

The Uganda Land Alliance

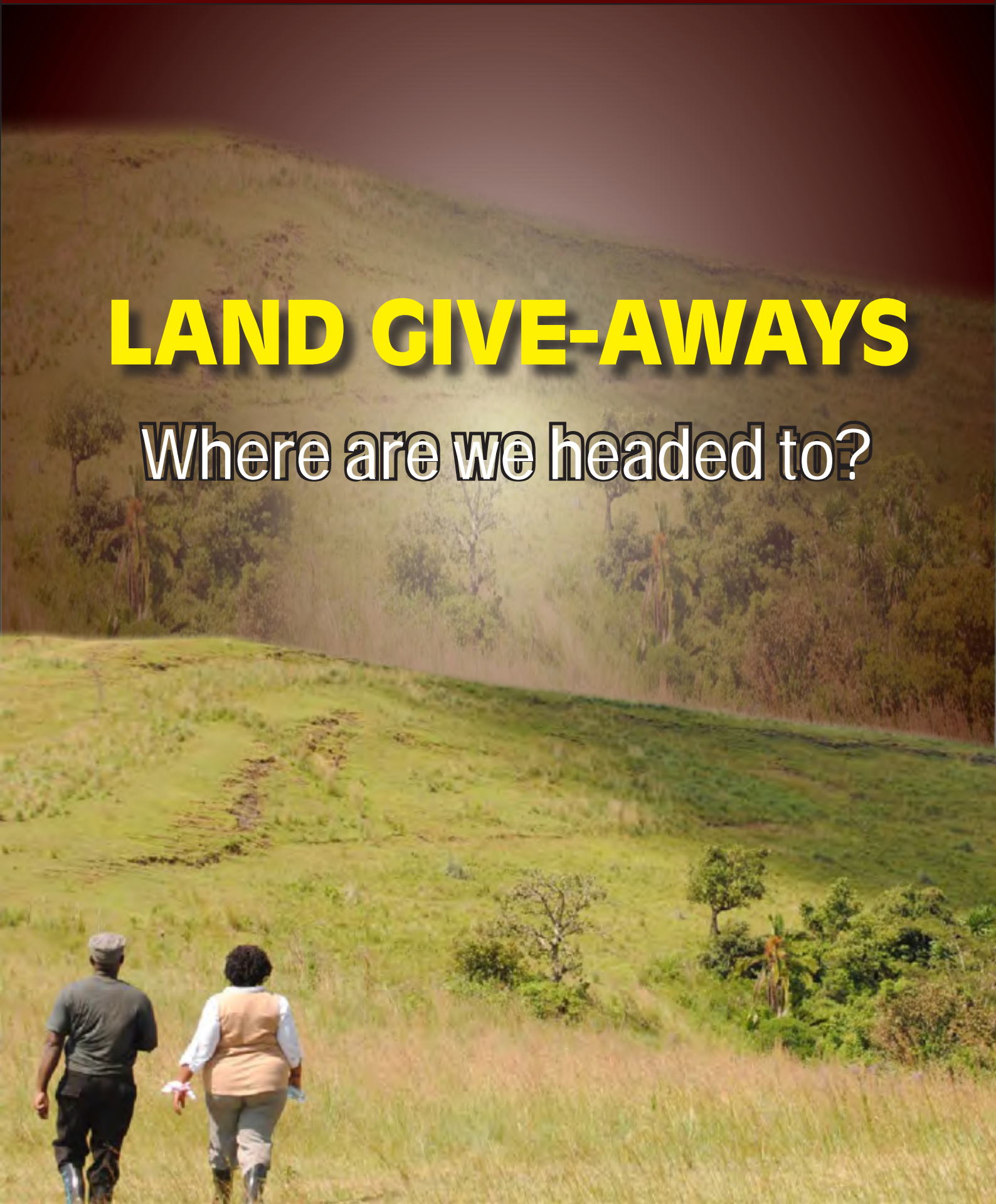
Quarterly Newsletter

Vol. 9: Jan-March 2012



LAND GIVE-AWAYS

Where are we headed to?



Large Scale Land Acquisitions - The Gender Dimensions

By: Winnie Byanyima

Director, Gender Team; Bureau for Development Policy, UNDP



Large scale land acquisitions are attractive to African governments as a way to fuel national economic growth, by meeting demands from developed and emerging countries like China and

India, for food and biofuels; but unless the voices and needs of women are included in land acquisition processes and decisions, land leases and acquisitions will continue to disproportionately impact women and, ultimately, hinder development progress.

In many African countries, women do not have equal ownership, access to and control over land and resources. They also face a heavy burden of unpaid work, spending more time than men on household work including collecting water and fuel, preparing food, raising livestock and caring for children and ailing family members, all of which leaves them with little time for earning money or developing new skills.

Large-scale land acquisitions exacerbate this situation and adversely impact women's well-being and livelihood. The clearance of forests that often accompanies large-scale land acquisitions deprives women of the forest products they rely on for food, fuel, firewood, handicrafts and medicines. As their land and forests are taken away, women have to spend more time collecting food, firewood and water. Consequently, their workload increases, and their decision-making power in the household and community diminishes. The end result is a deepening of women's poverty, an increase in their marginalization and an exacerbation of existing gender inequalities.

There are examples of this impact in many countries. As a result of biofuel investments, rural women farmers in Ghana have been deprived of land for cultivating Shea nut trees, an important source of income.

Cont/d to page 3

Editor's Notes



In a country where women are said to contribute over 90% of food production, it is very shameful that hardly 8% of women own a piece of land. Yet while the situation remains at this, large chunks of supposedly free land continue to be allotted to investors for non-food ventures. It's only logical that with an ever increasing population, Uganda should point her priorities towards growing the food basket to be able to feed her population. This can only be achieved through deliberate efforts to empower the brains and architects behind food production- women as such deserve more and more parcels of land if there be.

Of course investment is a good thing, because it is a sure way to grow the country's GDP. However, before all the available land is given away to investors in hundreds of hectares, the tens of thousands of landless Ugandans deserve a clear stake in the discussion. For many who do not have a plot of land to call home, the Millions of Dollars earned by government from investors makes no sense whatsoever. No one can comfortably enjoy citizenship in a country where they have nowhere to lay their heads.

Thus, it is imperative for government not to ignore the interests of the most ordinary man and woman while allocating the available land. There have been incidences where people in their hundreds have been driven away from land they have occupied for ages, on account of being there illegally, with little or no compensation offered in most cases to ensure alternative places of abode. Whosoever is doing this should be reminded that human life must always take precedence over anything else because once lost, it is, simply put, irreplaceable.

In our 10th edition of the ULA Newsletter, we'll continue with the discussion on the impact of large scale land acquisitions on Uganda's development. Please feel encouraged to send in your views by Monday June 4th 2012. Remember, our word limit is 400, and please do send along a passport size photo to accompany your article in line with our house style. **Send articles to: tdeo@ulaug.org, tumusiimedeo@hotmail.com**



The land on which Amuru District Headquarters sits, once belonged to a blind woman, Esther Aciro. She battled Government for fair compensation and died in agony. Her children, who initially could have shared part of the 60 acres of their mother's land have been left in total despair with no place to call home anymore. Photo by: Francis Emorut

Cont'd from page 2

In Mozambique and Zambia, women have lost land for growing maize, groundnuts, beans, pumpkins and watermelons. In Tanzania, women have lost land for collecting firewood. In Senegal, they have lost access to land where they once collected forest products. The use of pesticides and fertilizers that often accompanies large-scale land acquisitions also adversely affect women's health.

Despite the considerable impact of land acquisitions on their well-being and livelihood, women are generally not included in decision-making on land allocation or compensation schemes. Guaranteeing women's involvement in the process is essential to ensure that large-scale land acquisitions benefit communities and drive development.

It is also critical to strengthen government capacities and formal and informal justice systems to guarantee women full legal rights to own property and to inherit.

The impact on women is important to consider even in countries where women have the right to

own land. In Uganda, for example, while women have the legal right to own and inherit land, their access to land continues to be limited by cultural norms. A well-known example of land acquisition in Uganda that has provoked conflict between government and local communities over ownership and rights to use the land is the acquisition of 26,500 hectares of land on Bugala Island in the Kalangala district by the Nairobi-based Bidco Oil Refineries for the production of Palm Kernel Oil. It is critical that women have the opportunity to participate meaningfully in any discussions and decisions on this development.

Large-scale land acquisitions do not have to be negatives for women. A discussion paper published by the International Food Policy Research Institute last year puts it succinctly: "If large-scale land investments are properly executed with appropriate attention to gender dimensions, land deals can provide opportunities for both women and men through the introduction of new employment and income generation opportunities, new technologies, and new services."

DISENFRANCHISEMENT

Large scale land acquisition or land grabbing?

Let me state from the outset that I am pro-development. I want Uganda to be in the first track to development and know that land is a critical asset for development. For most Ugandans land, like water, is life, given our agrarian economy. A phenomenon termed variously as large scale 'land acquisition' and large scale 'land grabbing' emerged around the 2008 global food and fuel crisis. The 'jury' is still out regarding the pros and cons of how much this phenomenon contributes to improved investment in agriculture. The key issue is whether and how this can be achieved without disenfranchising an ordinary Ugandan.

At the height of the global food and fuel crisis foreign individuals, companies and even governments, running short of arable land and fresh water for production, moved aggressively to acquire large chunks of land in developing countries to grow crops for food and bio-fuels. Although it tends to be associated with foreigners acquiring land in another country, technically, it should also apply to all large-scale land acquisitions by nationals. Distinguishing characteristics of large-scale land deals include the size of the land, the secrecy in which the acquisition is shrouded and the subsequent evictions that affect large numbers of peasants.

A lot has been written about these land acquisitions, most of it by the International Food Policy Research Institute (IFPRI). In this article, my focus is on how to prevent total disenfranchisement of ordinary folk displaced by commercial interests in so called development projects.

The most neglected issue is the failure to appreciate the pricelessness of land to the ordinary Ugandan and the inadequacy of the market to address this when availing it for commercial utilization. In the early 1990s when the formation of the Uganda Land Alliance was mooted, the issue at stake was the commoditization of land, a policy that was being rigorously promoted by the World Bank and remains at the centre of neoliberal economic thinking. To avoid disenfranchising ordinary Ugandans of their land, without completely crippling development, a mechanism needs to be sought to make land available for commercial purposes whilst the ordinary Ugandan retains a stake and eventual ownership.

Government uses leasing to make the acquisition of land time-capped, a concept that can be applied by ordinary Ugandans to prevent total loss of ownership of their land. Currently Uganda government long term leases are for 49 or 99 years. When a lease expires, technically the land reverts to government. A parallel mechanism for ordinary Ugandans to formally lease their land without relinquishing ownership does not exist (in law). The



closest parallel to these leases is the concept of Jubilee restoration, spelt out in the Bible (Leviticus, chapter 25). Here, land was not supposed to be sold on a permanent basis (verse 23). Actually, land was to be rested every seven years; then after seven times seven years of such resting of the land, in the fiftieth year, all land sold would be restored to its original owners or their descendants.

To be fair to the seller though, a right of buying back the land before expiry was instituted. For the buyer, the price was fixed according to the number of years the land would be in production until the next Jubilee. If there are many years, the price would be higher. If few, it would be lower. This way, the market was moderated and justice guaranteed for those without enough resources to hold on to their land or to buy it back. The selling of land did not lead to disenfranchisement or permanent loss of access to 'life'. I see no reason why this or a similar model cannot be adopted for a more sustainable and equitable win-win path to prosperity.

Warren Nyamugasira is a Ugandan Economist with over 30 years of development and policy activism. He is a former chairperson of Uganda Land Alliance.

Hard Facts

Adopted from the report by the High Level Panel of Experts on Food Security and Nutrition (HLPE) of the Committee on World Food Security, Rome 2011.

The legal status of land proposed for transfer or actually allocated to investors varies across countries and regions. State ownership is common, though government can also invoke eminent domain, on the grounds that it is acting in the public good, and reclassify private or village land to public land. The terms of acquisition also vary greatly, from short to long term leases, and freeholds. In case of leases, annual rental payments are frequently very low, though investors may be expected to commit capital to investment in infrastructure. Many contracts refer to employment provision, but are often imprecise about the detail or consequences of noncompliance. Equally, there is frequently little in the way of binding agreements on local procurement, processing of produce, and payment of taxes. Given that these contracts are usually kept confidential, it is very difficult for performance to be scrutinized or investors held to account by government agencies, parliament, local people, CSOs, or media.

It is widely recognised that increased agricultural investment is needed to raise yields as a means to improve food security in many parts of the world. Can such international investment in land be a means to improve agricultural productivity and rural livelihoods? Evidence from this land rush to date shows very few such cases. Rather, large scale investment is damaging the food security, incomes, livelihoods and environment for local people. Secrecy from both investors and host governments over the scale of allocations and the terms on which land is acquired continues to hamper research by CSOs and the media.

Global surveys of bio-physical potential show that considerable reserves of land exist, especially in Latin America, sub-Saharan Africa and the Former Soviet Union. Yet, such reserves are not necessarily available. Much land already has other uses, such as cultivation and livestock grazing, as well as providing vital environmental services (as do tropical forests, grasslands and wetlands). The satellite and aerial imagery used in bio-physical surveys is blind to the rights and institutions that govern how land is actually used on the ground.

Growing demand for food, feed, and biofuels as well as minerals and timber is driving large scale international land investments. Governments of countries that rely on food imports want to secure their nation's food security by buying productive foreign land. Policies to substitute biofuels for petroleum for transport in the EU and elsewhere are generating strong and unsustainable demand for oil palm, sugar cane and Jatropha.

...an estimated 50-80 million hectares of land in middle and low income countries have been subject to negotiation by international investors, seeking to buy or lease this land. Close to one billion people are short of food and another billion suffer from various forms of malnutrition in middle and low income countries, despite sufficient global food production.

Much land in middle and low income countries is productively occupied and used, but does not have formal paper title, rendering such customary rights vulnerable to dispossession. Rights of women, social groups relying on the commons (grazing, woodland, wetlands), ethnic minorities and indigenous peoples are particularly insecure.

Secrecy from both investors and host governments over the scale of allocations and the terms on which land is acquired continues to hamper research by CSOs and the media.

In many countries hosting large scale acquisitions, the government claims ownership of land, water and other natural resources. Hence, government is central in encouraging inbound investment, making land available, and negotiating with investors as well as enforcing contractual agreements.

Editor: We'll publish more facts unearthed plus the Experts' recommendations in Issue 10 of the ULA Newsletter. Full detailed report is available on request.

ULA CORNER

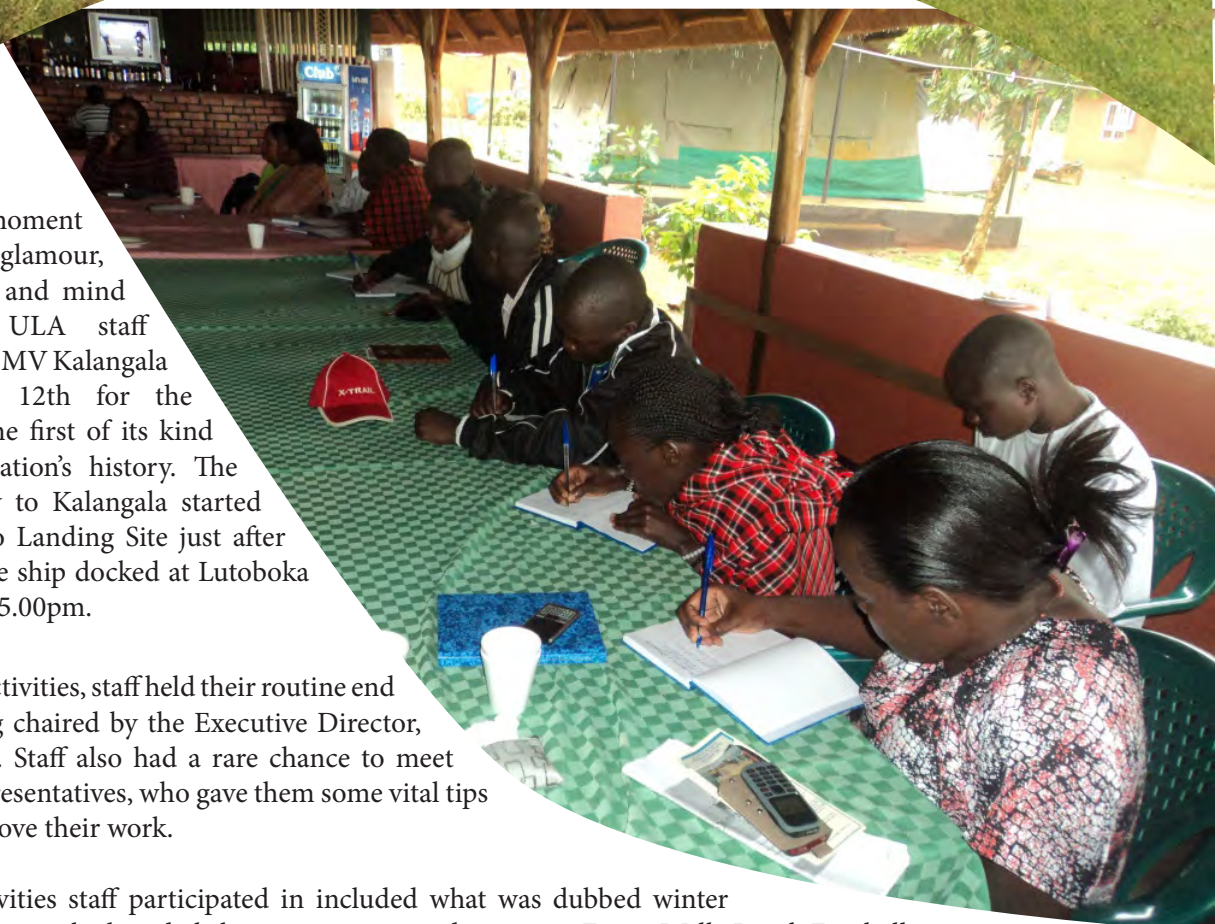


Staff arrive in Kalangala for the staff retreat

It was a moment of fun and glamour, learning, body and mind revitalization. ULA staff took to the Ship MV Kalangala on December 12th for the Staff Retreat, the first of its kind in the organization's history. The 3-hour journey to Kalangala started from Nakiwogo Landing Site just after 2.00pm, and the ship docked at Lutoboka Landing Site at 5.00pm.

Among other activities, staff held their routine end of year meeting chaired by the Executive Director, Esther Obaikol. Staff also had a rare chance to meet with Board representatives, who gave them some vital tips on how to improve their work.

Additional activities staff participated in included what was dubbed winter exercise drills that took place daily between 5.30am and 7.30am; a Forest Walk; Beach Football tournament; Community meals. The retreat summed up with a Christmas party during which all staff present received gifts from Father and Mother Xmas. It was joy and fun unconfined as staff bade farewell to the year 2011 with a dance.



Cont/d to page 7



Staff battle for the ball during a Beach Football game



A cross section of ULA staff aboard the Ship MV Kalangala during the trip



Winter Drills



Meal time in Kalangala



The Guest of Honor Esther Obaikol inspects the teams before the opening game



ULA Board Vice Chair Agnes Kirabo receives a gift from Mother Xmas

Minority Rights Group (MRG)



Ms. Jolly Kemigabo,
Africa Regional Manager, MRG

Minority Rights Group International (MRG) campaigns worldwide with around 130 partners in over 60 countries to ensure that disadvantaged minorities and indigenous peoples, often the poorest of the poor, can make their voices heard. Through training and education, legal cases, publications and the media, MRG supports minority and indigenous people as they strive to maintain their rights to the land they live on, the languages they speak, to equal opportunities in education and employment, and to full participation in public life.

MRG works with minorities as diverse as the Batwa in Central Africa, Roma in Europe, Christians in Iraq and Dalits in India and Nepal to name but a few. The organization has consultative status with the United Nations Economic and Social Council (ECOSOC) and observer status with the African Commission for Human and Peoples' Rights.

Our work

MRG is the leading international human rights organization working to secure rights for ethnic, religious and linguistic minorities and indigenous people around the world. We work with minority communities, providing education and training to enable them to claim their rightful place in society. We lobby

ULA Member profile

governments and the United Nations alongside and on behalf of minorities. We publish authoritative reports that are widely valued by academics and journalists, while our pioneering legal cases program is advancing the protection of minorities under international law.

Programs

Our programs work with local peoples on capacity building, advocacy, education and poverty reduction processes. They are aimed at empowerment for minorities, who often lack access to political participation and decision-making processes and frequently have damaging development policies imposed upon them. These minorities may also be discriminated against in land rights, housing, education, employment, and health care.

Global Advocacy Program

MRG's Global Advocacy Program (GAP) offers an online and practical training as well as direct advocacy opportunities and exchanges to minority activists from all across Africa, Asia and Europe.

Our interventions in Iraq and Somalia

Our work in Iraq and Somalia aims to promote the human rights and fundamental freedoms of ethnic and religious minorities. It strengthens the capacity of civil society organizations to report and lobby on violations of minority rights.

Street Theatre Program

MRG's Street Theatre Program uses performance to challenge commonly held racist attitudes and negative stereotypes about

Continued to Page 9



DEPLORABLE: The Batwa continue to live in squalor and have been left on the margins of society ever since they were chased away from Bwindi Forest. Photo by Mohamed Matovu

Continued from Page 8

minorities and indigenous peoples in Kenya, Botswana, Rwanda and the Dominican Republic.

Supporting Batwa women to challenge gender-based discrimination and violence in the Great Lakes Region of Africa. The Batwa are an indigenous people traditionally inhabiting the forests of the Great Lakes region of Africa – Uganda, Rwanda, Burundi and the Democratic Republic of Congo. They are poor and marginalized in all four countries in which they live. Batwa women and girls suffer multiple or intersectional forms of disadvantage and discrimination.

MRG Asia Programs

In Asia, MRG works to promote pluralism and diversity through education and training. Our target countries include Bangladesh, India, Indonesia and Pakistan.

MRG Europe's Programs

Promoting Development Policy in EU New Member States. The program 'From Needs to Rights: Promoting More Effective Development Policies in Europe' is the second phase of MRG's work for the promotion of human rights-based approaches (HRBA) to development in the new EU Member States.

Research and Publications

Our publications offer a compelling analysis of minority issues, include the voices of those communities, and give practical guidance and recommendations on ways to move forward.

To subscribe to MRG publications, visit: <http://www.minorityrights.org/643/publications/publications.html> For latest news on minority and indigenous groups around the world, visit <http://www.minorityrights.org/600/news/latest-news.html>

MRG also has a dedicated web hub dubbed the minority voices newsroom for reporters and communities. To upload a story visit <http://www.minorityvoices.org/>

Government Land vs Public Land vs Customary Land



Augustine Ruzindana

Land in Uganda is vested in the citizens of Uganda in accordance with the various land tenure systems, namely: Customary, Freehold, Mailo and leasehold. The land vested in Government is held in trust on behalf of the people and it includes lakes, rivers, wetlands,

forest and game reserves, national parks and land reserved for the common good of all citizens and humanity. In practice, however, all untitled land is assumed to be vested in the government rather than the citizens, especially land held under the most prevalent land tenure system, i.e. customary tenure.

Public land is assumed to be vested in the government and therefore since customary land is also considered to be public land, it is government land as well! Because of this confusion, land held under customary land tenure which should be as secure as freehold land is often allocated by Government (land boards) without regard to the property rights of the customary owners. Ideally if customary land were to be allocated for leasehold purposes it should first be acquired compulsorily by government and adequate compensation paid. But land cannot be legally compulsorily acquired for the purpose of granting a private lease. Nevertheless these illegal actions are quite common, sometimes involving large pieces of land, like in the case of the customary land in Amuru where the Madhvanis were granted a lease for sugar cane growing.

Customary land owners are quite often converted to mere occupants by grant of a lease by a land board. This is the source of a lot of land disputes. After acquiring a lease over customary land, the lease holders knowing that their ownership is on shaky grounds, use illegal means to evict the rightful customary owners rather than enter into a landlord/tenant relationship requiring payment of rent. Sometimes the illegalities are assisted by surveyors who may include customary land in the land title of a leaseholder without the knowledge of the neighboring customary owner. Even if the affected "occupants" go to court they are required to prove that the lease was acquired with a "fraudulent intent" since courts still hold a lease as superior to customary land tenure. The Land Registration Act is what is in the minds of land and judicial administrators not the 1995 constitutional provisions. If you have a leasehold land title you have proof of ownership, if you have ownership by proof of your neighbors evidence you have no proof of land ownership.

It is therefore important to clear the confusion between government land and public land and customary land as well. The promotion, by government of commercial over subsistence agriculture will exacerbate the problem if implemented before the confusion is removed.

The writer is the First IGG, Former MP Ruhaama County, and currently Consultant, Good Governance (Integrity and Anti-Corruption, Human Rights and Conflict Resolution).

-FACT SHEET WITH PROSSIE-

Rights of Individuals over communal land



Communal land is that land held by a specific community or group of people recognizing individual rights in that land and regulating its use and management. Communal land may be held on a certificate of customary ownership or freehold title by the managing committee on behalf of members of the Communal Land Association.

Communal land is managed under customary law and any other laws that may be applicable such as the Constitutional and Land Act provisions on non-discrimination, the provisions of the National Environment Statute that ensure conservation of the environment. Where an Association holds land under customary or Freehold tenure, the Association must recognize and verify that all or part of the land it holds is occupied and used by individuals and or families for their own purposes and benefits.

Under customary tenure, a family is recognized as a legal person represented by the head of the family. The individual/family therefore has access and user rights to this land but the actual ownership lies with the Communal Land Association. The shares of each individual or family are well known by the entire community or clan and therefore ascertaining their rights to a particular piece of land is feasible.

However, an individual or family within a community wishing to own her/his/its land which under customary norms is available for her/his/its use and occupation [may]:

If held by the Association on behalf of the community applies for a certificate of customary ownership or a certificate of freehold title in respect of her/his/its portion of land. The rules that apply for the application for a certificate of customary ownership or freehold certificate of title apply in this case without exception.

Where the Association holds land under customary tenure, the individual or family applies to the Association to have her/his/its portion of land transferred. If the Association approves,

the applicant causes her/his/its land to be demarcated, transferred, and registered by the Recorder.

Where the Association holds the land under freehold, the individual, or family applies to the Association to transfer the portion of land to her/him/it. If the Association approves the application, the applicant causes the piece of land to be surveyed and transferred to the applicant and registered by the Registrar of Titles.

Under circumstances where one wishes to have conversion from customary ownership to freehold ownership the procedure is provided as follows;

Conversion from Customary to Freehold Ownership

- The Customary owner makes an application using form 4 to the land Committee and pays Shs.15,000/=
- The Committee makes a report with recommendations on the application to the board.
- The land board then orders and has the land surveyed.
- The land board accepts the conversion with or without conditions or rejects the application. The decision of the board is recorded on the application.
- Where the board accepts the application, it sends a copy to the office of the titles for issuance of a certificate of title.

For all your information needs on land rights, land laws and policies, land related documentation, thematic presentations on land, publications, name it, please visit: <http://ulaug.org/departments-and-programs/knowledge-management/the-land-observatory/> the-land-observatory/Or send an E-mail to: Prossie@ulaug.org

No man but feels more of a man in the world if he have a bit of ground that he can call his own. However small it is on the surface, it is four thousand miles deep; and that is a very handsome property~

Charles Dudley Warner

What the readers said about Issue 8

The Uganda Land Alliance appreciates feedback from all our esteemed readers as this is the only way we get to know that our Newsletter has reached you. Your comments help not only to expound on the ideas expressed in our Newsletter, but are an assurance of your participation in the realization of our dream-fair land laws and policies in Uganda.



Glorys and Ann from Norway, enjoy Issue 8 of the ULA Newsletter aboard the Ship MV Kalangala

Dear Editor,

Thanks for this newsletter. It is brilliant and articulates our concerns very well. Please remember to include women and land rights in every issue so that this neglected area gets the advocacy and attention it deserves.



**Marren Akatsa-Bukachi, Executive Director,
Eastern African sub Regional Support
Initiative for Advancement of Women (EASSI)**

ULA publishes bi-annual newsletters focusing specifically on women's land rights. Our readers are encouraged to contribute articles when the call is made.

Contact us on
tdeo@ulaug.org for further information.

Editor

I take this opportunity to congratulate ULA for the good work being done and for the quality of the newsletter.

**Niasse Madiodio, International
Land Coalition**

The contents page of the next issue looks exciting. By the way I am back in Uganda and still have land issues at heart as they impact development very much. Keep up the excellent work. The picture of a poor man's house with "This Plot is not for Sale" speaks a thousand words.

Warren

Thank you so much for this edition. I have read the headings of the titles and seem to be educative and interesting.

Majanja Zaaly'yembikke

Thanx for the info in the newsletter. Keep up the spirit. I think receiving it inspires some people to find out more about land issues! Indeed we do learn much.

Gertrude

Thank you for the very informative newsletter. I have really liked the piece by Patrick Byakagaba. I will definitely draw some inspiration from your newsletter.

Walter Akwat, UDN

Thanks for the newsletter. It looks great.

Winfred, UOBDU

Thanks for sharing the latest version of the newsletter. It's very informative and besides it's also a good platform for flagging critical issues in the land sector in Uganda and thus facilitating further interaction and discussion on such issues among the target. Keep the flag as high.

Joshua Zake

"Land is the only thing in the world that amounts to anything, for it's the only thing in this world that lasts. It's the only thing worth working for, worth fighting for..."
by Margaret Mitchell

Land is a valuable commodity. Its fertile soil is the source of agricultural produce for our sustenance. The vast savannah grasslands provide fodder for our cattle. The mineral wealth beneath provides revenue and the rivers and lakes on it, provide both water to drink and fish to feed us. The forests produce timber and firewood. The control and use of this vast resource has been at the center of great political and philosophical debates. History informs us that land has also been at the core of most human conflicts, both minor and great. Land is and has been at the center of the ancient conflict in the Middle East. A Land boundary dispute pitted Ethiopian and Eritrean allies against each other resulting in great loss to life and human suffering, and it is land that has turned Zimbabwe into a pariah State. How we handle the burning problems of land, therefore, is important for present and future generations.

Adopted from a presentation by: Justice Francis. M. Ssekandi

Uganda Land Alliance Secretariat, Block 29, Plot 1521 Mawanda Road, P.O Box 26990
Tel: 0414-540048, E-mail: ula@ulang.org, tdeo@ulang.org, tumusiimedeo@hotmail.com:
Website: www.ulang.org

