil degradation. Cutting of trees (which keep water from flowing away) and claiming wetlands leads to less water being available in an area. This has a negative effect on the crops, resulting in people going deeper into forests to find good soil. They cut trees again and a few years later this land is also not very fertile anymore, so the circle starts again. However, finding good, fertile soil is not the only reason to encroach on forests and wetlands; it is also caused by people not having enough land to survive.

Overpopulation also causes people to encroach on institutions' land, like churches, schools et cetera.

Especially in the south-west, the hilly area of this fieldtrip, lots of terraces were seen. From an ecological point of view this is very good, since this way people make the most of the rainfall. From a conflict-potential point of view it is also very good, since it is easier to create boundaries: 'this terrace is yours, and the one above it is mine, et cetera'.

Many locals, but even some experts, do not seem to link causes to outcomes, and hardly think about the future. Many people acknowledge problems, conflicts, and even the dangers of population growth, but when asked how many children they have themselves, they say they have a large amount of children. For instance, an LC I told me that everyone was facing problems with the mailo owner of the land, that 92 out of 400 people have more specific conflicts, and that people only have small pieces of land which causes problems within the family. However, when I asked him how much land he has and how many children, he replied he had 0,5 acre and 10 children, trying to make an 11<sup>th</sup>. When asked if he had any idea how he was going to subdivide or solve the future problems, he simply laughed loudly.

Something very noticeable was people talking about 'producing children'. At first, this was quite a strange thing to hear, but after a while it became really noticeable. Hardly anyone talked about 'having children', or 'trying to make a baby', but really about 'producing' and 'production', almost as if it was a factory.

One last observation about people's responses was that people said conflicts were rampant, increasing, and that it was going to be horrible in a few years time. When asked for solutions, people usually just mentioned a change of economy (to industry and service sector).

Annex A3, Fieldtrip report Eastern Uganda.

After the field trip within the greater Kampala region, and the fieldtrip in the western part of the country, this weeklong fieldtrip to the east has induced some new findings, experiences and information. Since there is no mailo land in this area, conflicts between owners and tenants hardly exist here. However, overpopulation is very much the case here, just like in the west, which makes it somewhat similar. Something completely different is the terrain (much flatter than the mountainous western part, except for the Mount Elgon region) and the presence of wetlands around the lakes in the center of the country. Wetlands are extremely important for the ecology of the region. Although highly illegal, many people are encroaching on these wetlands and grow crops in the area. This is partly because of population pressure but certainly also because of the very high fertility of the ground and the possibility of growing a product with high returns: rice.

Facts about the trip:

Date: 01-06-2009 – 05-06-2009

Total kilometers travelled: 984 km

Number of districts visited: 18

Number of experts interviewed: 10

Number of farmers interviewed: 9

The eastern part of Uganda is densely populated, especially for a society that relies heavily on agriculture. Since the region has never had any kingdom of importance, there is no mailo land in this area. Positive effect of this is that the typical conflicts that come with this type of ownership (owner versus tenant) are non-existent here. Based on information from the interviews, on average about 80% to 85% in this area is owned customarily. Usually there is only some leasehold in the bigger towns, and some freehold right outside of it. This means titles are very rare in the east. However, they are becoming more popular and more and more people are in the process of getting them. There are basically two reasons for this. The first one is that a title means more tenure security. The second one is that it is necessary to have a title in order to get a loan or mortgage from the bank.

There are two reasons in the background why the trend of getting a title has started. First of all, the government is encouraging people to get a title. Second of all, people want to prevent conflicts. This last one shows that the number of conflicts is increasing a lot in the area.

During the interviews, a lot of different institutions are mentioned that are involved in conflict settlement. After writing them all down, a total of 14 institutions were counted. Only a few of them are by law mandated to deal with disputes. This shows that there is a lot of confusion and,

when people falsely 'know' which institution is mandated, misperception about mandated institutions. Luckily, most of the time the right ones are mentioned as well (clan leaders, LC II, LC III, Great Magistrate court etc.). However, the great number of institutions creates a lot of fuzz and confusion. Moreover, when institutions do not know the actual rules (and often this is the case), these institutions only make conflicts worse. It might therefore be smart for policymakers in the government to state exactly which institutions are involved and which path should be taken, while also clearly stating what mandates the specific institutions have. Political reality is that there may not be much willingness to actually create order and lessen conflicts though.

Another lesson from the east is that the endless creation of districts president Museveni is engaged in is terrible for the experience, know-how and continuity of the districts and the dispute settlement. Since 1995 (Uganda constitution), the number of districts has more than doubled (from 39 to 80 nowadays, to 94 in 2010). However, training and funding of the new institutions is often lacking. This is seriously harming the process of dispute settlement.

Deforestation and encroachment on wetlands is rampant in the area. Both these phenomena are devastating for the ecosystem in the region. According to respondents, the thinking behind deforestation is as follows: The soil in the area is getting worse while the rain is becoming less. Areas with trees are always fertile and receive lots of rain. Let's cut the trees, possibly use it for charcoal or fires, and use the very fertile land. After about three years, this cycle starts over again. However, possibly partly due to population pressure, nobody seems to come up with the idea of planting new trees. In general, people prove to be thinking only about the short-term.

Encroachment of wetlands follows more or less the same path: Soil is getting worse and dry and population is increasing, the wetlands are incredibly fertile and not used yet. Let's plant crops in the wetlands, which also have higher returns than other crops, like rice and maize. After seeing the returns of some farmers, others will join in and very soon the entire wetlands are used. Again, this is incredibly bad for the ecosystem since the water in it is now used. Also, there used to be papyrus plants that covered the entire wetland. This way, the sun was not able to evaporate a lot of water so the wetlands were sustainable. Now that papyrus is cut and many people grow rice, the water is bare and the sun evaporates a lot of the water, causing the wetlands to dry. Ultimately, the soil gets worse again.

The type of ownership (customary) and the traditions in the region (and in all of Uganda) of dividing the land amongst children leads to a lot of fragmenting. This means that every son (only sons inherit land) has less and less land to cultivate. One of the results is that all of the land needs to be cultivated in order to produce enough for the son and his family to stay alive. This means there is not enough land to leave parts fallow and let it recover. Overusing of land therefore leads to serious soil

degradation, ever intensified by old farming techniques and lack of fertilizers (too expensive and often just 'not-done'). Returns therefore become less every year.

The eastern area is a very poor area. Economic development, however, is very hard without land titles. Also, the very small plots are not economically feasible. People are struggling more and more to even feed their families, let alone make some investments. The project the LC V and vice-LC V of Kamuli are in sounds very promising though, and should be looked at more closely to see if an organization could pick up something like this on a larger scale. In this project, they try to team-up a lot of local farmers. They all put their land in a common pool which is farmed by a few individuals. These individuals receive wages, while at the end of the season all the farmers get their fair percentage of the returns. During the season, the farmers who put in the land but are not farming can work somewhere else and earn some extra money there.

Modernization of agriculture is needed, both from an ecological and economic point of view.

Annex A4, Fieldtrip report Northern Uganda.

*Facts about the trip:*

Date: 08-06-2009 – 12-06-2009

Total kilometers travelled: 1184 km

Number of districts visited: 13

Number of experts interviewed: 8

Number of farmers interviewed: 12

*General*

The fourth fieldtrip (after Kampala, western and eastern) of the research was to the central-north of the country. The central north is a distinct area, inhabited by the Acholi and Lango tribes. The last twenty years have been characterized by a long and hard-fought war between the LRA of Joseph Kony, and the UPDF. During this time, many people have been killed, raped, mutilated, abducted and forced to work as prostitutes or child soldiers in the LRA army. This war has forced many people to become an IDP (Internally Displaced Person) in the refugee camps. Of course not all districts were hit by the war equally hard. However, all of them have been affected, and especially in the far-north (neighboring south-Sudan) almost the entire population was internally displaced.

*Ownership*

In general, the land in this area is owned customarily. Exact figures are lacking, but the percentage is around 90%. Land, like in other areas, is passed on from father to son. Population growth in this area causes fragmentation, just like in the other parts of the country.

*Conflict potential*

The distinct past described before has had a massive impact on the land issue. The north does not have any mailo land and the problems that arise from this type of ownership (like central and west Uganda), nor does it face a direct threat of overpopulation (like west and east Uganda). The most important source of conflict in this area is the IDPs returning home. People have been gone for a long time, some as long as twenty years, and when they return, other people may have taken over the land. Some of the people that have taken over have had the land for a long time, up to ten years, so they feel not at all guilty of grabbing land.

Besides IDPs returning home an important source of tension is women's rights, or better: the lack thereof. However, since women are not always encouraged to act, and are not always aware of their rights, it does not always lead to a conflict.

In more densely populated areas, encroachment on institutions property, other people's property, wetlands and forest reserves are serious sources of conflicts.

### *Ecological effects*

The north faces a number of serious (potential) ecological effects. First of all, the type of farming in general is very old fashioned. As long as people have enough land (which they do at the moment, but the next generation will probably not) they tend to leave land fallow and let it recover from the exhaustive way of using land. However, if farming techniques do not become more modern, the soil will be exhausted rather quickly.

Second of all, encroachment of forests and wetlands will have serious negative effects in the (near) future.

Third of all, deforestation in the entire north (both because of the war as well as because of tree cutting to enable farming), in combination with the climate change the region has already experienced, will make desertification very likely.

### *Economy*

People in the north are in general very poor. Almost all farmers are small-scale subsistent farmers. Commercial farming hardly exists, and processing of crops or raw products does not happen. Continuous fragmentation of land due to population growth will only decrease the area of land available per person, thereby making it even harder for people to make a living, let alone make investments and expand the family business. Some educated people seem to have fairly good ideas to help the area, but they state that culture and traditions make it hard to change people's attitude. Education in general is fairly poor in the area, lessening the chance of future changes. Infrastructure in the area is poor. For instance, the only way the entire northern region can be reached by car is by using a single bridge (near Karuma). Infrastructure is also poor within the region. Many roads are not tarmacked, and although the number is increasing, murrum roads are not always there or are of poor quality.

### *Population growth*

The population in the north is definitely growing, even at a higher rate than the nation's average. However, the north is a fairly sparsely populated area compared to the rest of the country, and the recent war has certainly not had a positive impact on this. Although government leaders realize that family planning and birth control is needed in order to avoid the problems some other areas are facing, the situation is not very alarming yet.

### *Climate change*

The climate in the area is changing, according to almost all the respondents. Droughts are longer, rains are shorter and often there is not enough rain to have a good harvest. Some areas have not seen a proper rain for over nine months, and food security is therefore becoming a problem for these people. In general, encroachment of wetlands and forest reserves, as well as large-scale

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deforestation is harming the environment. These phenomena also make serious features of climate change like desertification more likely.



Annex A5, Fieldtrip report West-Nile (Northwest Uganda).

Facts about the trip:

Date: 15-05-2009 – 18-05-2009

Total kilometers travelled: 1458 km

Total districts visited: 14

Total experts interviewed: 9

Total farmers interviewed: 16

The second to last of the fieldtrips was in the West-Nile region, an area in the far Northwest of Uganda. Obviously, it is called West-Nile because it is on the western banks of the river Nile (except for Adjumani which is on the eastern side of the river). The presence of this river is of importance to the region. It forms a natural division between the region and the Ugandan 'mainland' which creates a mental image of being far away from Kampala and the important parts, as well as a feeling of remoteness. The river also creates ecological opportunities and advantages as it makes the region more fertile and hosts wetlands and wildlife. The economic advantages are also present, largely in the form of fishery.

However, the river is also an important obstacle. The whole northern region of the country (including the Acholi and Lango areas) is, at least on the western side of the central lakes, only accessible by crossing the bridge near Karuma Falls or by one or two ferries further south. This same situation applies to West-Nile. The entire West-Nile area (excluding Adjumani) has only a single bridge, near Pakwach, Nebbi. This places the West-Nile in economic danger and makes it a vulnerable place. The only other way to cross the river Nile is in the far north, using a ferry which crosses the Nile from Moyo district to Adjumani district; a ferry that crosses irregularly and without a proper schedule.

As in other parts of the country, West-Nile has experienced some creation of new districts over the years. In 2005, Koboko district was carved out of Arua district in the north. A year later, Nyadri was created in between the new Arua district and Koboko district. Currently, West-Nile is comprised of 7 districts: Nebbi, Arua, Nyadri, Koboko, Yumbe, Moyo and Adjumani.

In general, there are hardly any land titles in the West-Nile region. Most of the land is owned customarily, although there are still large areas that are communally owned. This means that the community owns an entire piece of land, allocating land to families to use (and a head of family can

allocate parts of his/her land to his children for them to use). In the end, however, the land is owned by the community and the elders are important. Although ownership even in this area is becoming more of a private matter, and titles for such community associations are few, communal land is still widespread. Like in other areas, ownership of land is passed on from the head of family to the sons. Daughters get their land from their husband-to-be.

### *Conflict*

The number of conflicts in the west-Nile area seems to be relatively low. Relatively speaking, land is still vast and the population is low. The population is certainly growing but a long era of conflicts (not related to land) have kept the population at a low number. In contrast to the north, this area has suffered less from the LRA's presence. This area was the base camp for the LRA from where they would go out to loot, kidnap and fight. Although there are certainly plenty of horrible cases in the area, the region relatively has suffered less.

The number of conflicts over land is on the rise, partly due to population growth (conflicts within families after succession and subdivision of land), ecology (encroachment of wetlands and forests reserves) and some conflicts of returning IDPs and boundary disputes. There are also cases of people claiming back the land they (or their forefathers) gave to institutions like churches, schools and government agencies because of land shortage.

### *Ecological effects*

As in many other areas, farming is usually done with old, labor intensive techniques like hand ploughs and hoes. Fertilizers are hardly used, except for the tobacco plantations, although recently the government started encouraging the use of them. Almost all farmers are subsistent farmers, growing only for the own family and perhaps a little bit for the market. Tobacco is by far the most important cash crop, and there are some organizations for tobacco growing farmers in order to increase the scale of farming. Although tobacco has relatively high returns, growing it is extremely bad for the health of the farmers. Also, it rapidly decreases the fertility of the land, making the use of fertilizers an absolute must.

Other major ecological effects in the area are widespread deforestation in the (near) past, encroachment of forest reserves (especially in the north of the region) and encroachment of wetlands. Deforestation makes the soil less fertile and, in the long term, might lead to the desert coming in from South-Sudan.

### *Economic effects*

The West-Nile area is extremely poor, even compared to the national average. Education is of fairly poor standards, conflicts have created a 'lost generation', alcoholism is extremely high and women and children usually work on the land while the men drink and play card games. Lack of proper infrastructure, especially to other parts of the country, make trade more difficult. However, Arua, the main economical centre in the region, can now be reached within eight hours from Kampala (about 500 km).

The West-Nile area borders both DR Congo and Sudan, making it very vulnerable to instability in both regions. Currently, there is instability in DR Congo because of the presence of the LRA in the north-eastern region, and instability in South-Sudan as well. This leads to an influx of people and a decrease in economic activity.

#### *Population growth*

As indicated, the population growth in this region of the country is high. The growth rate is even higher than the national average, but because of the fairly low initial population it hasn't reached alarming levels yet. However, close monitoring in the future will be very important, and family planning is needed to reduce the changes of large conflicts.

#### *Climate change*

Climatic changes are happening, also in this area. Although the local populations, like in many areas of the country, contribute the changes *only* to deforestation and encroachment of wetlands, the global warming is having its effect on the region as well. The amount of rain is going down, the predictability of rain is more difficult and the desert seems to slowly be coming in. Soil degradation due to the long-term use of poor agricultural methods is also having its effect. Since overusing of land is even more likely in the future than it is now (due to population growth) a close watch is needed on the state of the climate in the region.

Annex A6, Fieldtrip report Central Uganda.

The last fieldtrip of the research was commenced in August 2009.

Facts about the trip:

Date: 19-08-2009 – 23-08-2009

Total kilometers travelled: 859 km

Districts visited: 13

The very last fieldtrip of the research was a fairly ad hoc trip. After reviewing the retrieved data, it was found that findings from an area in the centre of the country were missing. Although interviews were held with people on mailo land, a certain part was missing. The start of the rainy season clearly revealed the weak spots when it comes to infrastructure. Half a day of the fieldtrip was lost because a truck in front of the researcher got stuck. Since the road was nothing more than mud and a deep ditch was present on both sides of the road, it was impossible to pass the truck. Luckily the time could be used to informally chat with some bystanders.

During the trip it was discovered that most of the information received from farmers was more or less the same as the information from fieldtrips two and three (west and east Uganda respectively). People in general face conflicts, mostly because of the threat of evictions. Although illegal, many landlords try to evict the tenants from the land so that they can use it to start of a farm or to sell it to investors. Tenants are often forced off of their land. Also, people are being told not to plant any trees

Population pressure is increasing, which leads to land fragmentations. This then can lead to conflicts since everybody needs a certain amount of land for their survival. There are many cases in court, and even more are pending at the village level.

People usually use old farming techniques. Not only does this make working on the fields more labor intensive, it also erodes the soil quicker since it is a suboptimal way of working. People usually use hand ploughs and hand hoes. On top of that, they often refuse to use fertilizers since the clan forbids them to do so, or because it is simply too expensive to invest in this.

The ecological effects of this are noticeable, at least according to locals. However, although the returns were going down, people insisted the fertility of the soil remained high. Whether or not this was true could not be determined.

Very positive for the area is the relative proximity of a few bigger towns and cities, like Hoima, Fort Portal and Kampala. Although infrastructure is bad, this proximity does give the area a market to bring their products to. On top of this, especially the area towards the lake has oil. This could spur economic development, although it remains to be seen whether or not oil revenues are for the area, for the country or merely for the top officials.

All in all, the main concerns in the central part of Uganda are population growth, investment deadlock between landlord and tenant, ecological changes and conflicts over land (landlord vs. tenant and subdividing of land).

**Annex B****Annex B1, Interviews with experts.**

<b>Date</b>	<b>Name</b>	<b>Profession</b>	<b>Location</b>	<b>Contact info</b>
16-04-2009	Esther Obaikol	Director of Uganda Land Alliance	ULA office, Kampala	0715-324944 eobaikol@ulaug.org
20-04-2009	Abraham Byandala	Member of Parliament	Parliament, Kampala	0772-444801 abyandala@parliament.go.ug
21-04-2009	Richard Oput	Land Tenure Reform Project	Ministry of Lands, Kampala	0772-412702 landproj@mwle.go.ug
21-04-2009	Eddie Nsamba-Gayiiya	Consultant to draft NLP & drafter Land Act '98.	Jumbo Plaza, Kampala	0712-755500 egnsamba@yahoo.com
23-04-2009	Simon Levine	Consultant / LEMU	Embassy of the Netherlands, Kampala	0712-875974 simon_levine@yahoo.co.uk
27-04-2009	Lawrence Bategeka	Research fellow EPRC	Economic Policy Research Centre, Kampala	0772-411921 bategeka@eprc.or.ug
28-04-2009	James Nangwala	Lawyer	Nangwala, Rezida & Co. Advocates office, Kampala	0772-441489 nangwala@nare.co.ug
11-05-2009	Joseline Nyangoma	Senior environment officer	Hoima, Hoima	0772-628153 joselinenyangoma@yahoo.com
11-05-2009	Stuart Muhanuzi	LC III chairperson	Buseruka, Hoima	
12-05-2009	Francis Mukooto & Moses Musinguzi	LC III chairperson & subcounty chief	Kabuoya, Hoima	0772-442095 & 0772-471395
13-05-2009	Ali Tinkanaspire	District councilor	Hoima, Hoima	
13-05-2009	Moses Ikagobya & Rose Byabasaija	Vice-chairperson LC V & District minister	Fort Portal, Kabarole	0772-409240

13-05-2009	Vickie Namugga & Darlene	Rwenzori Forum for Peace and Justice	Fort Portal, Kabarole	0773-069457
14-05-2009	John Nurungi	Researcher Kabarole Research Centre	KRC Office, Fort Portal, Kabarole	0772-932525
14-05-2009	Mohammed Sunday & Fredrick Karamagi	LC I chairperson & Youth secretary	Bunjojo, Kabarole	0772-677243 & 0777-745693
14-05-2009	Paul Mulindwa	LC I chairperson	Basongora North, Kasese	0783-463533
14-05-2009	Willy Bataringaya	Deputy CAO	Kasese, Kasese	0772-656997
15-05-2009	Tracy Kajumba	Conflict, Gender & HIV/AIDS Advisor	CARE International, Kasese	0772-493367 kajumba@careuganda.org
16-05-2009	Steven Biru		Ishaka, Bushenyi	0772-560116
18-05-2009	Stephen Tiwangye	LC I chairperson	Kyabakinga, Kabale	0754-444684
18-05-2009	Johnson Ruhakana	LC I chairperson	Kabugo, Kabale	0754-444684
19-05-2009	John Karuhanga	Land registrar	Mbarara, Mbarara	0752-420884
01-06-2009	Vincent Afeya	Deputy CAO	Busia, Busia	0772-592169
01-06-2009	Emmanuel Nzimuli	Lands officer / Physical planner	Busia, Busia	0774-647447
01-06-2009	Francis Orono	Deputy CAO	Tororo, Tororo	0772-542210
01-06-2009	Jackson Osudo	Ass. CAO / Secretary DLB	Tororo, Tororo	0772-475510 osudoelcisa@yahoo.co.ug
02-06-2009	Elizabeth Kharono	Director CLEAR Uganda	Mbale, Mbale	0712-651673
02-06-2009	Alphonse Ankuko	Land officer	Kumi, Kumi	0752-534839

02-06-2009	Joseph Okalebo	Vice-chairperson LC V	Kumi, Kumi	0772-305808
04-06-2009	Boniface Musisi	Chairperson LC V	Kayunga, Kayunga	0782-066147
04-06-2009	Stephen Mubiru & Vincent Galisansana	chairperson LC V & vice-chairperson LC V	Kamuli, Kamuli	0772-333285 mubiru.stephen2002@ymail.com & 0772-688370 gali_vincent@yahoo.com
04-06-2009	Henry Lubwama	Assistant CAO	Kayunga, Kayunga	0782-089639
09-06-2009	David	Camp leader	Tyer refugee camp, Pader	
10-06-2009	George Adolo	Principal Assistant Secretary	Lira, Lira	0772-586244
10-06-2009	James Ongu & Quinto Okello	Community facilitators	Garden Inn Hotel, Lira	0772-377887 & 0775-128700
10-06-2009	John Okanimo	CAO	Lira, Lira	0392-963751
10-06-2009	Quinto Labeia & Celestino Okello	Chairperson LC III & Vice-chairperson LC III	Patongo, Pader	0782-572088 & 0777-338471
11-06-2009	Renison Egir	Chairperson LC III	Apac, Apac	0774-415111
11-06-2009	Dilson Ochen	Chairperson LC III	Adok, Dokolo	0772-519719
11-06-2009	Francis Ateng	Assistant CAO	Apac, Apac	0712-661032 atengfrancis@yahoo.co.uk
31-03-2009	George Dricile	Chairperson LC III	Rigbo, Arua	0774-186907
15-06-2009	Martin Gwokto	Assistant CAO	Arua, Arua	0772-460408
15-06-2009	Jimmy Watata	Community Development officer	Manibe, Arua	0772-828084



15-06-2009	Awadi Barga, Ibrahim Aduki & Mario Abeze	LC II Kuluba, LC I Oraba & NAADS officer	Oraba, Koboko	0777-440743, 0774-812046 & 0782-062168
16-06-2009	Patrick Asendu & Mariam Akandru	Assistant CAO & District physical planner	Koboko, Koboko	0772-541046 & 0772-573262
16-06-2009	Stephen Andeote	Sub-county chief	Ludara, Koboko	0775-900244
16-06-2009	Rashid Ojortre	Community Development officer	Kei, Yumbe	0782-348673
16-06-2009	Maliki Drakuma	Assistant CAO	Yumbe, Yumbe	0772-319277 abmalcs@yahoo.co.uk
17-06-2009	Martina Azireo	Chairperson LC III	Moyo, Moyo	0772-889935
13-08-2009	Joanne Bosworth	Social Development Adviser DFID	DFID office, Kampala	0772-700069 j-bosworth@dfid.gov.uk

Annex B2, Interviews with locals.

<b>Date</b>	<b>Name</b>	<b>Location</b>
07-05-2009	Edward & Kenneth	Ssisa, Wakiso
07-05-2009	Proscovia	Ssisa, Wakiso
07-05-2009	Matov	Nakauka, Wakiso
08-05-2009	Annet Owumi	Kasala, Mukono
08-05-2009	Joseph	Namugongo, Mukono
12-05-2009	Kaiso Town meeting (40 attendants)	Kaiso Hoima
13-05-2009	Clover	Kabarole
17-05-2009	Eddie	Kagano, Kisoro
17-05-2009	Denis	Kagano, Kisoro
17-05-2009	Charles	Kagano, Kisoro
18-05-2009	Francisco	Kikungiri, Kabale
18-05-2009	Kikungiri School meeting (15 attendants)	Kikungiri, Kabale
19-05-2009	Wycliffe	Kiruhura, Kiruhura
02-06-2009	Samuel	Kamachya, Kumi
02-06-2009	Abdellah	Nakaloke, Mbale
02-06-2009	Mammad	Nakaloke, Mbale
02-06-2009	Okia	Kachumbala, Bukedea
03-06-2009	James Opolot	Ocapa, Pallisa
03-06-2009	Henry	Kibali, Pallisa
03-06-2009	Martin	Asilang, Soroti
04-06-2009	Cassim	Kamuli, Kamuli
04-06-2009	David	Kamuli, Kamuli
09-06-2009	Geoffrey	Unyama, Gulu
09-06-2009	Julius & Sisa	Paicho, Gulu

09-06-2009	Salim	Angaya, Gulu
09-06-2009	Fabio & Denis	Angaya, Gulu
09-06-2009	Richard	Labongo, Kitgum
09-06-2009	Kamboni	Kitgum, Kitgum
09-06-2009	Salis	Acholibur, Pader
09-06-2009	Charles Uboko	Pader, Pader
09-06-2009	Patrick Katara	Pader Army Camp
10-06-2009	George William	Lira Palwo, Pader
11-06-2009	Albino Odur	Agwata, Dokolo
11-06-2009	Bob & Sam	Aduku, Apac
15-06-2009	Valerio	Manibe, Arua
15-06-2009	Edith	Manibe, Arua
15-06-2009	David	Rubu, Nyadri
15-06-2009	Innocent	Rubu, Nyadri
15-06-2009	Benson	Nyoro, Nyadri
15-06-2009	Collins	Nyoro, Nyadri
15-06-2009	Bernard	Danya, Koboko
15-06-2009	Felix	Koboko, Koboko
15-06-2009	Adiru	Ludara, Koboko
17-06-2009	Patrick	Moyo, Moyo
17-06-2009	Jackson & Michael	No-man's-Land, Moyo
17-06-2009	Odjang	No-man's-Land, Moyo
17-06-2009	Paul	Umi, Adjumani
17-06-2009	Gabri	Nyeu, Adjumani
17-06-2009	Anthony	Pakelle, Adjumani
17-06-2009	Bosco	Zaipei, Adjumani

Annex C

Annex C1 Questionnaire experts<sup>54</sup>

Interview questionnaire

Interview with:

Date:

**Main aspects of land ownership**

What to you are the most important aspects of the land issue in Uganda?

Would you agree that conflict potential, ecological effects of land use, and economic development are important aspects of the ownership issue?

**Formal land ownership**

What is your opinion on the 1998 Land Act?

What are the flaws in the land act?

In your opinion, has it been implemented and is it working properly?

Is the Uganda land commission working properly?

If not, why not?

Are the land boards installed and are they working properly?

If not, why not?

How do you feel about the existence of two parallel legal systems (modern and customary)?

What do you think of the role of tribes and clans in this matter?

What is the role of Customary Law in the land issue?

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<sup>54</sup> A selection of these questions are asked, depending on the function, background and knowledge of the respondent.

### **Practice of land ownership**

Do you feel the actual landownership situation is in line with the intentions of the law?

What causes the gap between formal and practical situation?

Are there any issues concerning gender equity? Are man and woman equal when it comes to the land issue?

Are farmers practically able to get land titles or is it too expensive, complicated etc.?

What are the main challenges in the land issue?

### **Aspects of land ownership**

As far as you can judge, are there many conflicts in the country?

What are the main reasons for these conflicts?

What is the scale of the conflicts (individual, household, clan, tribe or national level)?

Are the protected areas like forests and wetlands actually protected as intended by the law?

What kind of farming is done in Uganda?

Is the soil affected by the farming?

Is farming in Uganda sustainable?

Are fertilizers and pesticides used?

Is there a change in economy occurring?

Is there a trend of poverty eradication or is poverty getting worse?

What does the government do to support the economy?

### **Future trends**

What influence does the current high population growth have on the land issue?

How do you see Uganda's future in regard to land when thinking about the population growth?

What role will the oil found in Hoima-district have on the land issue?

What influence will climate change have on the land issue?

Are climatic changes already noticeable in the country?

How do you see Uganda's future in regard to land when thinking about the climate change?

How will the political situation in Uganda affect the land issue?

Is land politicized or will it become politicized?

Is the current regime taking enough precautions to ensure positive developments in the land issue?

Do you notice any attempts by top government officials to assure regime survival?

How do you see the Uganda land issue 20 years from now if there are 55 million people and the climate has changed?

Annex C2, Questionnaire locals<sup>55</sup>

**Name:**

**Location:**

**Date:**

Do you own land?

How much land do you own?

Do you have a title to your land?

Have you ever had an argument, dispute or conflict over your land?

Who was it with?

How was it resolved?

Were you happy with the solution provided?

Are there many disputes in this village or area?

Has there ever been a case of land grabbing in this area (by neighbors, family etc)?

How much influence does your clan have?

Is your clan a 'hot' or a 'cold' clan?<sup>56</sup>

Are decisions by the clan leaders enforced or ignored?

What do you grow on your land?

Do you have land fallow?

How is the soil here?

Do you use enhancing products such as fertilizers and pesticides?

How is the weather lately? Is it the same as other years?

Do you notice any effects of climate change? Longer droughts, heavier rains, etc?

Does the land provide for your livelihood?

Is it your only means of livelihood?

Have you made any large investments lately?

Why / Why not?

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<sup>55</sup> Interviews with locals are loose conversations instead of a formal interview. During the conversation the questions in the questionnaire are asked, though formulation of the questions may have been different. For more information on this, see chapter 2.3.

<sup>56</sup> A term used to indicate whether the clan is active or not.