



# Building Strong Communities against land and water grabbing

*A Policy Brief by Katosi Women Development Trust (KWDT)*

## Introduction

Small scale fishers in Uganda continue to struggle for access to the land and water resources on which they depend for their livelihoods, and are increasingly at risk of losing access to these resources entirely. Competing visions of development and the interests of wealthy investors have led to numerous cases of land grabbing in the country, where smallholders are legally or illegally displaced from land to which they have a legitimate claim. A number of features of the policy and legal framework in Uganda allow this practice to continue, endangering the livelihoods of small fishers and other rural residents. Katosi Women Development Trust has conducted action research into the access to land and other resources in selected fishing communities in Uganda, investigating the drivers of land and water grabbing. This investigation has revealed a number of policy recommendations which could strengthen the rights of small-scale fishers and help to combat displacement and dispossession.

## Approaches and Results

### What is Land Grabbing?

Land Grabbing is contentious large-scale land acquisition: the buying or leasing of large pieces of land by domestic and transnational companies, governments or individuals. In fishing communities the contentious acquisition of land close to water bodies is especially relevant.

In Uganda, land grabbing has manifested itself in fishing communities in several ways including;

- Forced displacement of people from their land, especially those without official documents about their land
- Convincing local people to surrender parts of their land in exchange for land titles.
- Government officials illegally processing titles of land which should be public

Land grabbing in fishing communities takes place through both legal and illegal means, but even where means are recognized by law this practice is illegitimate and negatively affects the lives of local people in these communities. In the study areas, land grabbing was driven by the desire to control and use water and fisheries resources. Taking land near to bodies of water out of the control of local communities has serious implications for the livelihoods of fisher people and people's rights to access land and water, and is associated with significant environmental degradation.

## How common is land grabbing near water bodies in Africa and Uganda in particular?

In Africa, powerful actors as well as the government claim that land being taken, bought or leased in alleged land grabs is marginal and unoccupied. However, the research conducted by KWDT in Mukono district showed that, in this case, this was untrue: a significant number of people were living on and using the land for food production, as a residence, and for other subsistence activities, most significantly to access the lake for fishing.

## Study on Land Grabbing in Uganda

Although comprehensive data is not available on land and water grabbing in Uganda, recent studies, project reports, newspaper reports, and popular demonstrations reveal that land grabbing has become a common phenomenon with serious effects on the lives of people in communities where it takes place. Studies have shown that, globally, Uganda is among the 25 countries most affected by water grabbing<sup>1</sup>.

In fishing communities in particular, the scale of land grabbing has been increasing. World Bank funded palm oil production projects have been implicated in this problem. A report from Friends of the Earth indicates that:

The World Bank had historically provided millions of dollars in funding and technical support to palm oil expansion in forested islands off the coast of Lake Victoria in Kalangala, Uganda. Nearly 10,000 hectares have already been planted covering almost a quarter of the land area of the islands. While the Bank has since disassociated itself from the project, the land grabs continue. Palm oil plantations have come at the expense of local food crops and rainforests. Local people have been prevented from accessing water sources and grazing land.<sup>2</sup>

After working to implement alternative livelihood projects with women whose access to fish resources was disrupted by land grabbing, Katosi Women Development Trust set out to document the effects of land grabbing in four communities in Mpunge sub-county in Mukono district. Through focus group discussions, interviews, community dialogues, literature reviews, meetings with lawyers, carrying out a community census, and supporting the formation and training of a land pressure

group, researchers worked to establish the scale and impacts of land grabbing in these communities, and worked with the communities to develop strategies for addressing land grabbing in their community.

In the fishing communities studied, water grabbing is leading to significant changes in the environment and landscape. Much land grabbing takes place in order to facilitate investment in sand mining, which is damaging to the local ecosystems and environment.

Where land is bought or leased for mining and other investments, marginalized fisher men and women are no longer allowed access to these areas, and they therefore lose control of and access to fishing grounds which are the main source of livelihoods for them and their families. Even when investors engage local communities in so-called dialogues, and claim to allow them (limited) access to these grounds, their access to and ability to use water resources is severely compromised. While developers may view water as simply a factor of production, to the local communities it is much more than that. It forms a basis of their livelihoods and fishing from the lake is deeply entangled in the day-to-day social and cultural realities and identities of the people.

The state views water resources, and therefore development itself in a different way, advancing competing visions of what constitutes development and what the benefits and uses of water should be. In this way, state sanctioned or facilitated “development” often has the effect of leading to land, water, and resource grabbing.

As has been documented in several instances, water grabbing has serious implications for basic human rights including the right to water, food, health, work/employment, and self-determination. In case of the fisher communities studied, their right to access their territory and ancestral grounds are being denied.

In the case of Mbale, in Mukono district for example, land grabbing is forcing residents who have been on this land for over 50 years, to leave the land and to transfer their buried ancestors, seeking new places to bury them. This is a fundamental human rights abuse for people that have lived on the land for centuries. Often people are not given any opportunity to voice objections, or informed when land transfers affecting them are made.

## Mechanisms for addressing land and water grabbing in Uganda

### Policies and laws protecting the victims of land and water grabbing in Uganda

The land tenure system in Uganda can better be understood in its historical context. Before colonialism, land in Uganda was available for communal use, held for grazing and small scale subsistence agriculture, without individual land ownership. Pre-colonial land tenure systems were entirely customary.<sup>3</sup>

In Buganda region (central Uganda) in 1900 the British signed an agreement with the Kabaka of Buganda, which fundamentally changed the land structure and market in Buganda and beyond. This agreement divided the land in Buganda in two tracts: “mailo” land and “crown” land. Mailo land was given as gifts to the Kingship, the Chiefs and some elites, while crown land was held for government purposes. It is said that this agreement with the Kabaka led to the first major displacement of Ugandan people from the land that they had occupied for long periods before colonialism. Their traditional, customary, unwritten right to use the land for grazing and farming

was terminated and instead, if they wished to continue using the land, they had to pay “Busuulu” and “Envujjo” rent to the new land lords, the holders of the certificates. This turned the bonafide occupants into tenants who, by law, were required to pay rent to their newly imposed land lords.

Eventually, land would be accessed through direct purchase and thus became a commodity on the market. However, customary tenure remained very significant in the country, in spite of challenges brought about by the above changes. The distribution of land to individuals brought about social differences and inequalities, and eventually produced squatters, who settled, farmed and grazed on undeveloped land owned by absentee landlords.

There have been attempts to streamline the land tenure and management systems in Uganda in the recent past. Among them are the 1995 Constitution of the Republic of Uganda, and the 1998 Land Act and its Amendment in 2010. Perhaps the most significant attempt is the constitution itself, which states very clearly: “Land in Uganda belongs to the citizens of Uganda”<sup>4</sup> and vests land in the citizens of Uganda in four land tenure systems: Customary, Freehold, Mailo and Leasehold. The constitution establishes the Uganda Land Commission,<sup>5</sup> whose function is to *“hold and manage any land in Uganda vested in or acquired by the Government of Uganda in accordance with the Constitution and any other function as may be prescribed by Parliament”*<sup>6</sup>.

The constitution also provides that there shall be a District Land Board<sup>7</sup> whose functions are:

- To hold and allocate land in the district which is not owned by any person or authority,
- To facilitate the registration and transfer of interests in land; and
- To deal with all other matters connected with land in the district in accordance with the laws made by parliament.

The constitution mandates the District Land Board to act independently of the Uganda Land Commission in the performance of its functions.

Although the constitution tries to address the problem of land tenure in Uganda, many challenges still exist. In 1998, the Land Act was enacted to regulate the land management system in Uganda. It provides for a Certificate of Occupancy to be issued to occupants to prove that they are bonafide<sup>8</sup>. These occupants are required to pay ground rent to their landlords. In this case, the original landlord remains, but the law also provides for the rights of the inhabitants of the land. The new (2010) amendment to the Act provided that the tenants who have lived on the land for 12 years or more cannot be evicted for any reason other than the nonpayment of nominal ground rent. Unfortunately, this has not solved the problem of land in Uganda but has instead exacerbated dual claims to the land, where title owners are unable to sell their occupied land and tenants find it difficult to develop the land they occupy because they do not own it and therefore may be evicted any time.

When it comes to land ownership for land occupied with natural resources such as lakes, rivers, forests and minerals, Article 237 (2) (b) of the Constitution, charges government “to hold in trust for the people and protect ....lakes, rivers, wetlands,.....for the common good of all citizens”.

Even when land close to bodies of water can be exchanged on the market, the law protects the land closest to the lake: the National Environmental Act 1998 stipulates a buffer zone of 200 meters between the lake and activities on the land<sup>9</sup>. However, this has not been respected and people buying land adjacent to the lake often extend their boundaries right to the lake shores. This not only violates the rights of local people who rely on this area to access the lake, but also damages the ecosystem and endangers the production of fish.

Most land in Uganda has, until now, been owned under 'customary tenure' (representing 75%–80% of landholdings). Only 15%–20% of the land is formally registered<sup>10</sup>. Customary owners usually don't have any papers at all. Even if they bought land with a written sales agreement, signed by a Local Council (LC) official, this document is not formally recognized by the state as proof of ownership. The LC in the village may not be aware of all of the complications of ownership in the history of the land. According to Land Act, when buying untitled land, the buyer has to check that the person selling the land is really the owner, and exercise what is called 'due diligence'.

Efforts are currently underway to convert land from customary form of ownership to free hold. This contradicts, not only the national laws, which recognize customary forms of ownership, but also international instruments such as the The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (henceforth the Tenure Guidelines or TGs), which support the recognition of tenure rights for communities with customary tenure systems<sup>11</sup>.

**The following can therefore be summarized as the major policy and legal challenges related to the policy framework of land and water in Uganda:**

The laws that govern the use of land are seen as distinct and separate from the laws and policies that govern access and use of water. However, the two resources can hardly be separated. Generally they are either used together, or use of one necessitates access to the other. In order to access water, one needs to be able to access the land adjacent to the water.

The law is also still vague, especially when it comes to land fees which occupants must pay to landlords. While the old land policy prescribed 1000 UGX as the annual fee to be paid to the landlord, the new land act, in addressing complaints that this law was unfair to land owners, specifies that land fees should be decided upon by the District Land Board. However, the Land Board is unable to set a very different price from the original one. In most cases, land fees are set, at the district level, at 10,000 UGX annually. However, since the market price of land is not constrained in this way, the current price of land on the market makes it unfeasible for most landlords to let occupants stay rather than selling land to investors for a substantial profit. Land is very costly in Uganda currently and it is now considered the best "investment plan" for wealthy citizens. The provisions of the law therefore do not seem to make 'economic sense' to the land owners, at a time when land is considered a market commodity.

Based on the results of this research, encounters with the various forms and effects of land and water grabbing on the local people, and observations of negative impacts on their livelihoods and social and cultural life, we believe there are areas where policy improvement could yield significant rewards.

## Policy recommendations

- 1 The new amendment to the Land Act needs to be implemented expeditiously. The land act (amendment) provided that tenants who have lived on the land for 12 years or more cannot be evicted for any reason other than the nonpayment of nominal ground rent. In many communities, however, this is not the case. Land owners sell or transfer leases and occupants are sometimes evicted without notice. People that have occupied land for over 50 years are sometimes displaced unlawfully, and land transfers carried out without their knowledge.
- 2 The land laws of Uganda should not be interpreted in isolation from other human rights policies and guidelines at the international level to which Uganda is party. The TGs, for instance, would provide a strong support or rural communities in Uganda whose rights to land and water are violated, sometimes in the course of 'legally acceptable' land transfers. International instruments, therefore, should be used to protect and provide back up for national laws and policies.
- 3 The law on buffer zones should be implemented with immediate effect. The practice of 'owning' or taking control of would-be buffer zones, and even collecting fees from people working or living there, is increasing and goes unpunished. Different levels of government should, with immediate effect, make plans to make this law operational, to save local communities from unnecessary tension and unfair treatment by landlords, and to protect the ecosystem.
- 4 The customary land tenure system, which is currently accepted and recognized by landlords, but increasingly threatened by land market forces, must be respected. Instead of requiring or encouraging all people to pursue expensive land titles, and transforming all land into the free hold tenure system, families and communities should be allowed to own their land in a customary manner. Customary ownership has historically proved to be more sustainable and to provide for the needs of families, supporting subsistence food production and employment, and providing a source of social and cultural identity for the people.
- 5 There is need for increased sensitization and capacity-building for the law enforcers including but not limited to: the police, LC leaders, judicial officers, sub-county officials, and the general public around the provisions of the law and policies that protect people from unfair treatment.
- 6 To reduce evictions from land, the government needs to look into and review the procedures for handling land cases. The handling of such cases is characterized by corruption and inefficiency, leaving the poorest and most marginalized people without justice. Community members allege that only those with access to government offices, or with financial resources to pay bribes, win land cases in courts of law or before other law enforcers.
- 7 The government, through the ministry of lands, should develop 'shelter plan' for all poor and marginalized people who are still being displaced due to the market forces on land. As laws and policies are still being amended to come up with better solutions for Ugandans, there is need to ensure that every citizen has access to land for living.
- 8 All laws and policies should ultimately be seen from the human rights perspective. Land lords and others, including international actors, should not be allowed to carry out transactions that hamper the livelihoods of people, even where these are viewed as technically legal. The human right to food, shelter and other human rights should be respected at all cost, and should be the guiding principle behind the application of all other laws and policies.

## Conclusion

Despite the formulation of several laws and policy reforms for land and water, and provisions in the constitution which guarantee the right to land by the people of Uganda, land and water grabbing remains prevalent, with evidence showing an increased number of communities and individuals being evicted from the land, and many others living in fear and tension related to land. Most laws and policies remain “on paper” only, without proper and full implementation. Many institutions still lack the knowledge, skills and capacity to handle land cases and to ensure justice to all, especially the poorest.

As shown above, more efforts are needed to build the capacity of law enforcers, legal practitioners, and, most importantly, community members themselves in addressing land and water grabbing. Interventions need to go beyond simply making laws, to implementing them and creating community awareness that will prevent further crimes. It is hoped that the implementation of the above recommendations will go a long way towards ensuring justice for poor communities, but also preventing further disagreements and evictions from the land.

## Endnotes

- 1 Rulli, Maria Cristina, Antonio Saviori, and Paolo D’Odorico. “Global land and water grabbing.” *Proceedings of the National Academy of Sciences* 110, no. 3 (2013): 892-897.
- 2 Friends of the Earth Europe, “Land, Life and Justice: How land grabbing in Uganda is affecting the environment, livelihoods and food sovereignty of communities”, April 2012. Available online: [https://www.foeeurope.org/sites/default/files/news/foei\\_land\\_grabbing\\_in\\_uganda\\_230412.pdf](https://www.foeeurope.org/sites/default/files/news/foei_land_grabbing_in_uganda_230412.pdf)
- 3 Mwebaza, E. “A historical perspective of the land problem in Uganda.” Human Rights Promotion and Awareness Forum Uganda, 2014, Kampala HRAPF.
- 4 Article 237 (1) of the constitution of the Republic of Uganda 1995
- 5 Article 238 of the constitution of the Republic of Uganda 1995
- 6 Article 239 of the constitution of the Republic of Uganda 1995
- 7 Article 240 of the constitution of the Republic of Uganda 1995
- 8 As defined by Section 29 of the Land Act 1998
- 9 The National Environment (Wetlands, River Banks And Lake Shores Management) Regulations, No. 3/2000 (Under section 107 of the National Environmental Act Cap 153), 2000 No.3 [http://nema.go.ug/sites/all/themes/nema/docs/wetlands\\_riverbanks.pdf](http://nema.go.ug/sites/all/themes/nema/docs/wetlands_riverbanks.pdf)
- 10 USAID Country Profile: Property Rights & Resource Governance Uganda, USAID, 2010 [https://www.land-links.org/wp-content/uploads/2016/09/USAID\\_Land\\_Tenure\\_Uganda\\_Profile.pdf](https://www.land-links.org/wp-content/uploads/2016/09/USAID_Land_Tenure_Uganda_Profile.pdf)
- 11 Voluntary Guidelines On The Responsible Governance Of Tenure Of Land, Fisheries And Forests In the Context Of National Food Security, FAO 2012



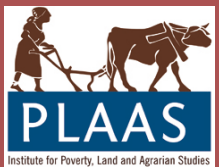
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FIAN is an international human rights organization working for the realization of the right to adequate food. It consists of national sections and individual members in over 50 countries around the world. FIAN strives to secure people's access to the resources that they need in order to feed themselves, now and in the future, and cooperates with peasant organizations around the world. Since 2006, FIAN facilitates the IPC for Food Sovereignty working group on land and territory. In this role, FIAN facilitated the civil society process of participating in the development and negotiation of the Tenure Guidelines.



The critical agrarian studies cluster in ISS has been in the cutting edge of research on global land deals, and has spearheaded innovative initiatives that bridge together academic, policy and grassroots activist circles. It is an institutional co-anchor for the global network of academics working on land deals, the Land Deal Politics Initiatives (LDPI – [www.iss.nl/ldpi](http://www.iss.nl/ldpi)).



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Katosi Women Development Trust (KWDT) is a non-governmental organization aiming to improve the living standards of poor, rural peasant communities in four sub counties in Mukono District in Uganda. KWDT evolved out of the success of Katosi Women Fishing & Development Association which attracted other women's groups to join, prompting the formation of a network where women equitably share resources, knowledge and skills to improve their lives. After 15 years in operation, KWDT currently networks 16 women's groups, and actively supports fishing communities facing dispossession in the Lake Victoria region.

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