

Appendix

Land Legislation and Implementation in Uganda

Anne Mette Kjær

Four main documents constitute the legislative and policy framework on land in Uganda: 1. The constitution of the Republic of Uganda 1995; 2. the Land Act 1998; 3. the 2010 Amendment of the Land Act; and 4. the 2013 Land Policy. The primary purpose of this legislation is to create security of land tenure and to promote well-functioning land markets so as to promote economic development. This appendix highlights key aspects from the legal framework (and briefly addresses some of the main challenges as regards enforcement).

The constitution stipulates that ‘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’ (Chapter 15). This stipulation is in contrast to some other African countries, where all land is government owned. The constitution also says that the government can acquire land if in the public interest. The constitution specifies four types of land tenure systems: Customary; Freehold; Mailo; and Leasehold (Article 237) but does not define any of them. The constitution also stipulates that there shall be Land Tribunals to settle disputes and District Land Boards.

The 1998 Land Act details what each of the four types of tenure entails. *Customary tenure* thus refers to land under customary regulation, usually under communal ownership, owned by groups or persons in perpetuity. *Freehold land* is registered land owned in perpetuity; *Mailo* is a type of land granted to the Baganda by the British in the so-called 1900 Agreement. Mailo land is often owned by someone who does not use it all but lets tenants live on the land. *Leasehold* is a form of tenure ‘under which one person, namely the landlord or lessor, grants or

is deemed to have granted another person, namely the tenant or lessee, exclusive possession of land usually but not necessarily for a period defined, directly or indirectly, by reference to a specific date of commencement and a specific date of ending'. The rest of the Land Act specifies the processes by which to obtain claims on land; for example, there is a long section on how to get a customary land certificate, how to apply for a freehold title, and how to become recognized as a tenant and/or a bona fide occupant.

The 2010 Land (Amendment) Act has the main purpose of protecting tenants, bona fide occupants and customary landholders' rights to land. More specifically, it narrows down, in a way that is not done in the 1998 Land Act, the circumstances under which citizens can be evicted; for example, if they have not paid their rent. Customary landholders can only be evicted by the decision of a court of law.

The 2013 Land Policy aims to formulate clear policies and thereby seeks to expand and elaborate on the quite general framework in the constitution and the land act. It also seeks to formulate policies on the implementation and enforcement dimensions of land legislation. As stated in the introduction, 'The policy identifies lack of clarity and certainty of land rights in all the tenure regimes to be a critical issue and in this regard, measures are proposed to disentangle the multiple, overlapping and conflicting rights over registered land.' In chapter 5, the Land Policy clarifies land rights administration and outlines strategies to harmonize traditional customary systems with the formal statutory system, and to further decentralize land rights administration to traditional land governance institutions.

Anne Mette Kjær, Ph.D., is Professor at the Department of Political Science, Aarhus University.