

The Uganda Land Alliance

QUARTERLY NEWSLETTER

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the Late Esther Aciro

The elevation of Amuru County to district status meant that Esther Aciro's (RIP) land (60 Acres) had to be grabbed from her. Donato Oola-Olam, the Assistant Chief Administrative Officer (ACAO) who at the time was the Town Clerk, says, "Given our mandate of ensuring effective planning for the district, we decided to acquire land from owners and allocate it to developers." He adds, "If your land has been planned for example to be a civic area, it has to be so. Aciro has to leave...."

NATIONAL LAND POLICY

More Questions than Answers

Protecting Land Rights of Ethnic Minorities

Do We Act Like We Say it?

By: Samuel B. Mabikke
Chair of Land Management,
Technische Universität München, Germany

"Since we all know that ethnic minorities in Uganda have for over 200 years lived in harmony with nature in their ancestral lands, priority should be given to indigenous people in co-management of their ancestral lands."



One of the biggest challenges facing our generation today is failing to act on what we always say. A lot of efforts are directed towards policy making while implementation still remains fuzzy. The current National Land Policy (2011) under Section 59 provides for government to recognize land tenure rights of minorities in ancestral lands, protection against illegal evictions and displacements, considering land swapping or compensation or resettlement in the event of expropriation of ancestral land of minorities for preservation or conservation purposes among other strategies of protecting the land rights of ethnic minorities in Uganda. The policy in its current state does not give any clear definition of Ethnic Minorities in Uganda and neither does it propose criteria for identifying them. That may pose challenges especially when it comes to implementation of these strategies proposed in the policy.

In 1991 the over 6000 Batwa in South Western Uganda were evicted from their ancestral land by government when the forests they were occupying became a national park for gorilla conservation. Similarly, in 1993 another ethnic minority groups - the Benet (an indigenous group of about 20,000 people) living on the slopes of Mt. Elgon bordering Kenya were dispossessed of land by government when Mount Elgon was gazetted as a National Park. Article 36 of the Constitution states that minorities have a right to participate in decision-making processes and their views and interests shall be taken into consideration in the making of national plans and programs. These ethnic minorities were neither consulted nor compensated for such involuntary displacements caused while executing Government's conservation programs.

As a result, financing the relocation and resettlement of ethnic minorities has received little priority from the government and donor agencies. Where compensation is promised, it is not promptly given to the evicted occupants in an adequate and fair manner as provided for by the Constitution.

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Editor's Note

Dear Readers of the ULA Newsletter, I welcome you to the second in a series of editions focusing on the National Land Policy document. Gauging from the comments received from Issue 6, it's evident that many of you still have lots to share on the National Land Policy.

The ULA Newsletter exists for as an avenue for you our dear partners and esteemed readers, to guide the discussion on key land rights related issues. As such, I am glad to let you know that due to public demand, Issue 8 of our Newsletter coming up in December, will continue and perhaps conclude the 3-edition series.

I take the pleasure also to inform you that the ULA Website that has been undergoing thorough upgrading in the last few months, has now been completed and is up and running. You can access the latest draft of the National Land Policy by visiting our Site on: <http://ulaug.org/departments-and-programs/knowledge-management/the-land-observatory/land-laws/>

Please pick on any topic of your choice and let us know your thoughts. All articles should must be less 400 words and should be accompanied with relevant photos, and a mugshot of the writer. Deadline for receiving articles for the next Issue is Monday 14th of November 2011. Send to: tdeo@ulaug.org and copy to: tumusiimedeo@hotmail.com

The Uganda National Land Policy

Insights on Benefits to the ordinary people

By: Dr. Kisamba-Mugerwa
Chairperson, National Planning Authority



Land remains a highly volatile and political issue, and its control continues to be a critical factor in Uganda's Development. Given the pressure imposed on land by agriculture and the high population growth rate coupled with non ending land conflicts, the proposed National Land Policy rectifies pertinent issues to the benefit of the ordinary Ugandan.

The National Land Policy addresses many uncertainties surrounding land in Uganda in respect of historic and current injustices and colonial legacies in land use and management issues.

It recognizes that minority groups are not exploited by the majority and that the government shall in its use and management of natural resources protect the land rights of ethnic minorities that have been driven off their ancestral lands. It proposes payment of compensation to those ethnic minorities that have in the past for conservation purposes been driven off their ancestral land. It will ensure that they benefit from resources that accrue from other industries such as tourism using their ancestral land. Its implementation will establish criteria for gazetting and degazetting of conservation areas cognizant of the vital role the natural resources and habitats play in the livelihood of minority groups.

The Land rights of pastoral communities will be guaranteed and protected by the State and the Government and put in place legislation measures to protect the rights of access to inheritance and ownership of land for women and children, by reviewing and regulating customary law and practices upholding the principles of gender and equity and equality. It will enhance the status of women by mainstreaming

gender into development planning, decision-making structures and processes relating to access and use of land.

The ordinary people will further benefit from increased productivity and commercial competitiveness, by facilitating land use regulation and land development for wealth creation and overall socio-economic development in respect of enhancement of access to land for large scale commercial investments without prejudicing security of tenure for the vulnerable groups.

The policy notes that minerals and petroleum being strategic natural resources be vested in the state for the beneficial interest of all the citizens, ensuring co-existence of individuals and communities found in the areas where petroleum and minerals are discovered with extraction activity.

The policy shall remove uncertainties through allowing recognition and strengthening of the land rights of women, children and other minorities under all tenure regimes. It will permit inter - convertibility of tenure rights in response to changes in social structures, technologies of land use and ecological imperatives.

Much as land will be categorized as private, public and government, the State through its agencies shall regulate use of land held under all tenure regimes to achieve sustainable development through guarantee access to land by way of transfer or transmission irrespective of gender, ethnicity, or social and economic status. It will eliminate speculative accumulation of land by the elite or deprivation of the poor, their access rights in areas of absolute tenure systems.

The Government will provide a framework for regularizing land tenure for dwellers in informal sector settlement and slums for development, secure tenure rights and legitimacy to the land use activities and provide affordable infrastructure for self improvement by urban poor.

Among others, if those are effectively addressed, the ordinary Ugandan will benefit from the proposed Uganda National Land Policy.



The Batwa showing how they cook fish within bamboo stalks over open fire within their straw huts.

Photo by: Allison Hanes

From Page 2

Speaking at the East African regional meeting on ethnic minority and community rights, Hon. Rukia Nakaddama, the State Minister for Gender, Labour and Social Development, said the Government is working on a plan to have marginalized ethnic groups, more so the Batwa, resettled in one place although currently her Ministry has not received money and land to effect the compensation programme (New Vision, July 28th 2011). However it is now two decades ever since the Batwa were evicted from their ancestral land without any alternative other than becoming squatters on other people's land in Kabale, Kanungu, Bundibugyo and living on streets of Kisoro. As a result, we are currently witnessing; for example, the landless Batwa longing for return to forests (Daily Monitor August 13th, 2011).

Since we all know that ethnic minorities in Uganda have for over 200 years lived in harmony with nature in their ancestral lands, priority should be given to indigenous people in co-management of their ancestral lands. It is simply a question of trying to strike a balance in conservation of our forests and national parks while giving the indigenous people the priority of benefiting from the resources offered from their ancestral lands. Although achieving a "Win-Win" scenario is quite difficult in such a situation where the government has absolute power over ethnic minorities, we should at least aim at achieving a "satisfy-satisfy" scenario in which their

land rights can be more secured through direct access to medicinal herbs, forest products, harvesting honey, access to their ancestral worship places, using their vast knowledge about the forest to offer better tourist information, among others.

Chapter 4 of Uganda Constitution provides for protection and promotion of fundamental and other human rights and freedoms of all Ugandans. The constitution under Article 26 further provides for prompt payment of fair and adequate compensation prior to the taking of the property. Therefore, forceful evictions of ethnic minorities without prior consultation and compensation are unconstitutional. This must be stopped as a lasting solution is sought through co-management that ensures that indigenous rights and customs of ethnic minorities are not violated in Uganda.

Did you know this?

"The UN declared 1993 as The International Year for the World's Indigenous Peoples. The decade from 1995 to 2004 was declared as the International Decade of the World's Indigenous Peoples. Recognizing the continuing need for attention to indigenous peoples' needs, the decade from 2006 through 2015 has been declared the Second International Decade of the World's Indigenous Peoples"

Land policy still vague in addressing Ethnic Minority concerns

By: Kemigabo Jolly
Minority Rights Group

It might be prudent to specify that land expropriated shall be compensated at market value.



There was never any doubt that Uganda needed to tackle the 'land question' through land reforms. The media was and still is awash with, at best, land related court cases or at worst, land conflicts which have often spiraled into deaths.

To those concerns, the strait jacket answer would be a new land policy.

Indeed, the draft Uganda Land policy tabled before Parliament in March 2011 sets to mitigate problems associated with access, utilization, allocation, ownership and land tenure issues, among others.

Given the current population explosion and the ever increasing human resettlement needs in the country, such a policy would provide an ideal framework to guide Ugandans as far as Land issues are concerned.

Pertinent in the draft is recognition of the need to address historical injustices suffered by marginalized communities on the basis gender, religion, ethnicity and other forms of vulnerability to achieve balanced growth and equity.

To that end, the policy should be given credit, if for anything, at least for that bold recognition of minority land rights. For minorities, as is true for the rest of humanity, land is pertinent not only as a source of sustenance but in land lies identity, culture, heritage and spiritual value. Land loss, therefore, not only threatens people's survival but also denies them identity and the right to practice their culture and

religion.

As the policy document so rightly highlights, the challenge affecting community land ownership by ethnic minority groups in Uganda borders on the fact that land occupied by these groups on the basis of unprotected land rights systems, exposes them to constant evictions, removals and displacements.

Little wonder the government and other corporate organizations have displaced ethnic groups in a dehumanizing manner and without fulfilling constitutional rights to fair compensation and simply get away with it because the ownership was/is unprotected. Where compensation attempts are made, it is not done promptly, is often inadequate and unfair.

At this stage it's not clear whether the land policy will do much to afford minority groups the protection and adequate compensation in lieu of their lost land, given the precedent set by the state in its disregard of the constitution in previous cases.

Through the policy document, government commits to pay fair compensation to displaced ethnic minority groups from ancestral lands (58b). This provision is vague; through which process is 'fair' and 'adequate' arrived at? It might be prudent to specify that land expropriated shall be compensated at market value.

As a starting point, the draft policy is commended for considering the plight of the ethnic and minority groups in the country who have suffered the full brunt of exclusion and disenfranchisement from pre-through post independence period.

For now, the writing is on the wall or is it on paper but, just like with other policy frameworks, we need to be steadfast in ensuring strict implementation through vibrant lobbying and advocacy initiatives

Modern Western property law relies on identification, title deeds and recording of ownership of land plots. Most Central African legal systems have adopted this organisation because of colonial influences, but these practices often conflict with traditional systems of land tenure

ULA Pictorial



Delighted ULA staff are served a piece of cake by Ilse Zeemeijer. She was bidding farewell to ULA staff after completing her internship. She presented a preliminary report on Land grabbing in various districts of Uganda. She cited exploitation of small land owners, and poor payment of employees in various large investments as some of the key ills involved in land grabbing.

Photo by: Francis Emorut



Will the National Land Policy address Climate Change ?

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Climate change impacts in Uganda including prolonged droughts, landslides, flooding, are visible and already here with us. They present glaring implications to livelihoods for example food insecurity, poverty, pests and diseases. These effects, further impact negatively on national economic development, for example, loss of revenue, destruction of property, infrastructure, and in some cases, life. According to Stern (2006), the cost of not taking action now is much bigger than the cost of taking action now, as some of the changes and related impacts are irreversible. For example the melting ice on Mountains of the Moon Rwenzori; Drying of lakes and rivers e.g. Lake Wamala in Mityana and River Mobuku in Kasese, respectively

While the Draft National Land Policy for Uganda (2011) clearly captures Government's commitment

to addresses climate change by highlighting Government's commitment, there's need to reflect its cross-sector dimension; as well as development of other policy and institutional frameworks, e.g. the National Climate Change Policy and associated guidelines and regulations. Land is a major factor of production, livelihood and economic development. As such, implementation of the National Land Policy should proactively identify and consolidate synergies with other sectoral policies in order to reduce duplication as climate change adaptation and mitigation interventions are advanced at different levels. This will also ensure everyone's participation as the causes and effects of climate change are a responsibility of all citizens.

If these issues are coordinated and implemented effectively and adequately, then I believe Uganda will well be on course towards addressing the effects of climate change.

Climate is the average weather conditions of a place as determined by the temperature and metrological change over a period of time as determined by various factors; rainfall and temperature being most important (NAPA, 2007). Climate change refers to any change in climate over time, whether due to natural causes or as a result of human activity (IPCC, 2001a).

"The cheapest and most efficient way of slowing down global warming is to protect and restore the forests, particularly the tropical forests". Jane Goodall, the British primate expert and UN Messenger of Peace, June 2011:

National Land Policy: What does it mean to the pastoralism development in Uganda?

By Mr. Odokorach Shanty Francis,



Uganda is home to 11.4 million cattle, which represents an increase from estimated 6.5M in 2006, 5.9M in 2000 and 5.4M in 1996. Ninety three percent of the total cattle populations in the country are indigenous and mainly owned by pastoralists (UBOS, 2008). This statistic excludes other animals commonly reared by pastoralists. Uganda's pastoralist and small holder livestock producers contribute are the fourth largest foreign exchange earner of Uganda's GDP. (Muhereza and Ossiya, 2004)

The final draft of the Land Policy by Ministry of Lands, Housing and Urban Development, of March 2011, recognizes the pastoralists' land rights and the importance of their mobility as a key ingredient in managing the low net productivity, risk and unpredictability in the rangelands. Despite this, the practicality of the policy still leaves me with sizeable amount of doubts as I highlight below;

The strategies presented by government to support pastoral development still reflects the attitude of marginalization of pastoralists from the decision making process. 63 (i). prescribe clear principles for the ownership..... This statement is typical of the mistakes of previous policies that marginalize pastoralism; it is assumed that government knows best what is good for the people and can 'prescribe' based on a few learned decisions. I would imagine that, in this era, government policies must recognize that, the pastoralists (people) have better understanding of what is best for them and

are capable of making rational decision about their resources. And therefore, government must consult the people in question than simply prescribe.

63 (ii) prescribe clear principles for voluntary resettlement of pastoral communities with approval of local governments in a resettlement policy; the statement already contradicts its very objective, if the policy is to encourage 'Voluntary resettlement' in its true sense. The policy should not be prescriptive as the sentence states. Such policy statement further risks constraining mobility and promoting sedentarisation, which in fact contradicts the recognition of strategic mobility by pastoralists in this policy as a key ingredient to productivity in the rangelands.

The current food crisis in Horn of Africa should provide us with clear example of failed policies in the dry lands; the problem in the Horn is not drought per se, but vulnerability to drought. Livestock management and farming condition in the Horn are challenging, but they are not fated to produce famine, if only the governments are willing to embrace the research and policies that give farmers in the region the tools that they need to be resilient in the face of increasing uncertainty.

If the land policy is to guarantee the land rights of pastoralists, then it should sincerely give the pastoralists opportunities to make informed choices about their land use and livelihood system.

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Research on new land acquisitions, part II: Who's investing?

By: Ilse Zeemeijer

"6 out of the 22 investments could not be located on the ground"

In the last newsletter (Issue 6), I wrote a short introduction on my research on new land acquisitions and the impact on local development, which I conducted in collaboration with the Uganda Land Alliance. During the five months, I searched for the answer to the question: to what extent have actors in new land acquisitions in Uganda different approaches and to what extent does this matter for local development?

Based on international reports on 'land grabbing' and media reports, we compiled a list of 22 recent investments from 2007 onwards. Due to the lack of information and difficult access to information from the relevant authorities, we were unable to make a comprehensive list of all recent investments, but at least these gave us a good start.

Of the 22 investments, several actors were identified according to available information: foreign governments (Egypt, Bangladesh), foreign private investors (China, UK, Russia, South-Africa, India, Germany, France, Kenya, The Netherlands), Ugandan private investors, government authorities (National Forestry Authority, Uganda Wildlife Authority) and Ugandan individuals. In the debate on land grabbing, several processes were identified that are causing pressure on local land markets: Foreign direct investment (FDI) in food production; FDI in non-food agricultural commodities

and biofuels; nature conservation and ecotourism; Special Economic Zones; large-scale infrastructure works and urban extensions; large-scale tourist complexes; retirement and residential migration; and land purchases by migrants in their countries of origin (Zoomers, 2010).

However, although we were not in the position to check each investment, we did try to check eleven of these investments with the relevant authorities: the Uganda Investment Authority, Embassies/High Commissions of the country in question, Uganda Revenue Authority, and the Registrar of Companies. 6 out of the 11 investments could not be located on the ground. Although I cannot give a 100 percent guarantee since I realize that for some actors it's not in their interest to show me the facts, it does show that access to information is one of the main vehicles in this whole debate. This will have implications for the debate on 'land grab' and it stresses the importance of taking time to find the facts! More details will be available in subsequent editions of the ULA Newsletter, and on the Website.

"The land is ours. It's not European and we have taken it, we have given it to the rightful people... Those of white extraction who happen to be in the country and are farming are welcome to do so, but they must do so on the basis of equality."

By Robert Mugabe

As is in the National Land Policy Final Draft

Land is usually a political issue with potential to be volatile. In this regard, its control continues to be a critical factor in Uganda. Land is the most 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: It is a key factor in shaping individual and collective identity through its history, the cultural expressions and idioms with which it is associated: It influences spirituality and aesthetic values of all human societies. *Land is perhaps, the most essential pillar of human existence and national development.*

VISION OF THE POLICY

'Sustainable and optimal use of land and land-based resources for transformation of Ugandan society and the economy'.

POLICY GOAL

"To ensure efficient, equitable and sustainable utilization and management of Uganda's land and land-based resources for poverty reduction, wealth creation and overall socio-economic development".

POLICY OBJECTIVES

Enhance the contribution of the land sector to overall socio- economic development, wealth creation and poverty reduction in Uganda;

Harmonize and streamline the complex tenure regimes in Uganda for equitable access to land and security of tenure;

Clarify the complex and ambiguous constitutional and legal framework for sustainable management and stewardship of land resources;

Redress historical injustice to protect land rights of groups and communities marginalized by history or on the basis of gender, religion, ethnicity and other forms of vulnerability to achieve balanced growth and social equity;

Reform and streamline land rights administration to ensure efficient, effective and equitable delivery of land services;

Ensure sustainable utilization, protection and management of environmental, natural and cultural resources on land for national socioeconomic development;

Ensure planned, environmentally-friendly, affordable and orderly development of human settlements for both rural and urban areas, including infrastructure development; and

Harmonize all land-related policies and laws, and strengthen institutional capacity at all levels of Government and cultural institutions for sustainable management of land resources

Editor's pick

Article 2.3: THE POWER OF COMPULSORY ACQUISITION

"The 1995 Constitution of Uganda empowers Government or a Local Government to acquire land in public interest provided the acquisition is necessary for public use or in the interest of defense, public safety, public order, public morality or public health and subject to prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property. The central government has not in the past, exercised this power responsibly and strictly in the public interest. The same power is also extended to local governments without sufficient capacity to meet compensation requirements.

Policy statement:

The State as a trustee for the citizens of Uganda, shall exercise the power of compulsory acquisition, responsibly and strictly in public interest;

Strategies

To clarify the power of compulsory acquisition, the Constitution, the Land Act and the Land Acquisition Act shall be amended to:

automatically reconstitute original owners where public interest or purpose justifying the compulsory acquisition of land/property fails or expires;

limit exercise of this power to the Central Government under terms prescribed by the citizens of Uganda;

prescribe a uniform method for application of the power of compulsory acquisition especially the payment of prompt, adequate and fair compensation irrespective of tenure category;

establish the mechanism for local governments to exercise this power in respect of meeting the requirements for compensation; and

Prescribe a set of regulations and guidelines, the roles and responsibilities of the different state organs and agencies in the exercise of this power.

What the readers said about Issue 6

Editor's Pick

Dr. Kisamba Mugerwa

This is to acknowledge receipt of the Uganda Alliance Newsletter focusing on the "Strengths and Weaknesses of the National Land Policy".

I have enjoyed reading the different articles and please continue keeping me on your mailing list.

I have two points I would like to guide the discussion on the National Land Policy:

First: it is still possible to amend the policy because it is still in its draft form. Not until it is discussed and approved by the Cabinet and laid on Table in Parliament, it still remains a draft and subject to any additions or subtractions. So it is not yet late for any specific suggestions.

Second; at this stage of the National Land Policy, one would wish to refer to it in specific terms. Since there is a draft, I would appreciate specific suggestions quoting even the sections and what one would like to change and why.

I have liked those who envisage the challenge in the implementation of the NLP due to different weaknesses in the implementing system. There are still those who would like to see a different land tenure system for the urban land areas. In any case rate at which the country is being urbanized, one may wonder what may not be urban if the current trend continues.

In my opinion, we are likely to have a very good National Land Policy but without efficient implementing machinery, effectively enforcing various ordinances, we may still end up in a mess.

Otherwise thank you for keeping this debate live and I will keep tracking it.

Kaganga John
Kikandwa Environmental
Association (KEA)

On behalf of all members of Kikandwa Environmental Association and on my behalf, let me convey our appreciation to the editor of the Uganda Land Alliance Newsletter and the Uganda Land Alliance



secretariat for the good work done to produce and disseminate information on various issues in the Uganda Land Alliance newsletter on quarterly basis without fail.

The quality of the information collected and disseminated is so good and spicing, the newsletter has become so attractive according to the way how it is designed and formatted, keep it up.

Secondly, we highly appreciated the publicity you gave us in the quarterly newsletter Vol. 6 April-June 2011 by publicizing Kikandwa Environmental Association profile and the information on our Director's visit to the United States. The publicity you made gave us the pride and being known within the country and internationally. The Americans who got a chance to read the newsletter were so happy and liked it very much.

The Editor also acknowledges the comments from the following readers who either sent E-mail feedback or were tracked to have read the Newsletter on our Website:

Warren Nyamugasira, Federica Nshemereirwe, Juliet Abaliwano, Ellady Muyambi, Florence Ibi Ekwau, Alinda Violet, The Bahai Faith, Rev Sam Ruteikara, Sophie Kyagulanyi, Allan Muhimbo, Tom Mugisa, Judith Maas, Agnes Nabukeera, Jennifer Chang, Barbara Among, and Gertrude Nairima. Thanks also to you all who read the Newsletter but whose contacts may not have been captured for one reason or another.

We passionately appreciate your feedback, because this is the only way we can improve our Newsletter. Besides, your views are very important in shaping the direction of land rights in Uganda.

Remember to visit our one-stop centre for all ULA publications on: www.ulaug.org

Specifically, all Newsletters can be accessed on: <http://ulaug.org/newsletter/>

My experiences at Uganda Land Alliance



In 2009, when I decided to start the master programme International Development Studies (IDS) at Utrecht University, the possibility to go abroad for a couple of months to conduct fieldwork was one of the main reasons that made me choose this programme. You can study and read as much development theories in books as you want, but at a certain point it is time to go to one of those 'developing countries' in order to find out what 'development' means in practice.

As a student, IDS was a great opportunity to work together with local organisations such as ULA. They already had the knowledge on the topic that I wanted to study; land, investments in land and land rights.

With the help of Esther Obaikol and Sam Tumugarukire, I was able to start my fieldwork and speak to the people that are involved with new land acquisitions in Masindi, Gulu, Lira, Kalangala Islands,

Amuru and Mubende. Days in the field were diverse: then you're interviewing a casual labourer and people surprised to see a mzungu eating the local food; then you're waiting for hours to speak to a government official... The next day you start with a guided tour in a big four wheel drive car with a manager of a plantation, while in the afternoon you're speaking to a priest who can actually give you the information that no one is willing to give you. It's never boring! It was great to meet so many people that are enthusiastic and passionate about their work.

However, it was striking to see how many people were actually not aware of their rights. Often, people were afraid to tell us anything 'sensitive'. On the other side, some of the official authorities don't have good experiences with researchers as well. Research with an organization such as ULA is not always considered by official authorities to be objective. That is really a pity, since research is needed on a lot of issues.

I'm thankful that I could conduct this research together with Sam. People told their story not only to me as a Dutch researcher, but also to Sam and therefore the Uganda Land Alliance. The information that is gathered will not leave Uganda, but will stay there. I hope this will contribute to the work of everyone at the Uganda Land Alliance.

By: Ilse Zeemeijer

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