The Decentralization of Power and Institutional Adaptations:
Decentralized Land Reform in Kayunga, Uganda

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Abstract

While many African governments have made legislative changes to the formal economic institution of land law in order to strengthen land tenure security, very few have seen these changes take hold (Bruce & Knox, 2009). This thesis demonstrates that Uganda is no exception. In exploring the interactions between the formal, informal, political, economic and social institutions which influence land tenure behaviour in Uganda, and how decentralization impacts this institutional structure, this thesis offers a first step in understanding how state-led land reforms can be undercut at the local level, causing unintended outcomes. From reinforcing the legitimacy of informal customary tenure systems to fostering inter-ethnic competition, the District of Kayunga demonstrates how Uganda's 1998 Land Reform has created unexpected impacts that continue to impede its implementation. It also offers ideas on how failed institutional adaptations may impact local perceptions of land tenure security.

This thesis also investigates and pushes the boundaries of New Institutional Economic (NIE) theory. It explores how decentralization within a formal economic institution can influence informal social and political institutions to create complex and ever evolving incentive structures. It also examines the role of organizations and individuals in an effort to understand the intersection between these two categories of actors and the institutional structure. Fluid interactions whereby organizations and individuals are incentivized by institutions, but also resist and adapt to institutional change, demonstrate the added complexity of organization-institution interdependency within the NIE framework.

Glossary

Baganda: (noun) plural of Muganda

Banyala: (adjective) Proper format describes anything official to the ethnic group led by the Ssabanyala which is particular to the District of Kayunga. The improper format describes anything of banyala origin.

bibanja: (plural noun) tenants specific to land that is held in the customary form of tenure known as Mailo. Whether on agricultural or residential land, they make yearly payments to their Mailo landlord. Within the 1998 Land Act, they are identified as lawful and bona fide occupants.

Bugerere: (proper noun) alternate customary name used by the Kingdom of Buganda to recognize the District of Kayunga.

busuulu: (noun) yearly payment made by bibanja to their Mailo landlords.

customary tenant: (noun) refers to tenants under customary forms of land tenure other than Mailo. There are many different forms of customary tenure in Uganda which include individualized and communal ownership or some form in between.

District of Kayunga: (proper noun) the most easterly district of the Kingdom of Buganda and central Uganda.

envujo: (noun) percentage of a bibanja's harvest that used to be paid to Mailo landlords.

Kabaka: (proper noun) the King of the Kingdom of Buganda; currently Ronald Muwenda Mutebi II

kibanja: (noun) the singular form of bibanja

kiganda: (adjective) describes anything of Buganda origin.

Kingdom of Buganda: (proper noun) a subnational kingdom within Uganda led by the Kabaka and comprising all of Uganda's central region.

Lost Counties: (proper noun) includes the counties of Buyaga, Bugangaizi, Buhekula, Buruli, Bulemezi and Bugerere which were forfeited to the Kingdom of Buganda from the Kingdom of Bunyoro in the 1900 Agreement as a result of their loss in the 1890 – 99 War to the British-Buganda alliance.

Luganda: (proper noun) language typically spoken by those of kiganda descent. The dominant language of Buganda.

Mailo: (proper noun) customary tenure system specific to the Kingdom of Buganda whereby tenants pay annual ground rent to landlords. The 1998 Land Act provides these tenants and landlords with specific rights and obligations.

Mailo Akenda: (proper noun) Crown land that was held by the Colonial Government and measured 9000 square miles, that was then passed to the Uganda government at independence.

Muganda: (noun) a person of kiganda origin, usually having Luganda as their mother tongue.

Ssabanyala: (proper noun) the leader of the banyala ethnic group; currently Lt. Baker Kimeze.

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The Decentralization of Power and Institutional Adaptations: Decentralized Land Reform in Kayunga, Uganda

PART I

Chapter 1: Research Topic, Significance and Overall Research Questions

Land tenure has been intermittently salient in development theory and policy over the past 50 years (Peters, 2008). From enhancing agricultural productivity to reducing poverty, there have been regular attempts throughout the years to adapt and leverage tenure systems for development gains. Notably, almost all African governments, in collaboration with international donors, have endeavoured to reform their land tenure systems at least once since gaining their independence (Bruce & Knox, 2009).

More recently however, the effectiveness of land tenure and its potential for increased development, have attained a heightened priority on most African government, civil society and donor agendas (Place, 2009). Due to environmental degradation, continued high population growth rates, and the internationalization of land markets, African tenure systems are now regulating access of an increasing number of people[1] to a shrinking amount of land (Manji, 2006; Knight, 2010). As a result, insecurity and conflict around African land has grown (Burke & Egaru, 2011), leading to, among other things, "violence and war, as documented for Somalia (Besteman, 1999), Darfur (de Waal, 2005), and Sierra Leone (Richards, 2005)" (Peters, 2008, p. 1322).

Although most African legislatures have sought to address or prevent these challenges in the past few decades by adapting the formal institution of land law (ECA, 2004), many of these legislative changes have yet to generate improvements and, in some cases, have actually exacerbated land tenure insecurity and land investment stagnation (Bruce & Knox, 2009). Considering these continued policy-making challenges and the growing network of land-related threats, research on land tenure is needed to understand the impact of Africa's most recent land reforms, and to determine *if* and *what* further institutional adaptations are needed to create secure and development favourable land tenure systems.

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[1] These challenges are aggravated by the fact that over 70 percent of African populations are dependent on land for their livelihoods, with "a majority of all African households rely[ing] on pastoralism or a family smallholding for at least part of their livelihood" (Boone, 2007, p. 566).

More specifically, research is needed on how decentralization impacts land tenure reform. The concept of decentralization gained currency with major development actors, such as the UNDP and the World Bank, in the 1990s (Blair, 2000). After realizing the inefficiencies of the top-down, state-centric development models of the 1960s and 1970s, scholars and practitioners called for a shift in power and responsibilities from the central government to local levels of governance. It was argued that this "decentralization" approach would ensure good governance due to increased ownership, and improve service delivery due to the tailoring of solutions to local contexts. These outcomes were seen as crucial by two dominant yet juxtaposed schools of thought: neo-liberalism and post Marxism (Mohan & Stokke, 2000).

Evolving from its previous focus on rolling back the state and facilitating market deregulation, "revisionist neo-liberalism" has come to see the local level as an important asset in institutional reform (Ibid.). Involving local populations in the development process was posited by organizations such as the World Bank as the key to creating the efficient institutions that were lacking in much of the developing world. For this school of thought, consultation with local knowledge – to provide more relevant strategies and to instil a sense of ownership – is an important building block for an effective and sustainable development model.

Post Marxism on the other hand, evolved from the apolitical Marxist focus on structuralism to encompass a more holistic conception that includes political elements such as the power of the 'local' in resisting oppressive state and market influences (Ibid). Consequently, the "post-Marxist" school differs from "revisionist neo-liberalism" in its perception of the purpose of participation. Post-Marxists believe it provides a means to foster the *end goal* of empowerment, while revisionist neo-liberalists are more concerned with empowerment as a *means* to foster to more efficient institutions.

Many African land reform programmes were conceived based on the revisionist neo-liberal conception of decentralization, whereby reforms were ensured to be effectively implemented and fully supported at the local level (Frances & James, 2003). Many of these reforms, however, were also grounded in the assumption that customary (traditional) tenure models did not provide adequate land tenure security (Place, 2009). These foundations – decentralization and rejection of customary tenure – therefore combined to create a

contradictory approach (Harriss & de Renzio, 1997) whereby existing, locally accepted tenure models were rejected despite requests for local input and support. This had a detrimental impact on uptake, and as of 2006, 90 percent of the African rural population still adhered to customary forms of tenure as a result (Wily, 2006; Deininger & Castagnini, 2006).

Although much literature has documented the repeated failure of decentralized land reforms, little literature has focused on the implications of this failure. It is therefore here that I situate my research. More specifically, I explore how decentralization policies influence land reform through their impact on local political networks and social norms. Local communities resist or alter state-led reforms when the objectives of these networks and the incentive structure of these norms are not aligned with state goals (North, 1990). Consequently, there has been a recent shift towards "bottom up", community-led approaches to institutional reforms[2], as local governance structures are seen as better able to adapt reforms to local needs and engender local ownership and adherence to state-led programmes. With wider community acceptance and more locally appropriate changes, in theory, decentralization allows states to better navigate institutional reform. In practice however, decentralization of land management decisions has yielded few positive (ECA, 2004) and many negative results (Francis & James, 2003), suggesting a deeper analysis on the role of local networks and norms during land reforms may be required.

My overall research questions are therefore 1) how have state-initiated, decentralized land tenure reforms intersected with local political networks and social norms?, and 2) how has contestation at this intersection transformed land tenure institutions? In doing so, I seek a better understanding of the effects of recent African land reforms on rural perceptions of land tenure security. With this aim in mind, I have used a case study approach, whereby my primary research was conducted in a rural District of Uganda called Kayunga. This specific District provides insight regarding my line of questioning since decentralization and land tenure reform figure prominently not only its history, but also in its current-day events.

[2] Resulting in the establishment of thousands of new local governments in rural Africa since the 1990s (Hilhorst, 2010).

Chapter 2: Case Study Rationale and Specific Research Questions

Uganda is an East African country where policies of decentralization carry a historical importance. During colonial rule, British colonialists manipulated and created new decentralized power structures based on ethnic identities as a means to rule in a more cost – and logistically – efficient manner (Lindemann, 2011). This created an oppressive and ethnically divisive environment which carried over into dictatorial governance structures when post-independence leaders sought to reconsolidate and centralize power within the hands of a few ethnic groups. Most notably, from 1966 to 1985 with a short reprieve between 1979 and 1981, Idi Amin and Milton Obote governed[3] as President for various terms over highly centralized and authoritarian systems that severely marginalized and deprived the majority of the Ugandan population. In an effort to disassociate himself from his colonial and authoritarian predecessors, the current president, Yoweri Museveni, has now decentralized power through policy tools that suggest ethnic inclusion rather than division (Green, 2006).

Tenure reform for the approximately 204,000 square km of land in this country has been a crucial piece of President Yoweri Museveni's decentralization strategy, as witnessed by the recognition of customary land rights and localization of land administration in the 1995 Constitution and the 1998 Ugandan Land Act[4]. While these legislative documents were derived from a World Bank sponsored study that advocated for freehold (individualized and formalized) tenure throughout the country (Hunt, 2004), in the end, both documents legally recognized a variety of tenure systems, including a wide array of customary tenure models (see Annex A for an overview of the types of rights associated with each of Uganda's formal tenure models). The 1998 Land Act also laid the foundation for the decentralization of a national land registration programme through state-built local governance structures. Therefore, unlike previously failed decentralized land reforms on the African continent, in addition to decentralizing the allocation and management of land to the local level, the Ugandan government simultaneously recognized the importance of existing local land tenure models. Although Uganda's initiatives represent an important and promising step for African

[3] Milton Obote was Prime Minister from 1962 to 1966 and President from 1966 to 1971; he was President again from 1981 to 1985, while Idi Amin was President from 1971 to 1979.
[4] The 1998 Land Act was amended in 2001, 2004 and 2010.

tenure systems[5] on paper, by unpacking the implications of this reform in practice, this paper seeks to provide greater insight on the role and level of influence of local networks and norms.

My initial findings highlighted that, while the Ugandan government's actions were warranted and bold considering customary tenure recognition was historically unprecedented in Uganda, its actions were also controversial in that the land reform prioritized one customary tenure model (Mailo) over the others, affecting rival local polities. "Mailo" is the customary form of tenure specific to the Kingdom of Buganda – a customary organization which occupies most of central Uganda – and it was the only customary form of tenure explicitly mentioned in the 1995 Constitution and 1998 Land Act. Other customary models are given legal footing, yet are categorized more generally under the title "Customary".

Meanwhile, although a variety of customary organizations were already allocating and managing the country's customary tenure models, the Ugandan government chose to construct and superimpose an entirely new, state-led local governance system to take on this role. In light of these elements within the reform, Uganda proved to be an important country case study in exploring how contestation between decentralized institutional reforms and local networks and norms transform land tenure institutions. In conducting my field research, I therefore focused on smaller research area within Uganda known as the District of Kayunga, which offers multiple historical and current-day issues highly relevant to my research topic.

In an effort to investigate my overall questions – 1) how have state-initiated, decentralized reforms intersected with local political networks and social norms, and 2) how has contestation at this intersection transformed land tenure institutions – I have created more specific research questions that I investigate within the District of Kayunga:

1. How and to what degree have the 1995 Constitution and the 1998 Land Act decentralized power over land management and administration, both in policy and practice?

[5] "In a small but growing number of cases in Africa, customary rights are now accorded equivalent legal force with those acquired through non-indigenous systems under state law and may be registered under state law. Support for the devolved governance of these rights at local levels, and building upon customary norms, is also growing" (Wily, 2006, p. 2).

2. Has this decentralized power manifested itself at the local level through real or token resistance strategies to influence de facto and de jure land tenure models?
3. How have the de jure and de facto land tenure systems been transformed as a result?
4. Have these alterations had an impact on individual perceptions of land tenure security?

Although I wanted to investigate the impact of land tenure modifications on agricultural investment behaviour as well, limited time and resources during my field research lead me to focus on these four logically prior questions. My research questions sequentially precede the link to agricultural investment because land laws are often adapted in an effort to increase land tenure security, in the hopes that this will eventually encourage more effective investment behaviour. In the case of Uganda, the government sought to increase land tenure security – by recognizing a range of tenure systems and establishing a new land registration program – in an effort to guarantee current land holders longer and more secure return on investment periods, to guarantee banks more secure collateral for credit outlays, and to offer investors more security in buying land for agricultural production: all important factors in fostering agricultural investment. Although I am unable dissect these links to agricultural investment behaviour in the following paper, my thesis lays the foundation for further investigations.

I respond to my specific research questions in the following thesis by first presenting a literature review of the theoretical framework I have chosen in Part One. The new institutional economic lens (NIE) will provide insight on how these concepts interact and intersect both through its applicability and non-applicability as a theoretical framework. I then provide an overview of relevant literature to inform the reader of the current perspectives and intersections of land tenure, decentralization and local networks and norms. This overview was an important foundation to processing and analysing my data and will therefore be important for the reader's understanding of my presented findings. The next section provides a situational analysis of the historical and present day politics, legislation, geography, land tenure models and land tenure security issues relevant to my case study region. In chapter five I outline the methodology I used to apply the NIE theoretical

framework within my case study approach. From direct interviews with land officials to focus groups with residents in my research area, I will also demonstrate how the manner in which I collected data was appropriate for my research questions.

In Part Two, I introduce my findings by first demonstrating in more detail the degree and form of decentralization legally created by the 1995 Constitution and the 1998 Land Act for two categories of actors: local customary leaders and local residents[6]. I then present what forms and degree of decentralization have occurred for these two groups in practice in Kayunga, and how that has reinforced or altered their local political networks and social norms. The next section delves into the ways in which decentralization has caused the emergence of local resistance behaviour, again by presenting my findings for both groups of actors. I will demonstrate why some of the local norms and networks influenced by Uganda's land reform are now more resistant to the state's land tenure reform. The paper will then present how de jure and de facto tenure systems in Kayunga have changed or remained the same since the creation of the 1998 Land Act due to the resistance of these sets of actors. I will then conclude Part Two with my findings on how land tenure security in Uganda may have been affected by the tenure changes caused by contestations and adaptations of the 1998 land reform. Finally, in Part Three, I offer insight on my general research questions by providing and overview of my findings – and their limitations – and by highlighting how they offer possible answers to my specific research questions. I then conclude by noting additional research methods and further areas of study which would aid in testing the conclusions from this exploratory research.

Chapter 3: Literature Review

Theoretical Framework – New Institutional Economics

From an NIE perspective, land reform is a government's attempt to alter a formal institution to encourage economic growth (Hunt, 2004). This theory focuses on how the institutional environment[7] incentivizes individual economic behaviour (Mooya & Cloete,

[6] Please note, I use the term 'local residents' in this paper to define those living in my research area during my field research period.

[7] "Institutions are the written and unwritten rules, norms and constraints that humans devise to reduce uncertainty and control their environment" (North, 1990 cited in Menard & Shirley, 2005, p. 1).

2007, p. 148). As Nabli and Nugent (1989) noted, NIE embraces and broadens the neo-classical economic "toolkit" to better explain issues and outcomes that prove a challenge to the neoclassical model, such as market inefficiencies despite the presence of rational individuals.

Rather than touting neoliberal theory that stresses the need to remove states from markets through structural adjustment measures such as deregulation and privatisation, "new institutional economists often articulate a conservative form of agrarian populism, or neo-populism" (Cousins & Scoones, 2010, p. 36). Although the power of the market in terms of economic gain is still recognized, NIE places more emphasis on the role of governance mechanisms in leveraging this power (Wejnert, 2014).

More specifically, whereas the neoclassical model assumes that rational individuals encounter costless transactions, NIE instead assumes rational individuals have incomplete information and therefore incur a balance of (1) transaction costs to acquire information, and (2) uncertainty where they cannot. In an attempt to overcome these transaction costs and uncertainties, societies create institutions to govern and regularize their transactions. To be clear, institutions in this framework are defined as humanly devised constraints that shape human interaction and their enforcement mechanisms (Menard & Shirley, 2005). Whether formal in nature, such as laws, or informal in nature, such as social conventions, institutions in this framework are seen as structuring – but not determining (North, 1990) – individual behaviour that either fosters or undermines economic growth.

While formal institutions can change quickly when altered by the state through policy and legislation (North, 1990; Opper, 2008; IPPG & UKAid, 2010), informal institutions are typically altered at slower pace through periods of slow institutional shift or gradual learning through education, research and communication (North, 1990; IPPG & UKAid, 2010). Informal institutions are more likely to be plagued by 'institutional stickiness' whereby change is resisted by actors for multiple reasons, such as the "interests of current beneficiaries, cultural and moral objections or the sheer force of habit and routine" (IPPG & UKAid, 2010, p. 10).

Both formal and informal institutions are shaped, undermined or reinforced by individuals and organizations[8] (Ibid.). From informally-organized to formal organizations of individuals, they all play a key role in the adaptation of institutions. Yet, there is little research on exactly how individuals and organizations intersect and interact within the process of institutional adaptation.

For Opper (2008: p. 402), there is also "the highly relevant question, of how informal norms and formal norms combine to shape economic performance." According to Nee and Ingram (1998), a thorough understanding of transaction costs is derived from the interaction of informal and formal institutional elements. As Ostrom (2008) also points out, the incentives of various sets of rules – both formal and informal – are invariably interdependent. Opper (2008: p. 402) expands on the idea of informal-formal institutional interdependence by noting the importance of identifying the circumstances, under which "formal and informal norms may actually cause the emergence of opposition norms" which prompt actors to decouple from the formal framework of rules.

Looking beyond the formal-informal cross-section, institutions can also be categorized as social, economic or political based on whether they influence social, economic or political behaviour. Therefore, in addition to exploring how formal and informal institutions interact, further investigation is needed to understand how this hybrid institutional environment may also be shaped by the interactions of social, economic and political institutions (IPPG & UKAid, 2010).

In sum, in light of the above research gaps in the NIE framework, the following thesis explores the boundaries of NIE theory. The NIE framework is used to explore the institutional adaptation of land tenure in greater detail by offering ideas on if and how decentralization within the formal economic institution of land tenure may change the hybrid institutional environment. By examining decentralization's impacts on the informal social institution of local norms, and the informal political institution of political networks, this paper unpacks the ways in which informal, formal, economic, social and political institutions overlap and affect each other to create, adapt and undermine institutional change.

[8] Examples of organizations include, companies, trades unions, political movements or parties, churches, news media, banks and businesses, public bureaucracies and ministries, security services, professional and business associations (IPPG & UKAid, 2010).

Land Tenure

Mainstream development policy prescriptions have long advocated for the formalization of land markets and individualization of tenure (van den Brink et al., 2006; Bouquet 2009). In fact, the World Bank continues to assert that tenure security is best provided by the state-led registration or "titling" of individualized or "private" land rights (Deininger et al., 2010; Deininger, 2003)[9]. As Kelsall (2008: p. 645) notes, however, this argument is founded in "the atomised individual underpinning of much of Western political and social theory," and may therefore warrant re-examination in non-Western contexts.

Since Uganda's most recent reform is founded on the supremacy of titling programmes and recognizes both individual and communal forms of tenure, the next sections offer a review of literature on the informal-formal and communal-individual spectrums of land tenure. The first spectrum pertains to the legalities of land ownership, while the second relates to the social dynamics in how land ownership is organized.

(i) The Informal-Formal Spectrum

According to Deininger's 2003 World Bank report, due to the cost of the infrastructure needed to establish land tenure registration systems, the level of standardization needed to facilitate land transfers, and the common level of protection needed for equitable access to land, the state is best positioned to provide tenure security. This argument is supported by literature from multiple iconic economic theorists (Smith, 1802; Hardin, 1968; North, 1990; De Soto, 2000). De Soto (2000) for example, has most recently argued that formal tenure, rather than customary tenure, is the key to development due to its important role in credit markets. For the purpose of this paper, the term "customary" land tenure is used to define tenure models that are not included in the formal economic institution of codified, written land law. They are sets of norms or procedures that, though not immutable, have widespread legitimacy through tradition or repeated use. Yet, in his highly influential book, *The Mystery of Capital*, de Soto posits that customary land tenure contributes to lagging economic growth in developing countries. He argues that formalizing

[9] Although Deininger's (2003) World Bank report marked a turning point in the World Bank's approach to land tenure, in that it advocated for staggered approaches that recognized the legitimacy of customary and/or communal forms of tenure in the interim, the 2003 report and subsequent others have always asserted the supremacy of formal, individualized tenure.

customary tenure unearths hidden capital since formal tenure allows landholders secure collateral when accessing credit. According to De Soto's logic, customary land tenure impedes landholders' access to credit because it is harder for banks to use land as collateral when it is informally owned. Without state backed ownership, the bank is offered less security in terms of claiming the land in the event of bankruptcy; yet multiple studies have demonstrated that even when titled, land does not necessarily provide adequate security for the lender (Smith, 2003; Boone, 2007). As Woodruff (2001) also notes, considering all the other elements necessary to turn land into collateral, collateral into credit, and credit into income, it is a large leap to assume that formalizing land tenure will automatically beget growth.

In fact, a growing body of literature questions state-conceived land registration systems as inherent to the provision of tenure security (Moyo & Amanor, 2008; Smith, 2003; Place, 2009). Meanwhile, customary land rights are gaining increased legal footing within land reforms. According to Wily (2006: p. 2):

> In a small but growing number of cases in Africa, customary rights are now accorded equivalent legal force with those acquired through non-indigenous systems under state law and may be registered under state law. Support for the devolved governance of these rights at local levels, and building upon customary norms, is also growing[10] .

Therefore although results have been slow, there are growing opportunities for customary landholders to register existing tenure models without having to convert to imported tenure forms. Even *unregistered* forms of customary tenure models are gaining legal ground, meaning formal tenure is taking on new meanings that are no longer intrinsically tied to registration programmes.

Indeed, the need for registration is hotly contested as some believe titling is essential for land tenure security in the face of the commodification and globalization of land markets. Bouquet's (2009) framework for land tenure security notes the importance of not only the strength of land tenure institutions, but also the strength of outside threats. As Wily (2011) points out, customary land tenure systems have become ripe environments for "land grabs"

[10] Although the majority of African governments continue to avoid the legal recognition of customary land tenure rights (de Satge et al., 2011).

whereby the state or local elites are able to appropriate land (often without consent of those using it) for domestic purposes or for long-term lease to foreign governments and companies.

On the other hand, however, in many African countries, formal economic institutions for land administration have been superimposed on traditional structures, thus hindering the former's social legitimacy (Deininger & Castagnini, 2006). Acquiring a title is often ignored in the face of local guarantees which carry more weight in the community, thereby alienating titled residents from the local polity that backs their customary security. Consequently, where the formal system is not legitimized at the local level, titling has decreased tenure security (Smith, 2003; Deininger, 2003). Additionally, titling may exacerbate inequalities if certain socio-economic classes are excluded from the programme due to cost[11] (Hunt, 2004, Ravnborg et al., 2013) or social norms, such as intra-household power structures, corruption, and local power relations. As Razavi (2003) observed, while formalization of tenure may strengthen men's tenure security, women's security is often weakened due to the continuation of locally-accepted, gendered roles of land use and access.

Despite these concerns, formalization often happens through informal processes at the community level anyway – a process also known as "informalization" (Payne et al., 2009). According to Peters (2008: p. 1320), "the most formal of such processes is the development of 'informal' documents and other means of recording land transfers" while the least formal are "practices [that] involve 'exaggerated' public displays of ownership and of social exchange between transactors." Bouquet (2009) advocates for the support of these types of institutional pluralism, as they leverage synergies between community-based and state-based mechanisms.

(ii) The Communal-Individual Spectrum

Traditional development discourse – based on the ideals of Hardin's (1968) original depiction of the commons as being tragically and inevitably depleted – highlighted the need for individualized land tenure to promote increased sustainability and economic investment. In addition to being presumably less sustainable or conducive to investment, communal

[11] According to the Land and Equity Movement of Uganda (LEMU) (2013: p. 2), "Acquiring a title is moving from a legal system (customary) which is verbal, informal, and based on community values, to one which depends on knowledge of the law and the legal system, ability to read and write English – and on wealth. People without these are vulnerable to those who have them."

tenure structures allegedly lead to market inefficiencies as communal property owners are more encumbered in attempting land transfers or acquiring credit for investments (Demsetz, 1967 in Ostrom, 2003, p. 250). As such, the World Bank has given "substantial support to governments" promoting tenure reform based on individual titles (Whitehead & Tsikata, 2003, p. 13).

Due to a growing pool of literature that critiques this theory, however, World Bank advocates are now less confident about the individualization of tenure in rural Africa (Boone, 2007)[12]. Moyo and Amanor (2008) and Smith (2003) argue that, although individualized tenure may encourage investment and greater economic growth, it rarely helps specifically with the plight of marginalized or impoverished groups. Instead, it usually leads to inequitable forms of capital accumulation that increase social differentiation and class formation to the detriment of the poorest and most vulnerable. Ostrom (2009) offers an additional counterargument by highlighting that individuals have the potential to interact effectively and efficiently within a collective environment. Elements such as trust and cohesive social norms, which are glossed over in traditional individual-communal debates, are brought to the forefront to illustrate communal ownership potential.

Despite these counterarguments, many customary tenure models are becoming individualized though informal, local-level processes anyway, with the community – rather than the state – regulating individual land rights (Smith, 2003). According to Deininger's (2003: p. xxiv) World Bank Report, "one would expect to see a move toward more individualized forms of property rights with economic development." Yet, as evidence in Africa suggests, the individualization of tenure is not automatic, and many communities continue to exist and thrive in communal land ownership structures. Rural development experts argue that communities within communal structures "can manage their own resources well, and under many circumstances, could also achieve significant increases in agricultural production and productivity" (Boone, 2007, p. 570).

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[12] According to Deininger's 2003 World Bank Report, "while the individualization of land rights is the most efficient arrangement in many circumstances, in a number of cases, for example, for indigenous groups, herders, and marginal agriculturalists, definition of property rights at the level of the group, together with a process for adjusting the property rights system to changed circumstances where needed, can help to significantly reduce the danger of encroachment by outsiders while ensuring sufficient security to individuals" (p. 76).

To better understand the spectrum between individual and communal property rights, Ostrom (2003) highlights five property rights categories: access, withdrawal, management, exclusion and alienation. Access is defined as the right to enter a defined area, withdrawal as the right to withdraw resources, management as the right to regulate use, exclusion as the right to determine other people's access, and alienation as the right to sell or lease these rights (Ibid.). Table 1 below outlines how different bundles of these rights are typically assigned to different user positions.

Table 1. Bundles of Rights Associated with Positions

	Full owner	Proprietor	Authorized claimant	Authorized user	Authorized entrant
Access	X	X	X	X	X
Withdrawal	X	X	X	X	
Management	X	X	X		
Exclusion	X	X			
Alienation	X				

Source: Ostrom (2003)

Individual property rights are typically defined as requiring the right to alienate, meaning any other bundles of rights involve some form of communal tenure arrangement. The bundles of rights associated with each of the formal tenure regimes in Uganda are outlined in Annex A.

Decentralization

The rise of decentralization grew out of the increasing salience of 'participation' which was recommended and adopted through development policies as early as the 1970's (Cohen & Uphoff, 1980). A critical examination of the previous decades of development experiences which had favoured top-down, centralised approaches (Cohen & Uphoff, 1980), led to the belief that devolving power through bottom-up approaches might offer some improvement. It was posited that the former approaches had left the 'local' on the table as an untapped resource and crucial piece in the effective fulfillment of broader development aims. This scholarly concern then led to a proliferation of literature on decentralized governance

structures, such as the United Nations Development Programme's (UNDP) 2004 report on *Decentralised Governance for Development*, the World Bank's 2004 World Development report on *Making Services Work for Poor People* and the United States Agency for International Development's (USAID) 2009 *Handbook on Democratic Decentralization Programming.*

In fact, decentralization has now become a relatively ambiguous term as witnessed by the rise of conceptual frameworks that attempt to define it (Cohen & Uphoff, 1980; Mohan & Stokke, 2000; Agrawal & Ostrom, 2001). Although it can take many forms, a broad understanding of the term within a development context could be filtered down to the simple devolution of choice and accountability to the local level to empower development beneficiaries. There are many facets hidden within this definition, however, as Cohen and Uphoff's (1980) detailed classification system of the *what kind*, *who* and *how* components of decentralization demonstrates (See Figure 1). First and foremost, it is important to understand *what kind* of participation is being enabled through a decentralization policy, as it can range substantively from inputs to outputs. In its most progressive forms, policy makers may call for participation within decision making and implementation processes (inputs). Weaker forms of participation may also be enacted through benefit distribution and monitoring processes (outputs). Cohen and Uphoff (1980) also deconstruct *who* is being engaged at the local level where they see four possible categories of participants: local residents, local leaders, government personnel and foreign personnel[13]. The final *how* dimension of decentralization looks at voluntary versus coercive approaches, differing sources of initiative, and explores the ways in which participation can occur. One of the most important components within this dimension is the degree of power conferred upon the local population. Transferring a full or large degree of power in the decision making process to the 'local' often offers very different outcomes compared to consultative approaches. The degree of power is therefore important to analyze and consider within decentralization policies and programming.

[13] Further readings on participation in land tenure, employment strategies and natural resource management (Bruce & Knox, 2009; Eversole, 2003; Agarwal, 2001), offer excellent examples of these distinctions.

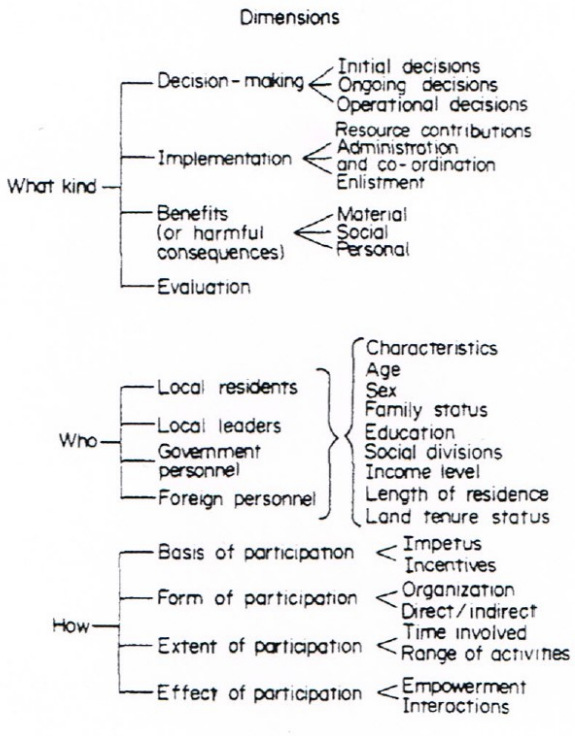

Figure 1. Participation's Place in Rural Development

Source: Cohen & Uphoff (1980)

Looking beyond Cohen and Uphoff's framework, the *why* of greater local participation is twofold. Theoretically it can be used to empower local populations, which is an important objective in its own right (Sen, 1999). From a revisionist neoliberal perspective, however, decentralization can also be used to foster economic growth and reductions in poverty. When Joseph Stiglitz (1998: p. 28-29) was appointed senior vice president and chief economist at the World Bank, he highlighted the reasoning behind this approach:

> At the microeconomic level, governments, aid agencies and non-governmental organizations have been experimenting with ways of providing decentralized support and encouraging community participation in the selection, design, and implementation of projects. […] It is not just that localized information is brought to bear in a more effective way; but the commitment to the project leads to the long-term support (or 'ownership' in the popular vernacular) which is required for sustainability.

Since this thesis explores how decentralization within formal economic institutions impacts not only local participation, but also the economic development as it relates to land security, my analysis uses this revisionist neoliberal understanding as a foundation.

Social Capital and Resistance

Putnam's (1993) conceptualization of "social capital", which draws on previous works of Coleman and Bourdieu (Wall, Ferrazzi & Schryer, 1998), analyzes the features of social organization– networks, norms[14] – that facilitate the coordination and cooperation of individuals for mutual benefit. Putnam's positive outlook on these features was quickly taken up by the World Bank in the 1990s because people had started to question the role of the state in governance approaches, while exploring community-level alternatives (Harriss & de Renzio, 1997). Putnam (1993) argues that social capital breeds trust which overcomes certain transaction costs related to uncertainty; facilitates information sharing which mitigates the need for state-led communication of economic information; and provides for informal sanctions that mitigate the free rider challenges of collective action.

A large portion of Putnam's work focuses the networks portion of social capital, which he terms "networks of civic engagement". According to Harriss and de Renzio (1997: p. 932), these are the "'associational life' – relating to groups and organizations that link individuals belonging to different families or kinship groups in common activities for different purposes." These links can also become institutionalized whereby members of the same network can take on a common name or identifier (Ferrazzi & Schryer, 1998). In contrast to Putnam, Harriss and de Renzio (1997) note that social norms are the most general form of social capital. Social norms are "defined by widely shared cultural beliefs and the effects these have on the functioning of a society as a whole" (Harriss & de Renzio, 1997).

In adding social capital to the economic lexicon, it is paralleled to other forms of capital, such as physical and human capital. It is important to note, however, that unlike physical and human capital, social capital does not have an inherently positive (or even neutral) effect. Although Bourdieu originally differed from Putnam (Ferrazzi, & Schryer, 1998) in that his conception of social capital allowed for varieties that had negative impacts on communities, in later work Putnam (2000) also highlights the negative potential of

[14] Putnam's description of social capital includes "trustworthiness", but Woolcock's definition distinguishes this as an outcome, rather than a source.

networks, which despite providing beneficial outcomes to their members, may also exacerbate frictions in the wider community. “Groups segregated by class, occupation, or ethnicity may build cooperation and trust only among group members, perhaps even encouraging distrust between members and nonmembers” (Keefer & Knack, 2005, p. 61). Additionally Godquin and Quisumbing’s (2006) examination of social capital in the Philippines demonstrates that there are divisions of outcomes amongst genders, meaning norms and networks can reinforce divisions even amongst members.

Despite its negative potential, the concept of social capital is closely tied to arguments for decentralization since it recognizes the power of social conventions and community ties that can be leveraged at the local level for development purposes. As a result, social capital theory has facilitated the push to bring governments closer to the local level in order to create locally catered solutions that garner full ownership from the community.

There are also strong links between social capital theory and the NIE framework, considering the concepts of local norms and local networks aid in the analysis of social and political informal institutions respectively. For example, one of the main components of informal social institutions is the cultural values within the society it incentivizes. Meanwhile, structural links between families or clans are integral to informal political institutions. Both components – norms and networks – therefore work in tandem to incentivize and structure individuals and their behaviour.

Social capital can also be leveraged by organizations and individuals to resist and contest the legitimacy of formal and informal institutions. Scott’s (1985) resistance framework aids in the analysis of this behaviour as he highlights the “everyday forms of resistance”. When examining different forms of resistance, Scott (1985) challenges Gramsci’s notion of cultural hegemony by highlighting the power of the peasant. Building on Genovese’s (1976) classifications of significant versus pre-political forms of resistance, Scott determines that there are “real” and “token” forms of resistance, whereby the latter – defined as off stage, individual acts of resistance – are surprisingly powerful. As Scott points out, “the inclination to dismiss 'individual' acts of resistance as insignificant and to reserve the term 'resistance' for collective or organized action is misguided.” In fact, very few modern

revolutions were achieved without the occurrence of token acts of resistance, in a consistent pattern (Scott, 1985, p. 297).

Traditionally significant forms of resistance, such as protests and petitions – the "real" forms in Scott's framework – are defined by their motivation to challenge the social order or current system. In contrast, considering the material deprivations of peasant life, peasant resistance – the "token" forms in Scott's framework – is most often motivated by the drive to gain work, land and income, and is rarely done with a long-run revolutionary idea in mind (Scott, 1985).

"Real" and "token" forms of resistance therefore provide greater clarity in analyzing how individuals and organizations interact with institutions. According to Scott's framework (1985), "real" forms of resistance (e.g. strikes, demonstrations, occupations) are easily observed due to their open and organized nature, and are likely exhibited by organizations due their collective action approach. Meanwhile "token" forms (e.g. shirking, gossiping, tax evasion) are off-stage and singular in manner, meaning they are exhibited by individuals. Consequently, this thesis looks to unpack the influence of organizations by analyzing their "real" or organized forms of resistance to the formal economic institution of land tenure, as well as the influence of individuals' resistance through their "token" counterpart.

Chapter 4: Uganda, Buganda and Kayunga: Situation Analysis

Overview

Certain parts of the 1995 Ugandan Constitution and 1998 Land Act are especially relevant to my research objective and therefore call for detailed investigation. These include the prioritization of one customary tenure model (Mailo) over the others and the choice of a new state-led local governance structure over existing local customary structures. The District of Kayunga provides an environment where the different types of customary tenure model – Mailo versus general customary – are contested and where power struggles between different customary leaders are prevalent.

Kingdom of Buganda

The District of Kayunga is situated in the Kingdom of Buganda, which is run by a customary organization known as the Mengo Establishment under the leadership of the

current king or "Kabaka", Ronald Muwenda Mutebi II. In theory, the Kabaka derives his authority from his subjects who are within the kiganda[15] clan and/or within the Kingdom's territory, which occupies most of Central Uganda (see Figure 2). The land tenure system within this territory is of note as it has undergone many changes and is historically rooted in the colonial period (1890 – 1962).

Figure 2 –Kingdom of Buganda in Uganda

Source: The Buganda Home Page: www.buganda.com (2014)

When the 1890 – 99 War between the Bunyoro-Kitara kingdom and the British-Buganda alliance came to an end, an agreement – known as the 1900 Agreement – between the Kingdom of Buganda and the British colonial power was signed. This agreement formalized the Kabaka's ownership of 350 square miles (roughly 906 square kilometres) of land and formally parcelled out additional land to chiefs, notables, colonial administrators and religious organizations – mainly Catholic, Protestant and Islamic. This agreement

[15] "Kiganda" is the adjective used to describe anything of Buganda origin.

therefore laid the foundation for the country's first formal tenure models: crown land, freehold[16] land and "Mailo" land. Crown land or "Mailo Akenda" was held by the Colonial Government and measured 9000 square miles, freehold was held by religious institutions, and Mailo was held both in trust by enduring estates, such as that of the Kabaka, and privately by individuals, such as chiefs and notables.

Although similar to freehold, Mailo differed due to its feudal structure in that land was formally owned by those who had received formal title in the 1900 Agreement, yet was still tilled by the peasants or "bibanja" who had resided on the land previously. This new tenure model allowed the newly established landlords to collect rent from the bibanja through two instruments: "busuulu" (an annual ground rent) and "envujo" (a percentage of a peasant's harvest). While rents escalated in the subsequent years, the 1927 Busuulu and Envujo Law eventually regularized and fixed the amounts of both payments, which eroded their value over time, as well any desire to collect them [17] (Lastarria-Cornhiel, 2003).

After Uganda gained independence in 1962, President Milton Obote made some changes to the land tenure system, such as the 1967 Constitution, which formally abolished all kingdoms, thereby stripping the Kingdom of Buganda of its authority, and the 1969 Public Lands Act, which vested all Crown land in the state, thereby stripping the Kingdom of Buganda of all its estate Mailo land. Later, under President Idi Amin's rule (1971-79), the land tenure system underwent more change when the 1975 Land Reform Decree vested all land in the state. Although largely ignored in practice, this Decree formally stripped full ownership rights from all freehold and individual Mailo owners by converting these tenure models to leaseholds. Within this new model, all Ugandans were officially required to lease land directly from the national government (Green, 2006).

When the 1995 Constitution and 1998 Land Act came into force, Mailo land – both estate and individual – and freehold land were formally re-established, while uncontested leasehold land was maintained and customary tenure models of those residing on public land were officially recognized.

[16] Freehold tenure refers to land interests that are individualized and formalized.
[17] The payments amounts become miniscule in real terms due to inflation.

District of Kayunga

Meanwhile, the District of Kayunga, although previously independent, was forcibly included in the Kingdom of Buganda as a part of the 1900 Agreement. The British Protectorate transferred the land to the Kingdom of Buganda as a result of the defeat of the Bunyoro-Kitara Kingdom in the 1890 – 99 War (Hunt, 2004)[18]. Kayunga was never released from the Kingdom of Buganda and is now known as one of Bunyoro's "Lost Counties"[19], which have maintained a relationship of tension with the Kingdom of Buganda (Nakayi, 2007).

Present day Kayunga District is located along the Eastern edge of the Kingdom and is known to the Kingdom as Bugerere County (see Figure 3).

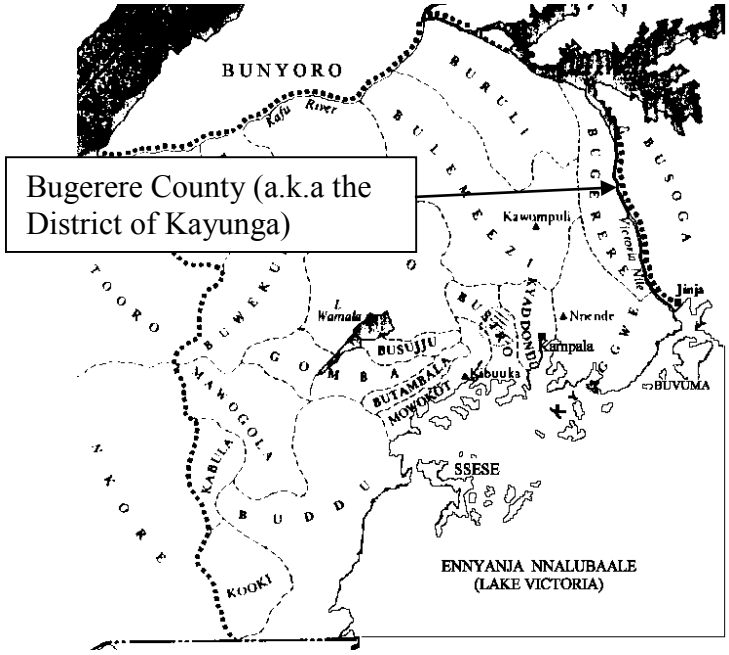

Figure 3 – Bugerere County in the Kingdom of Buganda

Source: The Buganda Home Page: www.buganda.com (2014)

Despite the District's continued position within the borders of the Kingdom of Buganda, the current land tenure models in Kayunga differ from that of the rest of the Kingdom in one significant way. When the 1998 Land Act came into force, the tenure

[18] The district of Kayunga, under the rule of the Banyala and Baruuli people, had aided the Bunyoro-Kitara Kingdom in the 1890 – 99 War.

[19] The Lost Counties include the counties of Buyaga, Bugangaizi, Buhekula, Buruli, Bulemezi and Bugerere.

model in Kayunga was formally switched from one of leasehold – like everywhere else – to one mainly of customary, with a few private Mailo parcels, freehold, and leasehold areas mixed in wherever titles had been previously issued by the government. What is significant is that no estate Mailo land (specifically that had been held in trust by the Kabaka and managed by the Mengo Establishment) was re-established in Kayunga despite having previously existed in this area for Buganda administrative centres.

Previous to the 1995 Constitution, the 1993 Traditional Rulers (Restitution of Assets and Properties) Act reinstated the land of Uganda's traditional leaders, noting specifically that some land should be immediately handed back to the Kingdom of Buganda. However, land where competing claims of other traditional rulers made restoration controversial was left to future negotiations between the government and traditional rulers "with a view to returning to them such assets and properties as may be agreed" (Traditional Rulers Act, 1993). The 1995 Constitution then re-established the Kabaka as the cultural leader of the Baganda, as well as the leaders of *all other* cultural institutions in Uganda, which included the Ssabanyala, who is the traditional leader of the banyala population residing in the District of Kayunga[20]. As stated in Article 246 of the Constitution (1995), "for the purposes of this article, 'traditional leader or cultural leader' means a king or similar traditional leader or cultural leader by whatever name called, who derives allegiance from the fact of birth or descent in accordance with the customs, traditions, usage or consent of the people led by that traditional or cultural leader." The 1993 Traditional Rulers Act and the 1995 Constitution thus allowed for the persistence of competing claims of traditional/cultural leaders in certain areas – the District of Kayunga being one of them.

The Kabaka continues to assert that the District of Kayunga belongs to the Kingdom of Buganda as demonstrated by his statement during a Kingdom tour early in 2014: "it is well-written in the Constitution of Uganda where the boundaries of Buganda reach, and, which counties are found in Buganda. In the laws that govern us, Bugerere [Kayunga] is a county of Buganda, without doubt" (*Daily Monitor*, 30 January 2014). Yet, in the years that followed the 1998 Land Act, Kayunga residents of Banyala origin – the cultural group associated with the previously independent territory of Kayunga – lobbied the state to be

[20] The current Ssabanyala is Lt. Baker Kimeze.

recognized as their own District within the new decentralized governance model[21] (FHRI & ILC, 2011). The same cultural group then pushed for Kayunga's secession from the Kingdom of Buganda, as witnessed by various Memorandums to the President (Mubwijwa, 2004) and anti-Buganda riots in 2009 (*BBC*, 11 September 2009).

The possibility of future negotiations to change the current customary land tenure model in Kayunga to a kiganda-driven Mailo tenure model therefore makes this area rich in issues related to the 1998 Land Act's competing customary land categories. It also offers a situation in which non-customary, decentralized governance structures have unintentionally empowered local customary organizations rather than replacing them.

Looking beyond land administration and management, the District also offers a site where land tenure security was top of mind during my field research due to a political scandal relating to land grabs in the District. In 2012, the president appointed a Kayunga MP, Ms. Idah Nantaba, to review and reverse alleged "land grabs" in this region, and throughout the country (*The Observer*, 20 March 2014). Due to a variety of news stories on her activities since then, some of the Kayunga population had a heightened awareness of the ineffectiveness of the formal land tenure institution by the time I arrived in Kayunga in late February of 2014. Consequently, the site and timing of my research offered a prime opportunity to collect relevant data for my research objective and questions.

Additionally, Kayunga offered demographic and socioeconomic profile of persistent poverty and subsistence agriculture (See Table 2), which is comparable to many other parts of Uganda and Africa.

[21] Kayunga was officially recognized as its own district in 2000. It had formerly been recognized as part of the district of Mukono.

Table 2. Selected Socioeconomic and Demographic Information for Kayunga

Total population (2002)	294,613
% of population living below the poverty line (2002)	36% Crop farmers in my research area are identified by the District Council as one of the top three pockets of poverty in the District.
% of population in urban areas (2010)	7%
% of population below the age of 18 (2010)	59%
Literacy rate (2010)	33%
% of households with access to safe drinking water (2010)	70%
% of households with access to electricity (2010)	4.7%
% of households dependent mainly on subsistence farming (2010)	73% Note: My research area is mainly engaged in crop farming, whereas the northern part of the District is known for pastoralism.
% of population employed in subsistence agriculture (2010)	96%
% of dwelling units that use permanent construction materials (2010)	21%
% of households that own a radio (2010)	46%
% of population with HIV/AIDS (2010)	17 – 22%
% of households that receive news via word of mouth (2010)	51%
Main ethnic groups (2010)	The main ethnic groups are Baganda, Basoga, Bagisu, Banyala, Banyarwanda and some West Nile tribes.
Main crops (2010)	Banana, sweet potatoes, cassava, maize, beans and groundnuts for subsistence purposes. Fruit for commercial purposes. Note: Coffee used to be important until the coffee wilt disease hit the district in (1993)

Source: Kayunga District Local Government (2010)

Chapter 5: Research Methodology

Overview

My research was conducted using a qualitative, case study approach, through which I employed a mixture of ethnographic methods. Specifically, I chose to use a Rapid Rural Appraisal (RRA) approach (Scrimshaw & Gleason, 1992), whereby I approached my field research in an exploratory, flexible, and interdisciplinary, yet expedited manner. My RRA methods included an extensive literature review, a detailed analysis of pertinent legislative documents (with a special focus on Uganda's 1995 Constitution and the 1998 Land Act), a daily media scan of online Ugandan newspapers from July 2013 to January 2015, semi-structured interviews (three with higher-level land officials and eight with key informants, such as lawyers, ministers and professors), a daily journal of informal observations made in the research area (through chance encounters and conversations) from February to May 2014, and seven focus group discussions with villagers in a single Sub-County. In addition to providing a wealth of data, the diversity of these sources enabled me to use the RRA approach of triangulating data to determine the consistency of my findings.

In an effort to tailor my research methodology to my theoretical framework, I explored pertinent legislative documents to determine how the formal economic institution of land tenure was adapted by the state, and I conducted interviews and focus groups at the local level to determine how the informal social and political institutions had evolved since this adaptation. I also designed my focus group and interview questions to gain a better understanding of how individuals and organizations were dually influencing these institutions and the greater hybrid institutional environment through real and token forms of resistance.

Research Site Characteristics

When looking for a small and manageable research site within Kayunga, the Sub-County level offered both the best size and best level of entry into a community of potential participants. In the interest of having a large pool of participants to draw on, I chose from five of the more densely populated sub counties in Kayunga's Southern County of Ntenjeru: Kayunga (Sub-County), Kangulumira, Busaana, Nazigo and Kitimba (Nakayi, 2007) (see Figure 4). My final decision was then based on discussions with a local NGO that worked in

the District. After my arrival in Uganda, the local NGO and I agreed on a Sub-County based its location in terms of safety, resources and access[22].

In order to access contacts in both this Sub-County and the city of Kampala – approximately 85 km apart – I chose to stay with a local NGO based in Mukono town, which offered a safe place to board about 60 km south west of the District of Kayunga and 25 km east of Kampala. The NGO assisted me by offering daily insight into Ugandan culture, providing some transportation within Mukono town and the District of Kayunga, and supplying some helpful contacts at the Mukono District Land Office, the Sub-County Headquarters and the Ministry of Lands, Housing and Urban Development in Kampala. Although the staff at the NGO had done projects in the my chosen Sub-County before, they had not worked with anyone I spoke with and, to avoid biases, I made sure to dissociate myself from the NGO when talking with local officials and residents in this area.

[22] To maintain the anonymity of my key informants in the Sub-County Area Land Committee and the local residents who participated in my focus groups, this paper does not identify which Southern Sub-County I conducted my field research in.

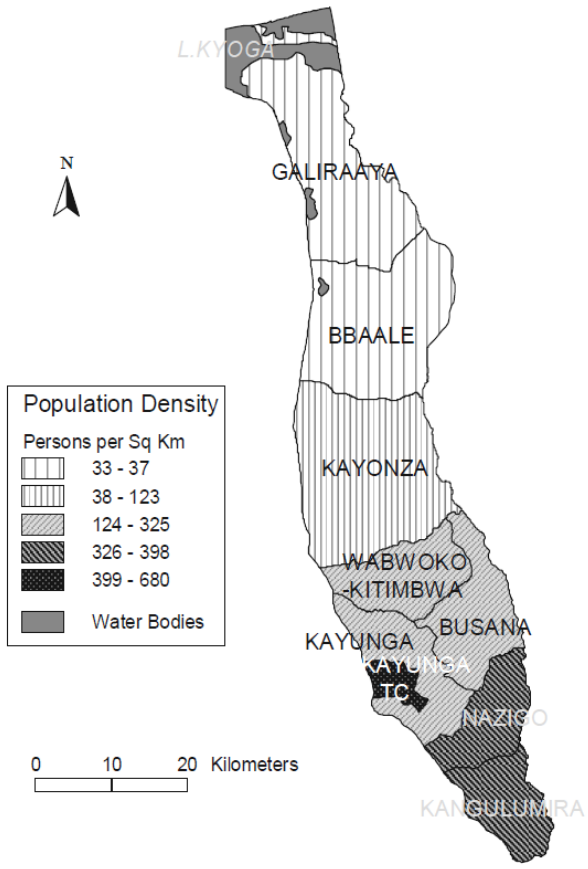

Figure 4. Kayunga Sub Counties by Population Density

Note: spellings of certain sub counties differ according to different anglicizations of their names.

Source: Kayunga District Local Government, 2010, p. 5

I conducted my field research during the middle of Kayunga's rainy season (from early March to early May 2014), which made it difficult to move around. Yet it also gave me the opportunity to better understand the poverty levels specific to that particular Sub-County, since the wet season is usually the most difficult time of year for those whose livelihoods depend on agricultural land. As people wait on harvests which are typically ready in the dry season, issues of livelihood can become increasingly topical as poverty levels often increase as the harvest approaches (Chambers, 1983). Thus, conducting my research during the rainy season likely lent a deeper understanding of the socio-economic challenges in my area of

study[23]. It also meant that I took extra care in how I addressed my participants on this topic to ensure I was sensitive to any hardship they were enduring.

While the official national language of Uganda is English, the majority language of the Kingdom of Buganda is Luganda (Nakayi, 2007). Therefore, although English was prevalent enough for me to converse with some key informants and higher-level land officials at the Land Offices in Mukono and Kayunga, I required a translator for discussions with Sub-County residents and lower-level land officials. Fortunately, the NGO I was staying with had one female staff member who spoke fluent English and Luganda, and who was willing to take on the project. Having grown up along the border of Kayunga and having worked with both Kayunga residents and Western visitors, she offered an excellent understanding and perceptiveness of how to relay communication between myself and my participants[24]. She was also crucial for my navigation of the Sub-County and important to my safety when coming home from fieldwork that lasted past sunset.

Interviews and Focus Groups

Before entering the field[25], I conducted extensive desk research and had key informant semi-structured interviews with the Uganda Country Director for Trocaire[26] and the head of a Canadian NGO in Masaka[27] to learn a bit more about the current situation on the ground. Once in Uganda, I conducted exploratory research through key informant semi-structured interviews with the Chief Administrative Officer for the Sub-County, a land official from the District of Kayunga, members of the Uganda Land Alliance[28], a consultant with the National Planning Authority[29], a previous state Minister for Agriculture, members of the Area Land Committee in my chosen Sub-County, and a professor at Makerere University in Kampala. In addition to gaining a broader understanding of the current

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[23] As Chambers (1983) famously remarked, dry season bias is one of the most common forms of bias in rural development research.
[24] She signed a non-disclosure agreement to prevent any ethical issues had she known any of the residents or low-level officials.
[25] An overview of my ethical considerations prior to entering the field is given in a later section.
[26] Trocaire is an Irish NGO and donor organization that is active in Uganda. The Country Director had just returned from learning about land rights in the district of Karamojo.
[27] The NGO had been involved efforts to title land for a community library in Masaka, which is another district in the Kingdom of Buganda.
[28] A local NGO that advocates for land rights in Uganda.
[29] The primary function of the National Planning Authority is to produce comprehensive and integrated development plans for the country.

situation in Uganda due to these various perspectives, many of these meetings also allowed me to build contacts within my other two participant categories:

1) Land officials - the inclusion criteria for this group was a mastery of the English language (to avoid translation-related misunderstandings and because I lacked the resources to create transcripts of the interviews in Luganda); a willingness to speak with me; and a high ranking position at the government or Buganda land offices in Mukono or Kayunga.
2) Local residents - the inclusion criteria for this group was a willingness to speak with me and being thirty-five years old or older. This age range offered a pool of people who were over the age of twenty when the 1998 Land Act was enacted, and who were therefore aware of its impact.

Using the contacts gained from my key informant meetings, I then sought out representatives from the *District* Land Office and the *Buganda* Land Office in Mukono, as well as the *District* Land Office in Kayunga[30]. In all cases, I first spoke with the highest ranking official in the office, to offer an overview of my research purpose and semi-structured interview questions before requesting interview time with their staff. At all offices I was eventually offered one hour of interview time with at least one representative[31].

Meanwhile, I also used the contacts gained from my conversational interviews with the Area Land Committee in my chosen Sub-County to organize focus groups with local residents from four Parishes – the division of land below the Sub-County level. Although my initial plan was to conduct one-on-one interviews and gather a representative sample of residents for a random selection of participants, I quickly realized that I would need to change tack and adopt a sampling strategy based more on self-selection and opportunistic sampling.

The Chief Administrative Officer for the Sub-County had initially offered to contact the members of the Area Land Committee to ask if they would be my guides and means of organizing interviews within the Sub-County. While I knew they would be knowledgeable

[30] There was no Buganda Land Office in Kayunga as the one in Mukono is responsible for this area.
[31] Representatives at the Regional Buganda Land Office in Mukono did not have enough information to answer my questions, so I was redirected to the main office in Kampala.

regarding the unique issues of the Sub-County and well connected with the Parishes and villages within it, I was wary of the possible bias the Area Land Committee members might create in my local resident samples since they had a vested interest in the land reform[32]. Yet, the Chief Administrative Officer had no one else to suggest and he was my only connection to that Sub-County's population.

As a result, I met with the Area Land Committee members to determine if there was a way of working together that would minimize any possible bias or influence. Through multiple meetings we came to an agreement in which they would select and contact a variety of interview participants (accounting for differences in gender, ethnicity, and socio-economic status) in as many different Parishes as possible. They would organize these participants to meet with me and my translator and then accompany us to the community to introduce us and explain the need for the participants' contribution. After this point, my translator and I would take over in organizing the interviews. Although this arrangement still gave the Area Land Committee room to create selection biases, after seeing the diversity of participants at our pilot meeting and realizing there were very few personal links amongst them and the Area Land Committee, I was reassured that their influence was minimal. Additionally, although I had hoped for a representative sample and a random selection approach, in light of the small pool of participants to choose from and considering the limited scope of the Area Land Committee's connections and resources[33], I opted for a partially purposive, partially voluntary, maximum variation sampling of the population instead in order to gain as broad-based a cross-section of local residents in the area as possible.

Our pilot meeting presented some other areas in which compromise was needed as I quickly realized that none of the potential participants wanted to speak with me individually. I therefore switched strategies and requested focus group style interviews with small groups of six to ten people instead. I asked willing volunteers to come forward and then with the help of the Area Land Committee organized them to sit with me in a smaller area. Unfortunately, it was impossible to move the others out of earshot; however, I was clear with

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[32] Although Area Land Committee members are not salaried, they do receive money from the community for their time and transport. Their authority is derived from an amendment to the 1998 Land Act which called for the creation of these committees to govern land at the Sub-County level.

[33] Another sample bias that was inherent to my research was that people who felt extremely insecure in their land access or unhappy with the impact of the land reform in that area may have been excluded from the sample population on account of them moving to other areas in search of better security or different impacts.

participants at the beginning of the interview that they should refuse to respond to anything they were uncomfortable with and leave at any point if they wanted to. Two participants (from separate focus groups) left part-way through their focus groups. One came back near the end of the group discussion and I am unsure as to why he left, while the other left because she was unable to use the level of English or Luganda required for the group discussions.

I used the first hour of the interview to conduct questions in a roundtable format, asking each participant (i) how and when they came to the Parish, (ii) how they acquired their land, (iii) how big their parcel of land was and (iv) how their land use and land-related income had changed over time. This allowed me to get a sense of the overall diversity of the group and pull out specific themes that were unique to that Parish (i.e. if land was mostly inherited or purchased what tenure models are likely in practice as a result). I used the following hour to generate discussions amongst the group on (i) how land is managed in the community, (ii) how secure they feel in their access within this model, (iii) how aware they are of their formal rights, (iv) how engaged they are in the newly decentralized land system, (v) how happy they are with the most recent reforms, and (vi) how they are able to resist or change it in their communities if they are unhappy.

There were certain challenges in using a focus group model. First and foremost, the roles of recorder, facilitator and translator had to be shared between two people rather than three. Fortunately, the translator and I lived together and so we were able to spend a significant amount of time preparing before and debriefing after every focus group. In doing so, I would learn about any dialogue that I had missed during a focus group and give advice on how the translator could improve for the next group, which allowed the discussions freedom to flow in Luganda. Another challenge was my inability to glean some of the nuances in how answers might differ by gender, ethnicity and socio economic class as all groups were mixed in this regard. I had tried during the pilot meeting to separate participants at least by gender, but the women had expressed that they felt more comfortable participating in mixed groups. As such, although I missed some nuance in terms of responses and discussions, participants at least felt comfortable to speak freely in the presence of others

despite their diversity[34], and with the help of my translator/facilitator, I was able to ensure everyone had a chance to speak. My translator also noticed that the group dynamic appeared to give those who were shy in my presence, an added sense of confidence.

In light of these mitigation strategies – and my lack of other leads to gain contacts in these communities – the Area Land Committee members and I agreed that we would continue with this focus group model and conduct six more focus groups in three other Parishes. I therefore conducted seven focus groups with six to ten people in four different Parishes in total (see Annex B for schedule of Focus Group Discussions).

As these focus groups came to an end, I lined up additional key informant semi-structured interviews with a Ugandan land lawyer and the Junior State Minister for Lands, Ms. Idah Nantaba. Using the RRA approach of rapid and progressive learning (Scrimshaw & Gleason, 1992), I used my new found understanding of which issues and subject matters were most important on the ground, gleaned from my interviews with land officials and local residents, to engage in discussions with these experts on those themes.

Upon completing these meetings[35], I had gathered roughly 25 pages of journal entries and notes from my unrecorded informal meetings, roughly 130 pages of transcriptions from my six recorded interviews and informal meetings[36], and roughly 20 pages of notes from my seven focus groups. By identifying common key words using the counting functionality within Microsoft Word and then manually coding common themes across these various sources of data, I was able to triangulate and compare the responses from key informants, land officials and local residents.

Please note that, although the following paper offers some understanding on how opinions and perspectives of local residents varied by gender, due my research scope and the time limitations of my field research there is no in-depth analysis of this or any other differentiating factors amongst my participants (i.e. socio-economic status, ethnicity or migrant status). Thus it is important to bear in mind that my findings related to 'local

[34] One man noted the cultural inappropriateness of sitting next to his wife's parents in a group but this was solved by having him sit at the back of the group.
[35] I spent roughly two months in the field collecting this data from the first week of March to the first week of May 2014.
[36] I have formal notes for one additional interview in which the audio recording failed.

residents' do not explore how opinions and perspectives varied within this heterogeneous group.

Methodology for Specific Research Questions

I have used these primary sources of data and other secondary sources, such as media reports and legislative documents, to tackle my research questions in the following ways:

1. How and to what degree have the 1995 Constitution and the 1998 Land Act decentralized power over land management and administration, both in policy and practice?
   My analysis of what form and to what degree of power has been decentralized in *policy*[37] is based on my examination of the 1995 Constitution and the 1998 Land Act, and my review of a variety of literature that has critiqued these two pieces of legislation. Meanwhile, my analysis on how this compares to what form and to what degree has been decentralized in *practice*[38] in my research area is based on my comparison[39] of responses from key informants, land officials and local residents, as well as other studies on the impacts of decentralization within the Ugandan land reform. In the case of both policy and practice, I use Cohen and Uphoff's (1980) framework of participation to determine what degree and form of power has been decentralized to local residents and local customary leaders. I then analyze how the level of decentralization in practice has influenced local norms and networks in my research area.

2. Has this decentralized power manifested itself at the local level through real or token resistance strategies to influence de facto and de jure land tenure models?
   Although "real" forms of collective action are more easily observed, Scott (1985) posits that their "token" counterparts are equally powerful. From shirking to gossiping, 'offstage' resistance behaviours can become significant forces when in consistent patterns, such as tax evasion or failed institutional reforms. Therefore, in analyzing whether de facto levels of decentralization have influenced the local level to resist or

[37] In reviewing decentralization "in policy" this paper focuses on how decentralization was written into policy and legislation. There is a focus on that which is written in this approach.
[38] In reviewing decentralization "in practice" this paper focuses on how decentralization has in fact been enacted through its de facto application at the local level.
[39] All comparisons of responses from key informants, land officials and/or local residents were done by coding common themes within my journal, notes and transcriptions.

adapt elements of the land reform, I explore both open or "real" forms of resistance, as well as more concealed or "token" forms. My analysis of the real forms compares responses from land officials, key informants, Ugandan news articles and Memoranda from customary leaders to the central government to understand how the land reform is being openly resisted by local customary leaders in my research area. Meanwhile, my analysis of the token forms compares the responses from local residents regarding their opinions on the land reform and their use/disuse of the formal system to understand how the land reform is being covertly resisted by local residents. In the case of both real and token forms, I demonstrate how these different forms of resistance are challenging the state's attempts to change how land is managed and administered in this area.

3. How have the de jure and de facto land tenure systems been transformed as a result? My analysis of how the de facto land tenure system has been transformed as a result of real and token resistance begins by reviewing the current de facto land tenure system in my research area. After highlighting various aspects of this tenure model using land tenure literature, I then explain how new legislation and a new Memorandum of Understanding (MOU) will change the de jure tenure system in this area, thereby likely changing the de facto system as well.

4. Have these alterations had an impact on individual perceptions of land tenure security? My analysis of this question is based on my examination of responses from local residents regarding the topics of security, as well as if and how this is linked to their de facto tenure model. My analysis also examines responses from land officials and Uganda news articles in an attempt to offer insight on the potential for change and its implication for local residents' land tenure security perceptions.

Ethical Considerations

In order to adhere to the highest ethical standards while conducting my field research, I gained ethics clearance from both the Ugandan government – through the Uganda National Council for Science and Technology[40] – and the University of Ottawa[41] before conducting

[40] My research registration number is SS-3218 and I gained approval on July 22nd 2013.
[41] My file number is 05-13-06 and I gained approval on January 21st 2014.

my field research. I also offered to protect the anonymity of my interview and focus group participants by ensuring my research assistants signed non-disclosure agreements; by maintaining the security of the respondents' information throughout the duration of my research (and for a period of five years afterwards); and by masking the respondents' identities in my final report. This offer of anonymity was provided through both a written and/or verbal "informed consent" statement, which I presented at the beginning of every interview and focus group. This statement also provided for other clauses which informed respondents of the risks and benefits of their participation, and asked for their voluntary consent to participate in my research. In all of the interviews and focus groups, I obtained the voluntary, prior and informed verbal and/or signed consent of my respondents.

Due to a low rate of English literacy amongst local residents, my consent statement was offered to this group in both English and Luganda. It was given to each participant in a written document and read aloud at the beginning of every focus group, after which participants were requested to indicate their consent through their signature or an "x" based on their level of literacy. Although there were many heated discussions regarding my credentials and right to be there given my position as a foreigner, after explaining my research purpose and intent, I managed to recruit voluntary participants in every village I visited.

Key informants and land officials on the other hand were offered a consent statement in English only, as their positions required English literacy. Their consent statement was also different in that it requested their additional but separate consent to be audio recorded, offering them the right to approve the resultant transcripts. Not all land officials and key informants were audio recorded, but those who were had given their voluntary, prior and informed consent. Interestingly, amongst my key informants, many felt that signing the statement was unnecessary (and in some cases below their station), and were therefore content in giving me their verbal consent instead.

One ethical challenge that presented itself was that many local residents questioned why I had not looked at this issue in my own country before coming to Uganda. It was a difficult question to answer both to them and myself. Given my position as a "white foreigner" or "mzungo", and their historical relationship with this category of actors (i.e. colonialists, missionaries and present day international NGOs) that has continuously

questioned their civility, intelligence and "traditionalism", I was cognizant of the need to ensure the participants that my interest was founded in a deep respect for their country's unique history and approach to land tenure. I therefore reassured my respondents by noting that Canada has its own land problems due to its problematic approach to indigenous populations, and that I had come to Uganda for deeper insight into these types of issues with the aim of using it for broader international interpretation. Upon returning to Canada, I have also sought to better understand Canadian domestic and international land policies. I have researched and co-authored a chapter on the international guidelines on responsible agricultural investment in an upcoming book set to be published with the United Nations University for Natural Resources in Africa (UNU-INRA). I have also remained deeply committed to my advocacy work with the Coalition for Equitable Land Acquisitions and Development in Africa (CELADA) where I work collaboratively with members of the African Diaspora to address the issue of land grabs in Africa. It is my hope that in applying my knowledge gained from Uganda to dynamic and critical land issues here at home, I will honour the great privilege I was given in speaking with such a diverse and open group of individuals in this Sub-County.

Additionally, in an effort to give back to the wider community in which I conducted my research, I volunteered through a locally-based NGO as a math teacher at a local high school in Kayunga. I have also agreed to disseminate this thesis to all land officials and key informants who registered an interest in reading the final product, as well as the Uganda National Council for Science and Technology. Finally, I have also committed to giving first publishing options to a Ugandan or East African journal should I author an article on this topic after my thesis.

PART II

Chapter 6: Data Analysis – Level and Impacts of Decentralization in Policy and Practice

Overview

Since Yoweri Museveni and his National Resistance Movement came to power in 1986, one of government's most ambitious institutional reforms has been its decentralization policy which is "held to be one of the most far-reaching local government reform programs in the developing world" (Frances & James, 2003, p. 325). Uganda's 1995 Constitution provides the legal basis for this decentralization programme, as many of its principles devolve functions, powers and services from the central government to a pyramid of local governments – known as Local Councils (LCs)[42] (see Figure 5). Its land-specific principles are further operationalized through the 1998 Land Act, which transfers the administration and management of land to local land boards, committees and associations.

The next chapter will present the extent to which power has been devolved in policy and in practice through the decentralization principles of these two documents by analyzing how participatory governance of land has increased at the local level in the District of Kayunga. Thus, in reviewing decentralization "in policy" I will focus on how decentralization was *written* into Ugandan policies and legislation, and in reviewing decentralization "in practice" I will focus on how decentralization has been enacted through the *de facto application* of these policies and legislation at the local level. Specifically, I will use Cohen and Uphoff's (1980) participatory framework (see Figure 1) to determine if and how power has been decentralized to specific actors identified in the "who" dimension of their framework. Given the data I was able to collect during my two and half months of field research, this paper focuses on two actors: local residents and local leaders (specifically customary leaders).

[42] In ascending order of community level, there are Local Councils (LC) at village (LC1), Parish (LC2), Sub-County (LC3), county (LC4) and district (LC5) levels.

Local council (LC) level/area	Status of LC	Political head and selection of representatives	Administrative head
District Council	Local District Government (LC5)	(a) Chairperson elected by universal adult suffrage (UAS) (b) One councillor elected from each Sub-County by UAS (c) Women make up 1/3 of council (d) Special councillors for youth and disabled	Chief Administrative Officer (CAO)
Municipality (Urban) County Councils (Rural areas)	Local Government Administrative Unit (LC4)	(a) Municipal Mayor (b) Council made up of all LC3 executives, who then elect LC4 executive and Chair	Town Clerk (Urban areas) Assistant CAO (Rural areas)
City Division/Town Council (Urban area) Sub-County Council (Rural area)	Local Government (LC3)	(a) Mayor (in urban areas) and Chairperson (in rural areas) elected by UAS (b) Councillors elected by UAS from each Parish (c) Women make up 1/3 of council (d) Special councillors for youth and disabled	Town Clerk (Urban areas) Sub-County Chief (Rural areas)
Parish Council	Administrative Unit (LC2)	(e) Chairperson selected by all LC1 executive members who make up the council	Parish Chief
Village Council	Administrative Unit (LC1)	(f) Chairperson elected by UAS (g) All adults (18 years) are council members	

Figure 5. Decentralization in Uganda: Key features of the institutional structures created by the 1995 Constitution

(Kakumba, 2010, p. 175)

Decentralization in Policy – Findings

The 1995 Constitution and 1998 Land Act created a network of integrated organizations to administer and manage Ugandan land: the majority of which are appointed at the local level[43]. The District Land Boards (LC5 level) were created mainly to hold and

[43] The Uganda Land Commission was maintained at the central government level to manage all public land. Members of this organization are appointed by the President with the approval of Parliament.

allocate land not already owned, facilitate the registration and transfer of land interests, and act as a lessor for previously granted leases. The Parish Land Committees (LC2 level) were simultaneously created mainly to verify boundaries and validate claims for land title applications, liaise between local populations and the District Land Boards, and assist in settling land disputes. Both organizations were to be autonomous in the exercise of their duties with their leader and members appointed by the elected District Councils[44]. Additionally, District Land Offices were created to offer District Land Boards technical services in areas such as physical planning, surveying, valuation and registration, while District and Parish level land tribunals were created to offer local mechanisms for land dispute resolution. Resources for the salaries, infrastructure and everyday costs of these District and Parish level organizations were legislated to come from locally generated revenues and central funding. In fact, the 1995 Constitution and the 1997 Local Government Act gave the Districts extensive powers to raise funds locally in order to ensure this as their main revenue stream.

From a land tenure perspective, the 1995 Constitution and 1998 Land Act brought about fundamental changes by shifting land ownership from the state to Ugandan citizens. Both documents declared that "land in Uganda belongs to the citizens of Uganda", "making Uganda the first State in Sub-Saharan Africa to vest its "radical title" in its Citizens" (Nakirunda, 2011, p. 18). Meanwhile, the government could still expropriate land for the greater public interest. As mentioned previously, both documents also provided for two customary forms of tenure: Mailo and a more general form of customary. The Mailo model was defined as freehold, with the exception of it permitting "the separation of ownership of land from the ownership of developments on land made by a lawful or bona fide occupant" (Land Act, 1998, Article 3(4)(b)), and making ownership rights "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" (Land Act, 1998, Article 3(4)(c)). The Act went on to identify lawful and bona fide occupants (known as bibanja[45] in Luganda) as people who:

(i) historically occupied Mailo land as a tenant;

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[44] Appointments to the District Land Board and Parish Land Committees were to be based on the recommendation of the District Executive Committee and the Sub-County council respectively.
[45] "Bibanja" is the plural form of "kibanja".

(ii) gained their landlord's consent for their tenancy;

(iii) were resettled by the government;

(iv) were unrecognized or uncompensated during the issuance of another person's leasehold; or who

(v) occupied land under any tenure model unchallenged for 12 years prior to the Land Act coming into force.

The Act provided for the registration of these occupants' land rights through the issuance of "certificates of occupancy", which were to be approved by the Land Committees after hearing both the occupant's and Mailo landlord's testimony. A lack of certificate did not change these occupants' rights, however, as the Act stated, "for the avoidance of doubt, the security of tenure of a 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" (Land Act, 1998, Article 31).

In contrast, the more general form of customary tenure was defined as being regulated by local customary conventions with "certificates of customary ownership" available in individual, household and community forms. The Act went on to offer provisions for Communal Land Associations, as well as their general regulation through constitutions of association, and their regulation of common land through common land management schemes. Therefore, the Act provided for a pluralist system in which state-led land boards and committees could operate alongside customary groups wishing to communally own and manage land according to their conventions[46]. Although the Land Act impinged on these groups' customs to a certain extent by requiring them be formally recognized by at least 60 percent of the community and represented by elected officers[47], the Act was otherwise non-prescriptive in its provisions for their regulation[48]. The Act also created an added sense of balance between state and customary land associations by requiring District Land Boards to consider the "particular circumstances of different systems

[46] Note that the Communal Land Associations provide for groups not under customary law as well.
[47] These elected representatives are then responsible for preparing a constitution to be approved by an absolute majority of the community.
[48] The common land management schemes are fairly prescriptive on the other hand.

of customary land tenure within the District" (Land Act, 1998, Article 60(1)) when performing their functions.

With respect to existing customary leaders on the other hand, the Land Act stipulated that a District Land Board may perform its functions "under the name of the institution of a traditional leader or cultural leader" (Land Act, 1998, Article 59(2)) as long as the leader is not given power of direction or control over the board. This and Article 129 of the 1995 Constitution – which stipulates that traditional leaders should "not join or participate in partisan politics" or "have or exercise any administrative, legislative or executive powers of Government or local government" – thereby demonstrate an allowance for a purely *symbolic* recognition of customary leaders. As Boone (2007) notes, the central government has removed land allocation from the portfolio of these leaders in order to ensure their power is diminished, and ultimately held in check against the power of the state. In fact, most governments are reluctant to decentralize power to local customary leaders, or to even officially recognize their cultural role, due to their potential for creating divisionary politics.

With respect to financing and resources, the Land Act provided for the registration of both Mailo and general customary tenure to be paid for by applicants according to a price scheme set out by the District Land Board. Within this financial framework though, the Land Act also offered applicants credit options through a "Land Fund" sponsored by the central government and international donors.

Looking at women's rights, although the Land Act did not provide for equal land rights through automatic joint spousal ownership, it did contain a clause that requires spousal consent before entering into a transaction on land that was acquired during marriage (Bomuhangi et al., 2011). Additionally article 28 of the Land Act recognized the right of women to access ownership or to occupy or use land as superseding the right of customary groups to manage land in accordance with their conventions. This means that customary associations with cultural norms that may have previously disadvantaged women can no longer override gender equality with respect to land. Equality between the sexes is further supported through additional provisions for female representation within District Land Boards and Parish Land Committees, with each requiring that at least one third of the members – meaning one of the five members – be female.

Decentralization in Policy – Analysis

In adhering to the Cohen and Uphoff (1980) framework, the next section will establish what kinds of participation have been formally enabled by Uganda's land reform for local residents and local customary leaders, as well as the ways in which this participation has been enabled (see Figure 1).

(i) Local Residents – Kayunga

In the case of local residents, participation in *decision making* activities is mostly indirect, through their elections of political representatives. Uganda's decentralized political system boasts universal adult suffrage at 3 levels of local government: LC1 (village), LC3 (Sub-County), and LC5 (District). Since it is the LC3 (Sub-County) and LC5 (District) level governments that recommend and appoint members to the District Land Boards and Parish Land Committees, local residents *indirectly* participate in *operational* decision making through the election of representatives in charge of selecting those that govern land locally. Much more *indirectly*, local residents also participate in the *ongoing* decision making since they elect the members of parliament (MPs) and President who enacted this legislation and who have the power to repeal or amend it. With respect to *initial* decision making, the central government reported wide consultations with civil society in drafting and revising the 1998 Land Act; therefore local residents were also able to *directly* participate in the creation of this legislation.

It is important to note here that the participation of female local residents in all of these decision making endeavours was supported through quotas for political and administrative representation and the involvement of women's rights groups in the consultations leading up to the finalization of the Land Act.

Local residents also participate in the *implementation* of the Land Act as they are required to partly fund the new land registration system through a user-pay model. They therefore contribute individual, voluntary *resources* to the decentralized land administration system. (See Annex C for fee structure.)

Local residents participate in the *benefits* of the Land Act through the *social* benefits of a more geographically accessible land administration system and state-funded courts dedicated to land dispute resolution. The 1995 Constitution and 1998 Land Act also

reinforced the land access rights of the majority of local residents whose previous tenancy arrangements had been defined as illegal squatting under the law. By reinforcing kibanja rights through the recognition of lawful and bona fide occupants on Mailo land and the recognition of customary rights, local residents participate in the *personal* benefit of added land tenure security within the formal land system. These benefits are *evenly* distributed, most notably for women, through the Act's provisions for gender equality in customary situations where their rights may have previously been disregarded.

Finally, local residents *indirectly* participate in the *evaluation* of the Land Act's impacts at the local level, once again through the election of their local and national representatives. Since LC5 (District) level governments receive annual reports from the District Land Boards (Land Act, 1998, Article 60) and are charged with communicating and liaising with the central government, electing representatives at this level of government allows local residents to indirectly participate in the evaluation process. The central government is also committed to working *directly* with civil society, to understand and incorporate this feedback. As a result, local residents are given the added opportunity to participate directly in evaluation through civil society consultation mechanisms.

(ii) Local Customary Leaders

In analyzing this group of actors, I focused on leaders who are important to my area of study, mainly the Kabaka Ronald Muwenda Mutebi II and Ssabanyala Lt. Baker Kimeze, who are the current leaders of the Kingdom of Buganda and Banyala cultural group respectively.

Given that the 1995 Constitution and 1998 Land Act disallowed the participation of local customary leaders in partisan politics or local governance mechanisms, both the Kabaka and Ssabanyala are given no participatory role in *ongoing* or *operational decision making* related to land management and administration. Similarly to local residents, however, they were given the opportunity to participate *directly* in *initial* decision making activities in state-led consultations that aided in the drafting of the Land Act.

The Kabaka was also empowered to indirectly participate in the *implementation* of the land reform through an *administration and coordination* function since the Kabaka's Mailo estate (350 square miles) had been previously reinstated through the 1993 Traditional

Rulers Act. Through the Land Act's restoration of Mailo as a legal tenure model, the Kabaka was therefore able to play a significant role in the management and registration of kibanja interests considering his position as the largest Mailo landlord in central Uganda[49]. In fact, the Kabaka's involvement was so substantial, that he created a set of Buganda-specific Land Boards to manage land relations between the Kingdom and the kibanja on Kingdom land. Kibanja on the Kabaka's land therefore need to consult with both the Buganda Land Board and District Land Board when registering their tenancy. In contrast, the Ssabanyala was afforded no opportunity to participate in any aspect of the implementation of the Land Act since his cultural authority based on land was only mildly reinforced by the 1993 Traditional Rulers Act[50].

The Kabaka and Ssabanyala both participate in the *benefits* of the 1995 Constitution and 1998 Land Act. Despite being removed from the political and administrative processes, both customary leaders have *socially* benefitted from the informal political power indirectly created through these pieces of legislation and the 1993 Traditional Rulers Act. The Kabaka's restored role as a large Mailo landlord, and the Ssabanyala's new role as a publically supported customary authority have increased their power as informal political representatives for local residents.

The Land Act also enables the very *minor* participation of the Kabaka in *material* benefits as he is now able to collect land rent under the Mailo tenure model on restored Kingdom land. This benefit is severely restricted, however, since ground rent for lawful and bona fide occupants is set out in the Land Act as not exceeding "one thousand shillings per year irrespective of the area or location of the land" (Land Act, 1998, Article 31 (5))[51]. Consequently, despite the restoration of a significant amount of land to the Kabaka, due to the Land Act's strengthening of kibanja land rights[52] and fixing of lawful and bona fide occupant ground rent, the Kabaka is unable to leverage this new land for any significant material gain.

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[49] The Kabaka owns 350 sq. miles of Mailo land, which he holds in trust for the Buganda people.
[50] Unlike the Kabaka, the 1993 Traditional Rulers Act did not provide for the return of land to the Ssabanyala.
[51] As of December 2014, the Canadian dollar equivalent of 1,000 Ugandan Shillings is roughly $0.50.
[52] Kibanja land rights were strengthened due to the 1998 Land Act's the legal recognition of lawful and bona fide occupants and the extensive support for their protection against evictions.

Finally, local customary leaders are unable to participate in the *evaluation* of the Land Act's impacts at the local level as they are unable to hold political or administrative roles related to the feedback structure of the state-led decentralized governance structure. They can, however, participate, like local residents, in civil society consultations, which influence the central government's analysis and incorporation of Local Council feedback.

Decentralization in Practice – Findings

Although many local land organizations, land rights and land principles were provided for in the 1995 Constitution and 1998 Land Act, many did not come to fruition in practice due to a variety of factors. Therefore, after presenting my findings on how the previously mentioned provisions have been implemented in practice, I will review all the participatory activities listed in the previous section – for both local residents and local customary leaders – to determine if they were in fact all facilitated in practice.

First and foremost, the government appears to have given little consideration to the budgetary implications of the 1998 Land Act (Bruce & Knox, 2009). As a result, with the creation of the Parish and District level land governance units and tribunals, the full time staffing requirements of the country totalled 20,000 positions, meaning "operating costs alone were estimated at UgSh[53] 19 billion (USD 15.5 million)/annum" (Bruce & Knox, 2009, p. 1364). Meanwhile, these staffing requirements only continue to increase as decentralization campaigns have resulted in the quadrupling of the number of Districts in Uganda since President Yoweri Museveni came to power.[54] Additionally, Bruce and Knox (2009: p. 1364) report that the "Land Fund capitalization and set-up and capacity-building costs were projected at UgSh 714 (USD 5.8 billion) and UgSh 23 billion (USD 18.8 million)." Consequently the total cost to implement the Land Act exceeded the annual budget for the Ministry of Land, Water and Environment (Ibid.).

These budgetary constraints had early repercussions for the Land Act as the government made its first amendment to the legislation in February 2001. In recognizing the lack of funds available for the extensive network of local land organizations required by the Act, the government allowed for Ugandans to continue using the regular local court system

[53] UgSh is short form for Ugandan Shillings.
[54] Additionally, the more districts created, the more land disputes are likely to cross district boundaries and require the involvement of double the amount of staff as each district must get involved.

until there were enough resources to fund the creation of the land tribunals. Then in March 2004, the government made a second amendment to the Act, which abolished the need for Parish level land tribunals altogether, yet maintained the need for Ugandans to defer to local courts in the continued absence of funds for District-level tribunals. This second amendment also re-established the level at which the Land Committees would be instated by moving them from the Parish (LC2) level to the Sub-County (LC3) level. Considering the Sub-County's higher position in the pyramid of local councils, there were far fewer committees to staff as a result. Additionally, the amendment simultaneously changed the wording in Article 64 to allow for land committees to be created on a needs basis, and made the wording in Article 59 less prescriptive regarding which positions were required within District Land Offices. As a result, the legislative requirements for the land management and administration structure drastically changed after 2004.

Within this shrunken governance structure, governance selection processes are also less decentralized in practice than what was outlined in the Land Act. Both a previous study by Nakirunda (2011) and one of my key informants from the Uganda Land Alliance confirmed (Informal Discussion, 18 March 2014) that in practice there is an added step of forwarding all selected District Land Board members to the central government for approval[55]. This is an important additional step because it reduces the level of authority that the local level has over the leadership of its network of land organizations.

When looking at the judicial portion of this network, the Land Act and its subsequent amendments have created chaotic resolution mechanisms for land disputes; the institutional setup may actually increase transaction costs and/or prompt citizens to avoid formal institutions. Specifically, several dispute resolution fora, such as "the Chief Magistrate's Local Council II and III Courts, family and clans, resident District commissioners, and District land boards" (Budlender & Alma, 2011, p. 48), coexist with little coordination. This disorganization can be traced back to an array of conflicting decentralization policies enacted throughout the past three decades.

The Local Council Courts were created in 1988 to provide a more geographically accessible legal system that was also more mindful of local customary conventions. The 1988 Executive Committees (Judicial Powers) Act established the LC1 (village-level) court

[55] The Land Act only requires that the members be elected by the district (LC5) level local council.

as the first court of instance with the LC2 (Parish-level) court handling all appeals (Burke & Egaru, 2011). The 1998 Land Act provided no reference to these local council courts, and how they would integrate with the newly created land tribunals, until an amendment in 2004 which recognized the LC2 court as court of first instance for all land matters. Despite this eventual integration, the LC2 courts were later stripped of their status in 2007 due to a constitutional court case that highlighted the unconstitutional nature of the village (LC1) and Parish level (LC2) local councils because they had yet to be re-elected under the country's new multiparty political system – a system re-established in 2005 (Key informant interview, 2014; Burke & Egaru, 2011). Although the Ugandan government passed the 2008 Local Government (Amendment) Act, which provided for the re-election of these local councils under the new multiparty system, new elections have yet to be held due to funding constraints (Informal Discussion, 18 March 2014). And since previous Parish local council (LC2) members continue to hold office illegally, their appointed LC2 courts are now deemed to have been created outside of the law, thereby disrupting the prescribed first step in the legislated process for land disputes.

According to Burke and Egaru (2011: p. 9), "while many within the court system continue to work with the LCIIs, there is growing confusion concerning the role of LCIs and LCIIs and an urgent need for government to address the matter." Two of my key informants – a lawyer and a previous Minister of Agriculture – confirmed this legal conundrum was still an issue in 2014, and that due to overlapping legislation and legal precedent, the Chief Magistrates' courts were now the court of first instance, meaning all cases needed to pass through high-level, central courts in order to obtain legally binding decisions.

This chaotic legal situation is closely tied to what funding mechanisms are in practice for the network of local level land organizations. According to an official at the Kayunga District Headquarters (Interview, 19 March 2014), the District Land Boards are funded by a combination of conditional grants from the central government – used for the Board's salaries and day-to-day operations – and local revenue. Little local revenue is available, however, due to the District's weak tax base (Five Year Sub-County Development Plan, 2011), meaning other costs associated with the provision of the land administration system, such as infrastructure or sensitization campaigns, go unfunded. Although the land official at the Kayunga Office (Interview, 19 March 2014) mentioned that their District Council

Executive would be meeting with USAID soon to see how they could assist with raising local revenues, almost all of the District Land Board's funding will continue to be conditional, coming either from the central government or donor organizations. Yet, the Boards' key functions are often constrained due the insufficiency of these conditional funds from the central government. As noted in an article in a daily Ugandan newspaper called *The Observer* (21 July 2014), "over the past 10 years, local government financing from the centre has dropped from 25.4 per cent to 15.3 per cent this financial year. In the previous financial year, local governments were allocated Shs 2.009 trillion in central government transfers (conditional, unconditional and equalization grants) but received [only] Shs 1.3 trillion." Nakirunda's (2011: p. 39) study highlights that Area Land Committees often bear the brunt of these constrained resources as one member of the Mukono District Land Board stated that "without the presence of [Area Land Committees], the Board cannot handle any land matters due to meagre resources." And yet the Area Land Committees are rarely paid by the state (Informal Discussion, 1 April 2014; Nakirunda, 2011), and therefore share their burden with local residents to whom they charge informal fees for their transportation, time and services (Informal Discussion, 1 April 2014)[56].

In addition to a lack of finances and resources, local level land organizations must also battle with the shortage of skilled candidates within the local population when filling positions. These findings are supported by Budlender & Alma (2011: p. 60) who note that "district officials [do] not have comprehensive knowledge of land legislation." In speaking with key informants at the Uganda Land Alliance (Informal Discussion, 18 March 2014), I learned that training on land legislation was available in some Districts and sub counties via civil society organization services; yet little training was received in Kayunga at either level (Interview, 19 March 2014; Informal Discussion, 1 April 2014). Both my findings and Nakirunda's (2011) also confirmed that most local level land officials were not fully literate in the English language, which is also a serious hindrance given that the Land Act has only been published in English.

The Uganda Land Alliance does advocacy work and is the main civil society mechanism involved in government decision-making regarding land related legislation.

[56] In one of my focus groups (FGD 7, 2 May 2014), local residents noted that the Area Land Committee is inaccessible sometimes due to the fact that they need to pay their transportation and facilitation fees.

According to members of the organization (Informal Discussion, 18 March 2014; Interview, 15 April 2014), the Uganda Land Alliance works in conjunction with the government to provide training to political and administrative staff at the local level. It also lobbies against the government for the inclusion of amendments for women and other marginalized group. Speaking on the creation of Alliance, one member of the organization stated:

> …so it was basically born to fight for fair land laws and policies for the vulnerable and disadvantaged in Uganda. And it was because of the Uganda Land Alliance efforts that you have to get a customary tenure system captured now in our laws, in the constitution and in the Land Act. That is one of the advocacies that we made at that time of constitutional making (Interview, 15 April 2014).

Although this organization was originally "primarily constituted of international NGOs" (Ibid.), and continues to receive funding from international donors, it is now composed of over 45 NGOs, many of which are local[57].

Additionally, following the restoration of customary leaders in 1993, the banyala and buruuli cultural groups, led by the Ssabanyala and Isabaruuli respectively, agreed to form the Buruuli/Banyala Cultural Trust: "an umbrella body that brings together 129 clans both at home and in the diaspora" (Mubwijwa, 2004, p. 61). Being historically and geographically tied, both populations – mostly situated in the neighbouring Districts of Kayunga and Nakasongola – had seen their territory annexed to the Kingdom of Buganda due to the 1900 Agreement. Therefore, in coming together, these cultural groups offer a united front to the central government in asserting their right to define their cultural identity as non-Baganda despite residing in the Kingdom of Buganda.

One example of the Ssabanyala's role in this Cultural Trust was his successful petitioning for Kayunga's separate District status in 2000 (Nakayi, 2007). Additionally, when the Kabaka lobbied the central government for a separate federal political system known as "federo" in 2004, which would have re-centralized the Kabaka's control within the Kingdom of Buganda, the Ssabanyala reacted by threatening Kayunga's secession (*The Observer*, 11 August, 2013). Although the District of Kayunga passed a resolution

[57] The Overseas Development Institute (ODI) provides an additional overview of the Uganda Land Alliance's performance (Nkurunziza, 2006).

supporting the installation of the Ssabanyala as the cultural leader of the District in 2008 (*The Observer*, 13 September 2009), the central government has yet to officially recognize him as an official cultural leader[58].

Decentralization in Practice – Analysis

Similar to the previous analysis section, in adhering to the Cohen and Uphoff (1980) framework, the next section will establish what kinds of participation have been enabled by Uganda's land reform in practice for local residents and local customary leaders, as well as the ways in which this participation has been enabled (see Figure 1).

(i) Local Residents

Although the 1995 Constitution and 1998 Land Act demonstrate the potential for the indirect participation of local residents in *operational decision making* activities related to land governance through their elections of representatives in the LC3 (Sub-County) and LC5 (District) councils, when exploring how the decentralized administration of land has become structured, funded and staffed in practice, this indirect link becomes more tenuous. For example, instead of an elected District Council being solely responsible for the appointment of District Land Board members, they must now gain approval from the central government (Nakirunda, 2011; Informal Discussion, 18 March 2014), thereby undermining the power of local residents' in selecting their decision making representatives. Considering local residents' indirect participation is already constrained since they are unable to directly elect their District Land Board representatives, central government approval of each appointment undermines the meaningfulness of the local residents' indirect participation in operational decision making activities.

This power is further weakened due to the level of conditional funding that District Land Boards and Area Land Committees receive. As Frances and James (2003: p. 334) note, despite services being provided and personnel being employed directly by the Districts, "central control has been maintained … by placing conditions on the use of centrally derived resources". Conditional funding – when it is insufficient to meet the needs of local land organizations – can also undermine the capacity of local land organizations in performing

[58] Baker Kimeze was installed by banyala leaders as the Ssabanyala in 2008.

their required functions. As one of my key informants, a professor at Makerere University in Kampala, states:

> I mean they're telling [local land organizations] to do A, B, C, D, there is no money at the same time. You know it very well, that you're telling [them] to do A, B, C, D, but that the funding is not coming. So how do you expect [them] to deal with that? How do you expect [them] to have proper, up-to-date land records? How do you expect [them] to enable clients to transact within the land office within a week and have whatever they want from that office? (Interview, 28 March 2014)

Looking beyond financial capacity, there are also limited human resource capacities in Kayunga, as it is difficult for LC3 (Sub-County) level and LC5 (District) level Council Executives to hire enough educated people to fill Land Board or Committee positions (Interview, 19 March 2014). To mitigate this problem, the District officials and Sub-County officials resort to hiring a few key educated people to hold multiple positions across Local Council functions. For example, the assistant Chief Administrative Officer of the Kayunga District Council Office had just been given the additional position of a senior official for the District Land Office when we arrived. Yet even he could bring no previous experience in land law or surveying (Ibid.)[59] to this newly assigned position.

Although it could be argued that local residents participate in *ongoing* decision making activities through their election of MPs and the President, most participants in my focus groups had never been informed of the Land Act and its provisions (FDG1 – FDG 7, March – April 2014)[60]. Local residents therefore have no meaningful participation in ongoing decisions indirectly through their choice of political representatives, which have the power to repeal or amend land-related legislation, since they are ill-informed of these representatives' involvement in the land reform.

With respect to the *initial* decision making process involved in the creation of the Land Act, my discussions with a key informant from the Uganda Land Alliance confirmed the organization's deep involvement in the state-led consultations that were conducted with civil society when drafting the bill.

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[59] The new Secretary General was also not fully comfortable with the English language.
[60] Focus group discussion data is cited according the schedule of focus groups in Appendix B.

No one from my focus groups had ever been consulted in the run up to the creation of the 1998 Land Act (FDG1 – FDG7, March – April 2014). Yet, in light of my small sample size, it is reasonable to believe that the Uganda Land Alliance consulted randomly with other Ugandan communities elsewhere. Therefore, although consultations were likely uneven, customary tenants and kibanja occupants directly contributed to the land reform's initial decision making activities.

With respect to the specific engagement of women, they are also faced with the above challenges, but my findings confirm that they occupy appointed and elected positions in all levels of government. Some Ugandan researchers believe their role and visibility are limited. Regarding women appointed to District Land Boards and Area Land Committees, Ahikire (2011: p. 19) states, "talking to a number of people about why women on land structures tended to be invisible generally, the dominant opinion was that because these posts were not elective, the chairpersons in charge of nominations took liberty to select women who are known to them and not necessarily those who are active or have an intrinsic interest in women's rights." Yet, my observations of the female members in the local level land organizations revealed women who were treated as equals amongst other members. From a woman holding the highest position at the Mukono District Land Office, to the equal or added amount of floor time given to the female member of the Area Land Committee in our discussions, women within local land organizations seemed to be treated with respect. I was also given the opportunity to speak with the female Junior Minister for Lands and Kayunga MP, Ms. Idah Nantaba, who had a very prominent and visible role in the management of Uganda's land tenure system[61]. Although gender representation is not equal in terms of the number of female officials in any of the local land organizations, the Land Act's provision for a quota of certain number of females in these positions has been fulfilled in the District of Kayunga (Kayunga District, 2009). Women were additionally consulted in the drafting of the Land Act through various women's rights organizations (Burns, 2007; Hunt; 2004)

With respect to participation in the *implementation* of the Land Act, my discussions with District Land Office officials (Interview, 31 March 2014; Interview, 19 March 2014) indicate local residents do, in fact, individually and voluntarily *contribute resources* to fund

[61] Ms Idah Nantaba held a leadership role on a high profile Lands Committee that was cited in Ugandan news publications over a dozen times between late 2012 and late 2014.

part of the new land registration system through a user-pay model (see Annex C for fee chart). In speaking with a sample of local residents (FGD2, 24 April 2014), however, one community joked that they had never actually seen a sum of money large enough to pay for a title application. In fact, all the communities mentioned the official price as one of the barriers to using the new land registration system. The Sub-County's Comprehensive Five Year Development Plan (2011) notes that "the majority of the population in the Sub-County is poor, lacking basic needs of life". To put the price of processing a grant of leasehold or freehold (roughly UgSh 90,000) in context, many of the focus group participants noted their inability to buy necessities, such as salt (roughly UgSh 500 for 250ml and consumed by a family of five over the course of roughly two months (Informal Discussion, 24 April 2014)), on a regular basis. Consequently, although local residents are given the ability to voluntarily participate in the implementation of the Land Act, the system is structured in a way that makes meaningful engagement highly uneven.

Various issues on the ground also weaken local residents' participation in the *social* and *personal benefits* of the Land Act. First and foremost, since the Land Committees have been instated at a higher local council level – and are therefore farther away – and not all District Land Offices are fully staffed, the social benefit of a more geographically accessible land administration system is less than the 1998 Land Act originally purported. In Kayunga most of the technical resources (i.e. surveyors) are only available at the Land Office in the neighbouring District of Mukono (Interview, 31 March 2014)[62]. As a result, 95 percent of Kayunga's land transactions must be conducted at the Mukono District Land Office (Interview, 19 March 2014). Kayunga residents must travel a significantly longer distance to acquire the technical services needed to register their interests[63]. Additionally, according to Frances and James (2003: p. 329), "villagers generally feel distant from the Sub-County level (LC3), whose officials are identified mainly with graduated tax collection drives." This sentiment was confirmed by all seven focus groups where respondents expressed that they had only been made aware of their Area Land Committee in preparing for my focus group,

[62] A land official at the Kayunga District Headquarters put in an application to the Ministry of Lands, Housing and Urban Development, for their own full District Land Office the day before I came to conduct my interview (Interview, 19 March 2014).

[63] In one of my focus groups (FGD6, 2 May 2014), local residents noted that there are only surveyors in Mukono and Jinja, not Kayunga, so it is even more expensive for them to go through the land registration process.

despite Committee members having been in power for over three years (FDG1 – FDG7, April – May 2014).

The social benefit of access to a state-funded land dispute resolution mechanism has equally been undermined due to the Land Act's various amendments, which have delayed and eliminated parts of the land tribunal structure. Conflicting legislation has also left the local judicial system gutted, requiring local residents seeking formally binding resolutions to travel significantly farther to access higher level courts with large backlogs (*VOA News*, 6 June 2014). Additionally, as noted in an article in *The Observer* (8 July 2014), "an investigation into the conduct of selected magistrate's courts across the country has revealed rampant corruption.[64]" In light of these challenges, many local residents resort instead to mediation with Local Council Executives and Area Land Committees[65], while others turn to mob justice: a phenomenon which has recently risen in the country at an unprecedented rate (Ugandan Human Rights Commission, as cited in *VOA News*, 6 June 2014). In sum, very few local residents are able to access the formal land dispute resolution mechanism, and without legally binding resolutions are subject to years of conflict due to the possible "forum shopping" of opposing parties[66]. In sum, local residents have participated very little in the social benefit of state-funded local land courts.

The personal benefit of added land tenure security on the other hand, does exist to some extent in practice since the Land Act recognizes the rights of lawful, bona fide and customary occupants whether their interests are registered or not. Although, these benefits are hindered by a chaotic legal system, which makes it difficult for local residents to defend their land interests whether they are registered or not, these benefits are also strengthened by the 2010 amendment to the Act which enacted criminal sentences for unlawful evictions and required that all evictions be sanctioned by the courts.

Yet some local residents feel that the new registration system is undermining their security as two of my focus groups discussed their worries of corruption and their

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[64] The study was conducted by the Anti-Corruption Coalition Uganda (ACCU), a civil society organisation.
[65] Informal fees are required for local-level mediation, with the cost depending on actors involved. These types of local mediation alternatives do not offer legally binding resolutions.
[66] Some disputants will continue appeal to different fora until they find a channel favourable to their cause (Budlender & Alma, 2011). The Area Land Committee confirmed (Informal Discussion, 8 April 2014) that many local go to the Magistrate's court after receiving the Committee's mediation services if they are unsatisfied with the outcomes.

disadvantaged accessibility (FGD2, 24 April 2014; FGD3, 24 April 2014). By implementing a system that excludes them and has the potential for corruption, the local residents feel that the government or any other party could take their land. Therefore, inaccessibility and local distrust for the state has unintentionally provoked the local level into reinforcing their informal and customary means of securing land access. In speaking with focus group participants (FGD2, 24 April 2014; FGD3, 24 April 2014), some therefore cited the source of their added security as being the reinforcement of community conventions for regulating land rights[67].

With respect to women, although they now engage more equally in the benefits of the formal land tenure system than they had before, the new system still faces significant challenges (Budlender & Alma, 2011). Even the Government of Uganda explicitly acknowledges that the current legislation "has not been effective" (MHLUD, 2011 as cited in Burke & Egaru, 2011, p. 25). For example, although the Land Act makes provisions for a spousal "consent clause", it has not been widely used (Budlender & Alma, 2011)[68]. It is also worth noting that the Land Act's provisions failed to address what happens with regards to consent after a spouse has died (Burke & Egaru, 2011; Budlender & Alma, 2011). This has caused inheritances to become extremely problematic, as my key informant, a land lawyer, explains:

> Currently also on the laws concerning inheritance, our inheritance laws are very obsolete. In their current form they mistreat women. It takes onto the line of patriarchy so much. It promotes the male dominance over the women. (Interview, 15 April 2014)

This legal opinion is supported by discussions with the Area Land Committee who said that the majority of disputes that they mediate are related to widows and orphans due to their lack of inheritance rights (Informal Discussion, 1 April 2014). In fact, in some parts of the country, women themselves are treated as inheritances:

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[67] Other focus group participants cited the increased provisions for kibanja rights in the 2010 Land (Amendment) Act as the source of their added land tenure security.

[68] Few Ugandans are aware of the consent clause, and there is little clarity on how it would be used in the legal system (Budlender & Alma, 2011).

Lawyer: …when she comes in she has no rights, or tomorrow should this man die, the brothers, his brothers, first of all, they will do what we call the widow inheritance. They'll inherit her.

(Pause)

Interviewer: How does that…they inherit HER?

Lawyer: Widow inheritance.

Interviewer: So they inherit her… as a wife.

Lawyer and Interviewer's Assistant: Yes (in unison)

Lawyer: Quick example. Let's say you were married to Jim[69]. Jim unfortunately, god forbid, passes on, he's buried. The next day, I am Jim's brother, so I will make a move and inherit you, take you over. Even if I have wives or wife already, I will take you over… as a wife.…Now the problem is because of the patrilineal society, that sort of notion, I think that by inheriting you I am also inheriting everything that the deceased had left behind, which you are now supposed to enjoy, you and your children. So that means that now I become the new owner of the land. I start to, yes, and if you're refusing my inheriting, we can even say to chase you away, go back to your home. After all you didn't come here with land. You know, and then we take over the land. And then your children will suffer, and you too will suffer. (Interview, 15 April 2014)

The lawyer later noted that these are the "customary bottlenecks to land justice" (Ibid.) and that although attitudes are already changing, it will take continued sensitization and awareness building campaigns to change them fully[70]. This prediction is supported by North (1990) who notes, that informal institutions are likely to shift at a slower pace, but that these shifts will occur by gradual learning through increased education, research and communication. In sum, the little participation in benefits provided to local residents has not yet spread evenly with respect to gender.

Finally, looking at local residents' participation in the *evaluation* of the land reform, *indirect* participation through local representation has been thwarted by the same issues

[69] The name has been changed here to maintain the anonymity of my assistant.
[70] Currently the Uganda Land Alliance these types of conducts sensitization campaigns through community facilitators, pamphlets, radio programs and nationwide events.

hindering their participation in operational decision making, as well as additional feedback problems. As one land official at the Mukono land office highlighted, the feedback mechanism from the District Land Board to the District Local Council is "really very poor" (Interview, 31 March 2014). Additionally, a lack of funding for Land Act sensitization campaigns for local residents (Ibid.) undermines local land organizations' downward accountability. Though local accountability should exist through the ballot box in theory, without "access to information, transparent procedures of government and an effective media" (Gaventa & Valderrama, 1999 as cited in Francis & James, 2003, p. 326), elected politicians and their administrators are often not held to account. As mentioned previously, the focus group participants had no previous knowledge of the Area Land Committee, which being the administrative system's lowest entry point, is indicative of local residents' lack of awareness regarding what they are electing their representatives to do. If local residents are unable to become informed on which functions land officials should be providing, it is difficult to argue that local residents are provided any meaningful participation in evaluation or feedback through their selection of political representatives.

Continued state-led consultations do, however, offer an avenue for the *direct* participatory engagement of local residents in the evaluation process. The Junior Minister for Lands and Kayunga MP, Ms. Idah Nantaba, confirmed during our discussions (29 April 2014) that she does extensive consultations with people all over the country with the mandate of reducing illegal evictions. She had conducted one such consultation with some of the members in one of my focus groups (FGD4, 1 May 2014) through which local residents were able to express their concerns for eviction. Additionally a new National Land Policy[71], which was adopted in February 2013, was developed using an inclusive and consultative approach that "intentionally involved national, regional, and District level stakeholders amongst them, government, traditional leaders, *landowners, and NGOs representing minority and other groups*" (Rugadya & Scalise, 2013, emphasis added). Consequently, these consultative mechanisms demonstrate that local residents have contributed to evaluation through their direct feedback activities.

In summary, local residents' participatory activities are significantly constrained in practice due to the Land Act's wide variety of implementation and structural issues, with

[71] This document will be discussed in greater detail later in this paper.

some notable exceptions (See Table 3). This mix reveals the poor execution of the state's decentralization of land management and administration. A more nuanced analysis, which reviews how each of these participatory activities interacts with one another, also offers insight as to how this failed decentralization attempt has changed the informal social institution of local customs.

Table 3. Local Resident Participation as a result of Land Decentralization

TYPE	NATURE	DE FACTO IMPLEMENTED	ISSUES THAT HAVE POSTIVELY (+) OR NEGATIVELY (-) CONTRIBUTED TO LOCAL RESIDENTS' PARTICIPATION
Decision Making			
Initial	Direct, Uneven[72]	Yes	+ Civil Society led and State-led consultations during drafting of Land Act
Ongoing	Indirect	No	- Uninformed electorate undermines meaningful indirect participation through the election of MPs or President.
Operational	Indirect	No	- Central government approvals of appointed local land staff - Majority of Local Land Organizations' funding from central government - Insufficient funding for Local Land Organizations - Insufficient Human Resources Capacity for Local Land Organizations + Gender Inclusive (not representative) quotas for local land staff
Implementation			
Resource Contributions	Individual, Voluntary	No	- Highly uneven access land administration system based on prohibitively expensive fee structure
Benefits			
Social	Direct	No	- Higher LC level at which Land Committee is instated - Reduced required staffing for District Land Offices - No local access to land courts - Restricted access to legally binding resolutions for land disputes
Personal	Direct	No	+ Bona fide, Lawful and Customary land rights are recognized with or without registration - Little formal legal recourse - Imbalanced increases in land tenure security with regards to gender - Inaccessibility of formal registration system has reinforced land tenure security within customary systems rather than through formal systems

[72] The term "uneven" in this table is used to denote activities where not all residents were afforded the opportunity to participate.

Evaluation			
Indirect	Elections	No	- Poor feedback mechanism for District Land Boards - Uninformed electorate with respect to local land functions
Direct	Consultations	Yes	+ State-led consultations regarding illegal evictions and + State-led consultations during drafting of National Land Policy

As demonstrated by the green rows in Table 3, although some decentralization has occurred through direct consultations when drafting the Land Act or providing feedback on the Land Act, decentralization has failed for the most part with respect to ongoing decision making, operational decision making, implementation, personal benefits, social benefits and indirect evaluation. This combination of successful and failed decentralization activities sends a significant message to local residents, whereby the state encourages them to contribute to policy documents that it then fails to implement and local residents fail to benefit from in practice. Consequently, in analyzing the intersection of these participatory activities it becomes apparent that, in addition to failing to implement the decentralization programme itself, the state has also reinforced local customs of distrust in state-led reform processes. As Deininger (2003: p. 71) highlights, "studies of land administration systems worldwide suggest that institutional rigidities, overstaffing, corruption, and limited outreach often seriously undermine public confidence in the land registration system." Local residents' reinforcement of customary norms to create land tenure security, rather than investing in the formal system, as demonstrated in the personal benefit category, also gives a specific example of how the Ugandan government's failed implementation of decentralization has undercut the formal institution of land tenure.[73] Therefore by creating a dysfunctional and inaccessible land tenure system for local residents in practice, the 1995 Constitution and 1998 Land Act have further delegitimized the state's ability to execute institutional reforms, thereby reinforcing parts of the informal social institution (i.e. local norms) that engender distrust for these formal economic institutions.

(ii) Local Customary Leaders

[73] When assessing their security, some local residents felt that the inaccessibility of the land administration system made their customary way of managing land all the more important (FGD3 – FGD4, 24 April 2014).

Despite the 1995 Constitution and 1998 Land Act provisions that disallow customary leaders to enter political or administrative posts, my findings reveal that both the Kabaka and Ssabanyala have indirectly participated in *decision making* activities related to land management and administration. While the Ssabanyala's role has been more closely related to *operational* decision making of land administration, the Kabaka's role has been linked to *ongoing* decision making regarding national land policy.

My findings in Kayunga revealed that the Ssabanyala's Minister of Foreign Affairs had been given a position as the lead senior official at Kayunga's District Land Office which is charged with liaising with the District Land Board (Informal Discussion, 17 March 2014), meaning that a high-level representative for a customary leader was able to influence operational decision making of land administration in Kayunga. Similarly, the Kabaka indirectly participates in ongoing decision making at the central government level through regular consultations between MPs and his high-level representatives (Burke & Egaru, 2011). For example, before a meeting between the Buganda Caucus[74] and the "Katikkiro" or Prime Minister of Buganda, the deputy chairman of the Buganda Caucus was quoted as saying, "We want to meet the Katikkiro to discuss how we can use the ongoing constitutional review process to make Buganda's demands part of the national agenda in the national assembly" (*New Vision*, 15 October 2014). Consequently, despite the stated limitations on customary leader involvement in political and administrative positions, both the Kabaka and Ssabanyala are indirectly participating in decision making activities through their representatives or representatives' influence.

With respect to *initial* decision making activities, I was unable to find definitive evidence regarding the cultural leader's direct or indirect participation in the drafting of the 1998 Land Act. Although Mailo owners lobbied for full restoration of Mailo land rights (Coldham, 2000), and President Yoweri Museveni's reported need to fulfill "a political promise made to the occupants and tenants [including those within the banyala population[75]]" (Baland et al., 2007). I was unable to confirm whether their respective leaders provided input on these issues.

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[74] The Buganda Caucus is made up of all Buganda favourable MPs.

[75] The Banyala joined guerrilla groups in a five-year war which ushered in Museveni's government (Mubwijwa, 2004).

With respect to implementation, however, after a recent decision to return additional territory to the Kingdom of Buganda in 2013, the Kabaka was further empowered to indirectly participate in the *implementation* of land *administration and coordination* since he now plays an even greater role as Uganda's largest landlord. As previously mentioned, outside of their personally owned territory (e.g. the 350 sq. miles of the Kabaka's estate), customary leaders have no ability to dictate how land is managed or allocated. Yet, the Kingdom and central government recently negotiated the return of a portion of the 9000 square miles of land which the Kingdom of Buganda contests are still owed to them under the 1993 Traditional Rulers Act. In August of 2013, the central government and Kingdom of Buganda finalized and signed a Memorandum of Understanding (MOU) that provided for the return of contested Kingdom properties, including the Buganda Prime Minister's official estate, estates for the County chiefs (Abamasaza), as well as Amagombolola (sub-counties) and Amasaza (County) headquarters (*The Observer*, 5 June 2014). Titles for 213 related land parcels, including 12 located in Kayunga, were then transferred from the government to the Kingdom in April 2014 (*The Observer*, 15 April 2014) in fulfillment of the agreement. The Kabaka therefore plays an even larger role as a landlord that manages kibanja interests on his growing Mailo estate, part of which is now in Kayunga.

Looking at the Ssabanyala's participation in implementation, in addition to influencing operational decision making, the position of his high level representative in Kayunga's District Land Office has also empowered the Ssabanyala's indirect participation in implementing Kayunga's land administration system. Beyond liaising with and influencing Kayunga's executive arm of local land governance, in this position, the Ssabanyala's representative is tasked with managing the technical aspects of land allocations, transfers and registrations.

As inferred in the 1995 Constitution and 1998 Land Act, both the Kabaka and Ssabanyala participate in the *social benefits* of Uganda's land reform as well. Yet in reality, the Ssabanyala has benefitted more from the informal political power indirectly created through these documents, as the Kabaka's informal political influence in Kayunga had previously dominated that of the Ssabanyala. Thus, relative to the period before President Yoweri Museveni's government came to power, the Ssabanyala has incurred a greater incremental social benefit of increased cultural authority. As a Memorandum to President

Yoweri Museveni from the chairman of the Buruuli/Banyala Cultural Trust (Mubwijwa, 2004: p. 102) demonstrates, the government's decentralization approach has allowed the banyala population to enter "an era of de facto self-rule." The Trust cited the 1998 Land Act's requirement for elected local leaders – rather than allowing the continued leadership of the Kabaka – as the reason for this new sense of independence. As Mubwijwa (2004) expresses, "after discovering their teeth" they formed the Baruuli Banyala Cultural Trust and later successfully lobbied the central government for separate District status. Thus in 2000 the District of Kayunga was created, offering another notch in the Ssabanyala's belt with respect to the government's formal recognition of the banyala cultural institution as equal to that of the Kingdom of Buganda.

The Kabaka in contrast has seen his participation in the *material* benefits increase as he is now the landlord of a larger territory, but also because he has changed the way in which the Kingdom manages its land. My findings show that the Kabaka has chosen to forfeit the Land Act's stipulated annual ground rent revenue stream as means of showing his strong disagreement with the provisions in the Land Act that require these rents to be nominal (Interview, 22 April 2014; *New Vision*, 2 August 2013). Instead the Kabaka collects money by requesting that kibanja voluntarily pay "registration fees" if they wish to be recognized by the Kabaka as his tenant – or as the Buganda Land Board (6 December 2014) states, "Kibanja registration is a way through which the land lord gets to know seated tenants on his land." This registration process costs UgSh 1,200,000 (roughly CAD $500) per applicant, and is marketed by the Buganda Land Board as the first step in attaining a leasehold from the Kabaka. Although their leasing program has received little uptake, should an occupant wish to apply, they must pay additional money for the lease premium and ground rent. The Kabaka has thus taken the initiative to seek additional ways to participate in the material benefits of the land reform. Although the land rights of bona fide and lawful occupants are formally recognized whether they are "registered" by the Buganda Land Board or not, the Kabaka has found ways of leveraging his cultural authority to encourage his kibanja occupants to adhere to this additional process[76].

[76] The implications of the Buganda Land Board's "registration" and lease processes are discussed at greater length later in this paper.

With respect to *evaluative* participation, both the Kabaka and Ssbanyala provide indirect feedback through memoranda and reports, as well as through political connections. As mentioned previously, the Kabaka's high level representatives often meet with MPs favourable to the Kingdom of Buganda to discuss how the Kingdom's concerns might be inserted within parliamentary discussions. Meanwhile, the Ssabanyala has had a less direct line to the President and MPs, but has worked through the Buruuli/Banyala Cultural Trust to send multiple memoranda and reports to the president (Mubwijwa, 2004), which outline banyala sentiment regarding the current land reform. Although it is difficult to discern what impact these messages have on parliamentary or presidential decisions, there have been notable changes, such as a retraction of 13 of the 213 titles recently returned to the Kingdom of Buganda, through which the government asserted that it will not return Kingdom land in contested areas, such as Kayunga (*The Observer*, 16 June 2014).

In summary, local customary leaders' participatory activities are much greater in practice than legislation had intended due to their indirect participation through kiganda and banyala representatives and the unintended benefits of the restoration of each leader's cultural authority (See Table 4). As the green rows in Table 4 depict, local customary leaders play a role in almost every participatory activity. Therefore, ironically, much like the state has failed to decentralize power to local residents; the state has failed to *restrain* the decentralization of power to cultural leaders.

Many governments are reluctant to decentralize power to local traditional institutions or even to recognize the role they play due to their divisive potential. Although local customary leaders can offer a cost-efficient option for governance, as Bruce and Knox (2009) note, empowering these institutions is a strategy that must be approached with caution. This sentiment was echoed in one of President Yoweri Museveni's statements in 2014 on the land reform where he noted, "the issue now is when we brought back kings[77]; they are not doing what I expected of them" (*The Observer*, 16 June 2014).

Table 4. Local Customary Leader Participation as a result of Land Decentralization

TYPE	NATURE	DE FACTO IMPLEMENTED	ISSUES THAT HAVE POSTIVELY (+) OR NEGATIVELY (-) CONTRIBUTED TO EITHER LOCAL CUSTOMARY LEADER'S PARTICIPATION
Decision Making			

[77] Bringing back the kings is synonymous with the restoration of all traditional leaders.

Initial	Indirect, even, competing	Inconclusive	+	State-led consultations during drafting of Land Act conducted with both leaders' representatives
Ongoing	Indirect, uneven[78], competing	Yes	+	Kabaka representatives influence MPs decisions on updates to the land reform
Operational	Indirect, uneven, competing	Yes	+	Ssabanyala representatives influence District-level decisions related the administration of land
Implementation				
Administration and Coordination Contributions	Indirect, competing	Yes	+	Kabaka plays a sub-role within District Land Board process by regulating kibanja interests on his increasingly large estate
			+	Ssabanyala plays administrative role in Kayunga through the senior position of his representative at the District Land Office
Benefits				
Social	Direct, competing	Yes	+	Kabaka and Ssabanyala incur social benefit of increased cultural authority from formal recognition of traditional leaders. Ssabanyala incurs more than the Kabaka, however, due to initial lower baseline
Material	Direct, unintended	Yes	+	Kabaka incurs material benefit of "registration" fee and minor amounts of lease premium and annual rent
Evaluation				
Indirect	Political connections, Memoranda, competing	Yes	+	Kabaka provides feedback through meetings between his representatives and MPs
			+	Ssabanyala provides feedback through memoranda and reports

The informal political power of both the Kabaka and Ssabanyala is fundamentally derived from their ethnicity, kiganda and banyala respectively, and these ethnic networks are interwoven and imbedded in the informal political institution of Kayunga. These networks have been strengthened by the 1995 Constitution and 1998 Land Act in unexpected ways, as discussed above, through the decentralization of power to their leaders within the formal economic institution of land tenure. Although the intent of the 1995 Constitution and 1998 Land Act was to solely restore the customary leaders' symbolic role (Land Act, 1998, Article 59(2); Constitution, 1995, Article 129), these pieces of legislation underestimated the important influence of informal politics in Uganda.

[78] The term "uneven" in this table is used to denote activities where one customary leader was afforded greater opportunities to participate in the activity.

Most importantly, these laws underestimated the power of competition between these two networks which are a main driver in struggles with the central government for increased power. After President Yoweri Museveni spoke about his misjudgement in restoring Uganda's traditional leaders and their unexpected behaviour (see above), he continued by noting, "if you say, we Baganda we Baganda, the Baruuli will also say 'we Baruuli', the Banyala that 'we Banyala'" (*The Observer*, 16 June 2014), thereby demonstrating his understanding of this concept of inter-network competition. However, by honouring the banyala request for the separate District of Kayunga, developing robust kibanja laws that hinder private kiganda Mailo owners in Kayunga, and preventing the creation of Buganda federal system in Kayunga, the central government has built a foundation for the Ssabanyala's continued efforts to strengthen the influence of the banyala network within Kayunga's informal political institution. This, in turn, has created a threat to the influence of the kiganda network, as a strong banyala network undermines the Kabaka's authority within Kayunga's informal political institution. The central government has therefore simultaneously built a foundation for the Kabaka's continued efforts to retain and reinforce the historical influence of the kiganda network. Considering the competing mandates of these networks, the Kabaka and Ssabanyala are working to influence the formal land tenure institution (through the weight of their networks in Kayunga's informal political network) by resisting provisions within the 1998 Land Act that undermine their network's interests. From political and administrative connections to negotiations regarding the return of contested assets, these leaders are finding ways to strengthen their networks by influencing the state's reform of the formal economic institution of land tenure.

Impacts on Formal and Informal Land Tenure Institutions

Despite what was written into policy, Uganda's decentralization of land management and administration led to differing outcomes in practice, whereby power has been decentralized for some activities and not others within different categories of actors. As a result of this differing level of decentralization in practice, state-led adaptations of land tenure has done less to strengthen the formal economic institution of land law than it has to influence certain aspects of the informal social institution and the informal political institution of tenure in Kayunga. Specifically, the land reform has strengthened local norms of distrust for the state and the importance of the local customary tenure system within the

informal social institution. The reform has also strengthened the competitive drive of two local networks to achieve greater influence within the informal political institution.

In sum, this chapter has begun to show how the interaction of this adapted mix of formal and informal institutions has caused the emergence of "opposition norms" (Opper, 2008) for local residents and politicking incentives for local customary leaders, which have likely altered or undercut Uganda's land reform. The next chapter will explore this subject in further depth by analyzing the types of opposition or resistance behaviour that have occurred due to the shifts of power within the formal economic institution of land tenure.

Chapter 7: Data Analysis – Manifestations of Resistance Caused by Decentralization

Overview

In further delegitimizing the state's capacity to offer meaningful and effective institutional reform in the eyes of local residents, the central government has created a hybrid institutional environment whereby the formal institution of land law and the adapted informal social institutions combine to incentivize local residents' avoidance of the formal system. Additionally in increasing the level of competition for power between local networks, the central government has similarly created a hybrid institutional environment that incentivizes local customary leaders' influence of the formal system to the benefit of their networks. The following chapter presents my findings and analysis of these types of behaviour, as exhibited by individuals' (local residents in this case) token forms, and organizations' (led by local customary leaders in this case) real forms of resistance. I then explore whether these resistance strategies are challenging state-led adaptations of Uganda's formal economic institution of land tenure.

Local Residents – Token Resistance

As noted in the previous section, although Uganda's decentralized approach to land reform has empowered local residents to participate in some types of decision-making and evaluation activities, the government's subsequent failed implementation of the 1998 Land Act's provisions has undermined local residents' trust in the state's capacity to deliver effective and equitable institutional reforms.

After almost a century of colonial rule and post-independence dictatorships, which severely marginalized most of the Ugandan population, distrust of state-led changes is likely entrenched in Ugandan society (Wunsch, 2001). Thus when the 1998 Land Act was introduced, it was "received with suspicion, apathy, fear and outright rejection in some quarters" (Nsamba-Gayiiya, 1999). The poor implementation of the Land Act has further solidified this culture of distrust, and has fostered both real and token forms of resistance as a result. The most prevalent form of resistance amongst local residents, however, has been of a *token* nature since poverty and a lack of resources have made it extremely difficult for residents to coordinate *real*, collective and/or high-profile initiatives.

The first indication of this token type of resistance appeared in my research through a discussion with a key informant, a professor at Makerere University in Kampala, who spoke to the prevalence of local agreements or informal titles despite the state's push to formalize tenure arrangements. He noted:

> People seem to be comfortable with these local agreements between land owners and the local council members and themselves. Because it tends to be a collective agreement, which in many ways socially protects the rights of the occupant. It does not guarantee, even at that very local level, but there is evidence that a lot of people have actually been able to secure their stay through that social collective engagement in the process of agreement that involves the LC1s, the land owner, the occupant, and then witnesses and several others will come in on signing on the covenant between the land occupant and the land owner. (Interview, 28 March 2014)

The local level is thus creating their own *informal* land registration system, whereby all sellers and buyers engage in a collective agreement to uphold any transfer of land arranged according to the community's customary process. Another key informant, a former Minister of Agriculture, confirmed the professor's statement by noting the specific use of customarily formalized registration systems where informal agreements are signed by independent Mailo owners and their kibanja and then stamped by village-level local council (LC1) chairmen (Informal Discussion, 27 March 2014).

When discussing these informal land management and administration processes with local residents through my focus groups[79], participants expressed their preference for such customary processes, noting that informal agreements are cheaper[80], faster and more transparent[81] – creating a more equitable system – than the formal system (FGD2 – FGD7, April – May 2014). In fact, participants in one Parish expressed that title holders in their community are "hated" as their acts create inequities in their local customary land system, while another focus group spoke about their distrust of the titling office because "government corruption is always possible" (FGD3, 24 April 2014). Although some focus groups (FGD3 – FGD7, April – May 2014) later said that titles were in fact preferable to local informal agreements, this was done after the Area Land Committee had given a speech on the importance of titles.

Echoing Scott (1985), Ostrom (2003: p. 261) emphasises that, when rules are perceived as illegitimate, ineffective or unfair, participants' "capacity to invent evasive strategies is substantial." Local residents in my chosen Sub-County were no exception, considering none of the participants in my focus groups held up-to-date formal titles for their land interests. Three participants held titles in the name of their deceased relatives and had not transferred them yet due to cost (FGD1, 15 April 2014; FGD6, 2 May 2014). This finding is supported by Bomuhangi et al. (2011) 's study in the Districts of Kapchorwa (Eastern Uganda), Kibale (Western Uganda), and Luwero (Central Uganda), which found that while "65 percent of the plots that people reported as 'owning' had any form of documentation, including wills, sales invoices, agreements, and unregistered deeds," only four percent held titles. Burns (2007) also puts the national coverage of the titling system in this range as he estimates that about five to six percent of Ugandans have current titles, although this coverage is mainly concentrated in urban areas.

[79] Participants in my focus groups (FGD1 – FGD7, April – May 2014) resided on land that was either private Mailo land or historically public and yet to be formally registered as a customary occupancy, leasehold or freehold.
[80] When asked how cheap it was to acquire an informal agreement, one group of participants noted that the price was "sacred" (FGD3, 24 April 2014).
[81] When asked for examples on how the process was more transparent, multiple focus group participants (FGD3 – FGD7, April – May 2014) noted that community elders were required to witness all land agreements.

Focus group participants explained that the titling system was unnecessary – hence their decoupling from the formal institution – as their village's land management system was reinforced by local customs embedded in their informal social institution, such as:

1) Mob justice mechanisms (FGD2 – FGD4, April – May 2014)
2) Use of graveyards and specific plants to demark property boundaries (FGD2 – FGD3, 24 April 2014; FGD6 – FGD7, 2 May 2014)
3) Use of permanent structures, such as pit latrines and houses, to reinforce tenancy[82] (FGD6, 2 May 2014)
4) Hereditary lineages (FGD1 – FGD7, April – May 2014)
5) Symbolic sacrifice of a chicken (FGD3, 24 April 2014)
6) Informal agreements that are signed and stamped by the village chairperson (FGD2 – FGD7, April – May 2014)

Participants thus demonstrated token forms of resistance to the state-led land management and administration system through their circumvention of its organizations for this of list customary alternatives. Payne et al. (2009) define the sixth point in this list – whereby land tenure is increasingly regularized through informal mechanisms – as "informalization", while Peters (2008) describes it as "informal formalization". Peters (2008: p. 1320) notes that this process has become a growing trend in rural Africa as communities are increasingly "developing 'informal' documents and other means of recording land transfers that depart from the oral methods prevalent among customary systems," and that remain separate from the formal state system.

Although each participant's demonstration of token resistance was done in tandem with their fellow community members, this resistance had not been collectively coordinated. There appear to have been no public meetings to discuss these informal systems prior to my focus group discussions. Participants had simply chosen similar individual behaviour that then created a consistent pattern of this token form of resistance.

[82] One focus group participant said there is added security now since they can dig pit latrines to 40 feet deep, whereas they could only dig to 15 feet deep before (FGD6, 2 May 2014).

Despite this pattern, contradictory findings from my focus groups indicate that some women may not be resistant so much as they are excluded by their partners from state-led formalization processes. In one Parish, a male participant explained that women are often unaware whether their tenure status is formalized because this information is usually kept from them by their husbands who wish to prevent a dispute in the event of a divorce (FGD5, 1 May 2014). Yet two of the three participants who identified as holding an out-dated title were female. Although my findings are inconclusive, women are likely sidelined in these resistance strategies as demonstrated by Bomuhangi et al.'s (2011) study, which highlights women's motivation to "evade" land registration as caused by adherence to social norms that favour male ownership rather than resistance.

In summary, by contesting and adapting the state-led land registration process, local residents have exhibited token forms of resistance that challenge the state's reform of Uganda's land tenure system. Although there have been no open or formal declarations of resistance, the combined actions of these local residents offer a notable barrier to the state's attempt to affect change through Uganda's formal economic institution of land tenure.

Local Customary Leaders – Real Resistance

As mentioned previously, decentralization has fueled the inter-network struggle for increased relative power within the District of Kayunga. Being at the helm of the two competing, informal political networks – kiganda and banyala – the Kabaka and Ssabanyala are each creating real forms of resistance against unfavourable aspects of the state's reform of the formal land tenure system. When multiple networks have distinctively different or competing processes, their interaction becomes a source of conflict that may not easily be overcome (Ostrom, 2003, p. 258). And because local customary leaders are able to leverage a network of individuals – similar to the NIE concept of an "organization" – they are more likely to coordinate "on stage" collective resistance rather than token forms.

For example, as discussed previously, the Ssabanyala successfully petitioned the government to create a separate District of Kayunga in 2000 and openly threatened[83] to secede from the Kingdom of Buganda from 2003 to 2004. Ironically, the government's *attempt* to exclude local customary leaders from its decentralized land management and

[83] Threats were made through multiple memoranda to the government (Mubwijwa, 2004).

administration system is crucial to the Buruuli/Banyala Cultural Trust's resistance strategy, and is thus leveraged in many of their memoranda to the government. According to one of the Trust's Memorandum to the President in 2004, decentralization without the involvement of local customary leaders "has enabled [the banyala network] to begin breaking away from marginalization" (Mubwijwa, 2004, p. 67). By working to reduce the Kabaka's role in the land system, thereby putting him on an equal footing with the Ssabanyala, the government has enabled the banyala network – previously marginalized within the Kingdom of Buganda – and the Ssabanyala to flourish. As another of the Trust's memoranda stated, the Local Council system, whereby ordinary persons acquire the power to choose their leaders, allows for a more effective, legitimate and fairer land tenure system (Mubwijwa, 2004). Therefore, when mounting real resistance strategies, the Ssabanyala references the government's positive stance on decentralization to leverage government support against the kiganda network.

The Kabaka, in contrast, has mounted real resistance strategies in opposition to the government's 1998 Uganda Land Act because it "empower[s] tenants over the landlords" (*New Vision*, 2 August 2013). Provisions for the criminalization of the eviction of lawful and bona fide occupants and the conditions which limit their rents have stripped Mailo owners – including the Kabaka himself – of meaningful ownership rights as they are unable to collect rents or easily sell their land. The Kabaka therefore seeks to challenge the legitimacy of the formal economic institution of land tenure in order to push for the strengthening of Mailo owner rights. As one rebuttal from the Attorney General of the Kingdom of Buganda, Apollo Makubuya (2008: p. 9), reads, "District Land Boards and any regional land board established under Article 178 of the Constitution are merely devolved organs of the Central Government and therefore cannot be said to represent or embody the culture, norms and aspirations of the people of Buganda." As mentioned previously, kiganda favourable MPs used this logic to introduce a parliamentary bill in 2004 for a separate federal system of governance for the Kingdom of Buganda, which would include the Kingdom's own land system. Although voted out, the "federo" resistance strategy is revisited regularly by kiganda proponents (Omara Interview, 2014).

More recently, the potential return of 9000 additional square miles of land to the Kabaka's Mailo estate has increased tensions between the banyala and kiganda networks,

thereby increasing the Kabaka's and Ssabanyala's real resistance to government changes to the formal land tenure system. Prior to my arrival in Uganda, the Kingdom and central government had negotiated an MOU for the return of a portion of this contested land (*The Observer*, 5 June 2014). Since the MOU provided for the return of land connected to the Amagombolola (sub-counties) and Amasaza (County) headquarters, some of which resides in the District of Kayunga, an important component of my field research was the examination of how this MOU was inciting real forms of resistance from the Kabaka and Ssabanyala in Kayunga. Although the MOU was implemented near the end of my field research period (*The Observer*, 15 April 2014)[84], I was still able to explore the various issues related to the transfer of the 213 titles mentioned previously.

When asking a key informant, a land lawyer, how the current formal customary rights of local residents in Kayunga would be reconciled with the incorporation of this land within the Kabaka's Mailo estate, he replied, that "it's likely to be a subject of a legal dispute" (Interview, 22 April 2014). Indeed, the Ssabanyala had already contested the return of County and Sub-County headquarter land in Kayunga after the MOU was signed (*The Observer*, 11 August 2013). Although some of the focus group participants reside on this contested Buganda land and thus added another avenue to gather information on this issue,[85] I avoided this topic in our group discussions, as my research assistant felt it may cause discomfort and antagonism between participants of kiganda and banyala descent. I thus explored this issue in the most detail with a land official at the Buganda Land Board in Kampala one week after the implementation of the MOU (Interview, 2014).

In giving an historical overview, this official first discussed the Buganda Land Board's creation as a means to tackle the challenge of monetizing the Kabaka's Mailo estate[86] (Interview, 22 April 2014). Since the 1998 Land Act reinforced the rights of lawful

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[84] The announcement that the central government was returning the 213 titles was made within three weeks of my field research completion date. Fortunately, I was able to schedule interviews with a land lawyer and the Buganda Land Board after the announcement.

[85] Although many participants did not understand or know what type of land they resided on, I was able to extrapolate from other responses that some did in fact reside on contested Buganda land. For example, some noted that they were residing on public land where they had stopped paying busuulu in the 1960s (FGD6, 2 May 2014) – the decade during which the Kingdom was stripped of this additional land – meaning they likely reside on the returned land.

[86] As mentioned previously, the Buganda Land Board acts as an agent for the Kabaka in managing the various land contracts relate to his personal estate – 350 square miles and now the land parcels related to the returned 213 titles.

and bona fide occupants on Mailo land, it put the Kabaka in a challenging position with regards to making money for the Kingdom's operational costs. The official said that eviction was impossible due to the Kabaka's social contract with Buganda's citizens and sale was impossible as kiganda culture required him to maintain all 350 square miles of his estate. The Buganda Land Board therefore needed a strategy that would enable them to collect greater rent from occupants, despite the 1998 Land Act's condition that rents remain nominal.

As such, they created a "registration" process: a process specific to occupants on the Kabaka's estate. When asked about this, the official stated, "Yes, you see our mission is to regularize tenants, so it begins with registering as a kibanja holder" (Interview, 22 April 2014)[87]. As mentioned previously, the fee to register a plot with the Buganda Land Board is UgSh 1,200,000 (roughly USD $400) per applicant[88]. Although this registration process is legally unnecessary since occupants can acquire a "certificate of occupancy" through Area Land Committees instead[89], the land official felt the legal provisions for lawful and bona fide occupants were more nuanced than most people understood.

The land official at the Buganda Land Board explained that their registration process "is almost mandatory" (Ibid.) because the Kabaka refuses to provide consent for any certificates of occupancy without it. Article 33 of the 1998 Land Act states that, after the Area Land Committee approves the tenant's request for a certificate of occupancy, "the owner shall, without undue delay, give consent in the prescribed form to the tenant". However, there are no stated consequences if the landlord chooses to withhold consent. When previously interviewing one of my key informants, a professor at Makerere University in Kampala, he had alerted me to the Buganda Land Board's manipulation of this legal provision. He pointed out that "[the 1998 Land Act] does not really specify that the certificate of occupancy should be accompanied by some form of exchange. Although the Buganda Kingdom through the land board actually charges for that, but it's not provided for [in the Land Act]" (Interview, 28 March 2014). The professor was thus highlighting that the

[87] Although the Buganda Land Board is currently making a large push to promote leaseholds, so far only three percent of Buganda's population has applied, making registrations more common (Interview, 22 April 2014).
[88] This amount excludes any cost related to the fees charged by the District Land Boards to register land interests within the government's registration system.
[89] Recall that the 1998 Land Act provides for the registration of lawful and bona fide occupant land rights through the issuance of "certificates of occupancy", which are approved by the Land Committees after hearing both the occupant's and Mailo landlord's testimony.

Kabaka's "registration" process had been created within a legal loophole of the Land Act: a real and significant form of resistance to the intent of the 1998 Land Act provisions. As the Buganda Land Board official stated:

> Because they're Certificates of Occupancy, they give a legal interest in land, so in a way they're supposed to compete [with the Buganda registration process]. But like I said, the Kabaka is institutionally the people's king, so it's a mission where people will weigh and decide. (Interview, 22 April 2014)

The land official noted that the Kabaka can influence individual behaviour in his territory – through his network's positioning in that area's informal political institution – as he is "institutionally the people's king", meaning people listen to him as much as, if not more than, they do the central government. The land official also proceeded to highlight a new clause in the 2010 Amendment to the Land Act that criminalizes the transaction of land held by lawful and bona fide occupants if not done with the consent of the landlord. Specifically, the amendment provided for the insertion of an additional subsection to Article 35 which states:

> (1a) Subject to subsection (7), a tenant by occupancy who purports to assign the tenancy by occupancy without giving the first option of taking the assignment of the tenancy to the owner of the land commits an offence and is liable on conviction to a fine not exceeding ninety six currency points or imprisonment not exceeding four years or both; and the transaction shall be invalid and the tenant shall forfeit the right over the land and the land shall revert to the registered owner.

Therefore, by withholding consent for a certificate of occupancy or an occupant's request to undertake a land-related transaction (i.e. sale, sublet, subdivision) the Kabaka is able to force occupants wishing to formalize their interests or execute a transaction to pay a significant amount money[90], thereby altering the Land Act's provisions for kibanja monetary contributions to be nominal.

[90] The 1998 Land Act states, "for the avoidance of doubt, the security of tenure of a 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" (Land Act, 1998, Article 31). Thus, refusing a tenant's request for a certificate of occupancy does not

When asked when they would expand this registration process to the occupants affected by the return of the 213 titles, specifically those residing in Kayunga[91], the official explained that "[the Buganda Land Board] recognize[s] that it'll take such a time for everyone to know now that there's a new landlord, these are the new structures, these are the new processes you have to follow. I mean [the Buganda Land Board] recognize[s] it will take quite a period" (Interview, 22 April 2014).

Meanwhile, the Ssabanyala has exhibited varying forms of real resistance to the MOU since it was signed in August 2013. For example, he contested it through one of his representatives immediately after it was signed, noting "we cannot be under the Kabaka (of Buganda) because we are different from Baganda. Buganda getting back their assets is good but Buganda should know that Banyala must remain with their assets independent from Buganda's" (*The Observer*, 11 August 2013). Although the Ssabanyala expressed no opposition to the Buganda Prime Minister's announcement that the Kabaka would tour Kayunga District in January 2014 (*The Observer*, 5 January 2014)[92], President Yoweri Museveni later revealed, that the Ssabanyala had no issue with the Kabaka's entry due to certain clauses in the MOU. Specifically, the Ssabanyala was appeased by the fact that the MOU upheld his Districts' right to continue managing former Buganda administrative properties – despite them being included in the returned 213 titles:

> Because we agreed on this that is why the Kabaka was able to visit Kayunga without problems. This issue was solved. (President Yoweri Museveni as cited in Uganda Media Centre, 16 April 2014).

In fact, the Attorney General wrote to the Buganda Prime Minister in late May 2014, indicating that the Kingdom of Buganda has no control over the former Buganda administrative properties in Kayunga. The letter quoted clause 2 (b) of the MOU which *The Observer* (16 June 2014) says "requires the Kabaka to respect other ethnic groups such as the Banyala and Baruuli." The government went on to recall 13 of the 213 land titles given to the

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undermine their security; however, refusing a tenant's request for transactions does limit their inalienable rights to land.

[91] None of the Kabaka's 350 square miles of estate land are in Kayunga, thus there was no opportunity for the Buganda Land Board to manage land in Kayunga until the return of the 213 titles.

[92] This was noteworthy, considering the violent protests that erupted during the Kabaka's attempted visit in 2009.

Kingdom of Buganda in June 2014, indicating again that the kingdom had no control over properties in Kayunga (among other contested Districts).

As of September 2014, these titles had yet to be returned, however, and as a result, the Ssabanyala exhibited real forms of resistance through a joint petition to the Attorney General over the delay (Red Pepper, 8 September 2014). Meanwhile, representatives of the Kabaka have also exhibited real forms of resistance through their continued contestation of the government's issue with land in contested Districts. For example, while the chief executive officer of the Buganda Land Board stated that they "don't see any title in [their] possession that [they] feel should return to the central government unless the Constitution has been changed" (*The Observer*, 15 August 2014), the land official at the Buganda Land Board had noted, "with or without titles, the land has already reverted to Buganda Land Board" (Interview, 22 April 2014). Despite previous reassurances from the Buganda Land Board official that the process of converting land tenure on this returned land in Kayunga would take some time (see above), as of 6 December, 2014 their website (www.bugandalandboard.org.ug) contains new information publicly announcing that the Board now serves "the people of Bugerere."

In summary, within these ongoing contestations regarding the control of land in the District of Kayunga, both the Kabaka and Ssabanyala have exhibited and continue to exhibit real forms of resistance that challenge the state's reform of Uganda's land tenure system. From manipulating the Land Act's provisions for nominal amounts of rent from occupants to contesting either the transferal or subsequent withdrawal of land from the Kingdom of Buganda, the combined actions of the Kabaka and Ssabanyala have challenged the state's attempt to change Uganda's formal economic institution of land tenure through legislative changes (i.e. the 1995 Constitution, 1998 Land Act and its amendments, and now the 2013 Buganda MOU).

Impacts on the Formal Land Tenure Institution

As this chapter has begun to demonstrate, the interaction of customary leaders' real resistance strategies combined with the token resistance strategies of local residents have

shaped the state's attempts to change the formal land tenure institution. Local residents in Kayunga have demonstrated their resistance by ignoring the formal economic institution altogether, while local customary leaders have either supported or challenged its legitimacy, changed its financial structure and altered the tenure models assigned to this specific area of the country. Thus, through various forms of resistance, these organizations and individuals have acted to shape the formal institution of Uganda's land laws – much like the institutional environment had shaped their behaviour previously. The next chapter will outline these changes in further detail in order to demonstrate how the local resistance of individuals and organizations has altered the hybrid institutional environment, which is currently incentivizing customary land management processes for the most part in my chosen Sub-County.

Chapter 8: Data Analysis – Land Tenure System Changes caused by Local-level Resistance

Overview

Based on my findings regarding local level resistance, the Ugandan government's attempt to reform the country's formal economic institution of land tenure through the 1995 Constitution and 1998 Land Act was undermined by the overlapping and conflicting influences of formal and informal institutions and their economic, social and political leanings, together with the influences of organizations and individuals. The resultant hybrid institutional environment has had unintended impacts on the de facto tenure model – and thus economic behaviour - in Kayunga. However, with the signing of the 2013 Buganda MOU, combined with specific provisions in the 2010 Amendment to the Land Act, Kayunga's de jure and de facto land tenure models may drastically change in 2015. This next chapter will therefore explore the current hybrid institutional environment in my chosen Sub-County within Kayunga. I will then review how this area's formal land tenure institution will change as a result of the Kabaka's continued assertion of his ownership of land in these communities, as well as his manipulation of the Land Act's monetary framework for kibanja applicants. Although it is difficult to predict exactly how these changes in the formal institution would affect my research area's de facto tenure model in the future, I provide some insight on a plausible scenario.

Local Residents – Kayunga's Hybrid Institutional Environment

As mentioned previously, participants in my focus groups demonstrated what has been recorded through previous studies (Bomuhangi et al., 2011; Burns, 2007): that there has been very little uptake of the state's new land registration process. Although three out of the 49 participants in my focus groups (FGD1 – FGD7, April – May 2014) claimed to have an official title for their land interests, even these were out-of-date as their owners had yet to transfer them from the name of their deceased relatives. Therefore, as Burke and Egaru (2011: p. 29) highlight, "with the latent power of customary systems and the state's lack of capacity to implement a sustainable alternative," the Uganda land reform has failed to disrupt this Sub-County's de facto tenure arrangements.

Although, as indicated previously, the World Bank report stated that the level of standardization and resources needed to facilitate land transfers, and the common level of protection needed for equitable access to land requires the use of state resources (Deininger, 2003), my findings demonstrate that land in my research area is more easily transferred and protected by customary conventions. According to the participants in my focus groups (FGD1 – FGD7, April – May 2014), the percentages of people who came from outside the Parish to buy land in these communities were 30 percent, 38 percent, 69 percent and eight percent in each of the four Parishes I visited, or roughly 37 percent across all my focus groups. These purchases were made from as late as 61 years ago to as recently as 20 years ago, thereby demonstrating that a land market had indeed already existed when the 1998 Land Act was enacted. These data are supported by comments from the Area Land Committee (Informal Discussion, 1 April 2015) which noted the transient population and significant mix of cultures and nationalities in this Sub-County. Kayunga's LC5 (District-level) vice chairman has also claimed Kayunga to be the "United Nations of Uganda" because of its multiple tribes (*Daily Monitor*, 16 July 2013).

With regards to the protection of land tenure security, a professor from Makerere University expressed that, since the state's court system has proven to be ineffective and difficult to access, local residents are more likely to rely on customary conventions of protection (Interview, 28 March 2014). As mentioned previously, most of the focus group participants (FGD1 – FGD7, April – May 2014) expressed that they felt secure in their continued access to their land interests, with many citing a list of customary conventions (i.e.

boundary demarcation, mob justice mechanisms and increased permanency of structures built on their land) that they felt protected this access. Thus the de facto land tenure model in this area of Kayunga is mostly informal in nature, yet offers the benefits expected of a state-run system.

As Ravnborg et al. (2013: p. 21) noted in their study of other Ugandan Districts, "some kind of written documentation exists in support of the land tenure for the vast majority of [land] parcels" with much of this documentation being of a private nature – thus not registered with the state. This is supported by my focus group data (FGD2 – FGD7, April – May 2014), in which participants spoke of informal agreements that a buyer and seller would sign in the presence of community elders, and which the LC1 (village-level) chairmen would later stamp to "informally formalize" the agreement. Thus, some tenure arrangements in this area are in-formalized through written customary agreements.

In regards to the communal-individual spectrum, judging by the responses of the participants in my focus groups, the de facto tenure model in this area is mainly individual in nature. First and foremost, the de jure tenure categories listed in the 1998 Land Act that my participants identified (FGD1 – FGD7, April – May 2014) were either private Mailo, public land that had yet to be converted to customary, freehold or leasehold land, or out-dated, registered leasehold or freehold land[93]. When pressed for further details on their specific tenure arrangements, however, I discovered that some participants had de facto arrangements that represented various transformations of these models. One participant who identified herself as a Mailo owner for example, had subdivided her land by transferring pieces of land to other community members for an up-front, lump-sum payment, with no additional annual ground rent requirement: a process that indicated a sale of her rights to that land (FGD1, 15 April 2014). Yet, community members said that she still "owned" the land as she still possessed her grandfather's title (Ibid.). Meanwhile, for participants residing customarily on public land, although some identified as holding land communally amongst their siblings or a group of friends, none discussed any community arrangements that relegated land parcels amongst community members (FGD1 – FGD7, April – May 2014). All land was either

[93] Note that freehold interests in general are not yet widespread. "They were formerly established and limited to a small category of individuals—kings, notables, and chiefs; large-scale agricultural estate developers; and some special interest groups such as the Protestant and Catholic churches" (Bikaako & Ssenkumba, 2003 as cited in Bomuhangi et al., 2011).

inherited or purchased individually, with the exception of collective ownership among family or friends. As Smith (2003: p. 220) notes, "whereas customary tenure was once caricatured as collective, it is now clear that it mainly provides for strong individual cultivation rights," and this area of Kayunga is no exception.

In sum, the de facto tenure system of my research area is currently informally formalized and individual in nature. Although land is still perceived by local residents to be divided along Mailo, customary, leasehold and freehold lines, de facto transformations of these models have created what Scott (1998: p. 49) terms "a shadow land-tenure system" which lurks behind and beneath these perceptions.

Local Customary Leaders – Continued Adaptations of the Formal Land Tenure Institution

The current mixture of de jure tenure arrangements in this area are – mainly private Mailo, public land that has yet to be converted to leasehold, freehold or customary land, and out-dated, registered leasehold or freehold land, - may soon be influenced by the 2013 Buganda MOU, since the land official at the Buganda Land Board indicated that some of the areas to be returned to the Mailo Estate are in Kayunga:

> Yes, for example we have a Ssaza[94], I just told you that administrative unit, he has 8 square miles. The Ssaza in Kayunga is Bugerere. He's a Bugerere. So we already have 8 square miles that belong to the Bugerere [in Kayunga] (Interview, 22 April 2014).

Should the Kabaka continue to resist the clause in the MOU which the government claims provides protection to land in Buganda counties where competing customary leaders are present, the current mixture of de jure tenure arrangements could change. Specifically, some land which is held by local residents in an informal customary way could be converted or returned to the Kabaka's Mailo estate tenure model[95]. Boone (2007: p. 576) notes that the government's resistance to this return of land since the enactment of the 1993 Traditional Rulers Act has "given rise to 'one of the most difficult political struggles of [Museveni's]

[94] A Ssaza is a County Chief according to the Kingdom of Buganda's administrative structure. Each of the Kingdom's County Chiefs owns property in their respective county (e.g. Bugerere County) for Buganda administrative purposes.

[95] "Mailo Akenda" land, which is the type of land being returned to the Kingdom, would not reside on any land already allocated in freehold or leasehold form. Therefore, by process of elimination, the land being returned in Kayunga would be held informally in a customary form.

first fifteen years in government','' namely the need to curb strong political pressure from the Kingdom of Buganda to ensure a balanced representation of the country's interests. Therefore, in light of this ongoing political struggle, it will likely be difficult for the government to stop what the MOU has already put in motion for the tenure arrangements in the District of Kayunga.

The Buganda land official was quick to note the changes that would need to happen in order to adapt the current de jure tenure system in Kayunga to the new one within the Kabaka's Mailo estate (Interview, 22 April 2014). In speaking to the differences between application fees and processes related to freehold and leasehold registration, and those of the Mailo Estate, he explained:

> There are differences from fees, from structures, from management there are differences. Application fees for instance, government schedule specifies 20,000 as application fees, Buganda Land Board fees are UgSh 1,2 million because for us the application is done at the same time with the inspection, with planning and surveying. So when somebody applies to the Buganda Land Board, they're sure the land is going to be inspected, verification just like the Land Area Committees do, but they also have their land surveyed and they have to put a number. So now synchronizing is probably another interesting side, maybe when you come for your PhD. (Ibid.)

However, in the case of my research area, where most tenure arrangements are not formalized within the state's registration system, the changes would be quite different. As mentioned previously, land on the Kabaka's Mailo estate is subject to a Buganda-specific registration process should an occupant wish to formalize or transfer their land. As such, the return or conversion of informally held land would have monetary implications for local residents.

As mentioned previously, some of the focus group participants confirmed that they adhere to an informal registration system when transacting land (FGD2 – FGD7, April – May 2014). The costs to this group in subscribing to this process are the fees paid to the village-level (LC1) chairman, which are likely in the range of UgSh 5000 to 10,000 (USD $1.50 to $3.50) (Jones, 2008). The remaining focus group participants transacted land through private oral agreements, which required no additional facilitation fees (FGD1 – FGD7, April – May 2014). As such, if the Kabaka were to introduce the need for a UgSh

1,200,000 registration fee in this area, upon which consent for transferring land is contingent, local residents would experience a drastic increase in transaction costs. In fact, objections to this fee have already emerged in another District where land has been returned (Uganda Radio Network, 8 October 2014). Local residents in Luwero District "claim that the set fee is prohibitive to the registration exercise" (Ibid.) and have protested to the Deputy Resident District Commissioner. Although it is difficult to believe that the Kabaka would prosecute all occupants involved in sales of land not registered with the Kingdom, the threat of it – spread through the Kingdom's sensitization campaigns – coupled with the high levels of poverty in this area[96] could negatively impact local residents' perceptions of land tenure security.

This analysis does not account for additional resistance strategies from the Ssabanyala and local residents, as it is difficult to predict how the country's decentralization program – mainly its impact in terms of the reinforcement of distrust norms and competing local networks – would impact local resistance to additional adaptations of the formal economic institution of land tenure. Local resistance may, in fact, be more robust, considering the current level of inter-network competition in Kayunga, yet this recentralization of land administration in the Kingdom may have a negative impact on banyala confidence as well. Whichever the case, the 2013 Buganda MOU will likely have significant implications for strength of land tenure security in my research area.

Chapter 9: Data Analysis – Security Changes Caused by Land Tenure Modifications

Overview

In the previous section, I presented past and future tenure modifications in my research area, and began to explore local residents' perceptions of tenure security. Building on this initial exploration, the next section will present an analysis regarding the links between the Sub-County's current de facto tenure system and land tenure security. NIE theory posits that transaction costs, such as restrictions on tenure formalization, and uncertainties, such as the potential for land grabs, hinder land tenure security, thereby

[96] Recall that the Sub-County's Comprehensive Five Year Development Plan (2011) notes that "the majority of the population in the Sub-County is poor, lacking basic needs of life".

discouraging investment behaviour. This next section will therefore focus on the specific links between tenure related transaction costs and uncertainties, and land tenure security.

The Hybrid Institutional Environment's Impact on Tenure Transaction Costs and Uncertainties

As mentioned previously, Uganda's formal economic institution of land tenure creates numerable transaction costs within the tenure formalization process. The "prohibitive" application costs, the cost of extended travel due to a limited administrative, judicial and technical services structure and the opportunity cost of delays due to gaps in local land organizations' human resources or funding capacity are some of the hindrances of the formal land tenure institution. Meanwhile, elements of informal social and political institutions, such as local norms of distrust and inter-network competition, have minimized the intended impacts of this formal economic institution on local behaviours. Consequently, Uganda's informal-formal institutional environment has created a de facto tenure model whereby local residents circumvent the costly state-built registration system for customary land processes, while simultaneously building legitimacy for state restrictions on evictions. In contrast to the state-built registration system, customary land processes carry less transaction costs because facilitation is cheaper, travel distances are smaller and processing times are shorter. Consequently, informal tenure related transaction costs in my research area are relatively small at the moment, while uncertainty is low due to local recognition of legal provisions that criminalize evictions – another example of a hybrid informal-formal influence of institutions.

As a result perceptions of tenure security are high in my area of study, as demonstrated by the common responses amongst of the focus group participants:

- There is a greater overall sense of land tenure security for kibanja due to new eviction laws (Land Act Amendment, 2010) that make it more difficult for kibanja to be evicted by their landlords (FGD1 – FGD7, April – May 2014)
- Participants have a personal sense of land tenure security due to the local land conventions and customs in their community (FGD1 – FGD7, April – May 2014)

Although some groups or individuals challenged this idea, as demonstrated by the common responses below, the prevalence of their responses compared to the above responses was much less significant:

- An inherent sense of land insecurity remains when residing on public land since the government can come to take at any time. (FGD1, 15 April 2014; FGD7, 2 May 2014)
- Land tenure security has not improved as witnessed by the growing prevalence of land grabs in this region (FGD5, 1 May 2014; FGD, 2 May 2014)

The appearance of these counterarguments is important, however, as previously demonstrated by Bouquet's (2009: p. 1390) definition of land tenure security: "the level of certainty regarding continuous long term possession of agricultural land, which is materialized by either a *low incidence of challenging claims* or an effective protection against those claims" (emphasis added). This definition highlights that in addition to the strength of the provisions in place for protection, the strength of outside threats also impacts land tenure security. As Bomuhangi et al. (2011: p. 15) note in their study, *Who Owns the Land? Perspectives from Rural Ugandans and Implications for Land Acquisitions*:

> Although respondents claim that they have relatively secure use rights to land under present conditions, there are serious questions about whether such rights will be robust enough to withstand challenges from powerful outside interests of investors seeking to acquire land.

My findings caused similar questioning as the District of Kayunga was being showcased in the media before and during my research period as an area prone to such questionable land acquisitions[97]. In speaking with the Area Land Committee, they informed me that no major foreign investments had been made in my chosen Sub-County yet (8 April 2014). Yet, Ms. Nantaba, the Junior Minister for Lands said that three areas in the District of Kayunga have recently experienced troubles with land grabs (Informal Discussion, 29 April 2014). The outcomes in these three areas were so significant that she produced a report on

[97] Recall in 2012, the president appointed a Kayunga MP, Ms. Idah Nantaba, to review and reverse alleged "land grabs" in this region, and throughout the country (The Observer, 20 March 2014).

her findings for the Ministry of Lands (Ibid.). Ravnborg et al. (2013: p. 65) also note in their study that, despite the perception of tenure security being widespread, "numerous press reports of land grabbing and land conflicts, not least in the Northern part of Uganda, indicate that such risks may be real." Although few of the focus group participants seemed to be aware of this threat, as Hillhorst (2010: 56) points out, "the prospect of (*or rumours about*) large-scale land acquisitions can erode tenure security" (emphasis added) as well.

Thus, while the focus group responses would indicate that the current perception of tenure security is high among local residents in my research area, it is important to note that the growing number and more public prevalence of land grabs in the District, combined with the potential for negative impacts from 2013 Buganda MOU, may mean that local residents' perceived land tenure security is about to change.

PART III

Conclusion

As mentioned previously, many African governments that have made changes to the formal economic institution of land law have yet to see these changes implemented at the local level (Bruce & Knox, 2009). The Ugandan government is no exception. In exploring the interactions between the formal and informal institutions - as well as economic, social and political institutions – which influence land tenure behaviour in Uganda, and how

decentralization impacts this institutional intersection, this paper offers a first step in understanding how state-led land reforms may be undercut and cause unintended outcomes when pursued through certain decentralization models.

Ugandan legislation, mainly the 1995 Constitution and the 1998 Land Act (and its amendments), was drafted with the intention of decentralizing land management and administration to the local level in a way that empowered local residents and ignored customary leadership. According to Cohen and Uphoff's (1980) participatory framework, local residents were given the ability to participate indirectly and directly in decision making, implementation, benefits and evaluation of the land system. Local customary leaders on the other hand, were given a weak and mostly indirect participatory role in only a few of these categories. In fact, local customary leaders' participation was mostly symbolic in nature, as demonstrated by the explicit stipulation of the government that traditional leaders "not join or participate in partisan politics" or "have or exercise any administrative, legislative or executive powers of Government or local government" (Constitution, 1995, Article 129). Although there is no way of knowing the Ugandan government's motives in choosing a land reform model that largely ignored established customary leaders, as Boone (2007) notes, central governments often remove land allocation from local customary leaders' portfolios to ensure their power is held in check against the power of the state.

The intent of these legislative documents was flipped on its head, however, when implementation constraints prevented local residents from taking on participatory roles in practice – although there was some direct, yet uneven, participation in decision making and evaluation. The poor implementation of the legislation also unintentionally empowered local customary leaders, specifically in the District of Kayunga, beyond the spirit of non-partisan involvement. By analyzing the specific ways decentralization differed between policy and practice, this paper presented the likely influences that Uganda's poor implementation of the formal economic institution of land law had on the informal social and political institutions of land tenure. Local norms of distrust of the state and the legitimacy of customary legitimacy, together with increased competition between two cultural networks, worked to alter the hybrid institutional environment, thus altering the incentive structure for individuals and organizations and the local level.

Within this new hybrid institutional environment, which blends formal and informal elements, I posit that customary leaders in Kayunga were incentivized to exhibit real resistance strategies on behalf of their ethnic-based organizations. From open support or opposition to the state's adoption of the land laws, to alterations of the land laws to strengthen their network, this paper presents multiple instances in which the leaders displayed organized resistance. Additionally, I hypothesize that the changing hybrid institutional environment's also incentivized local residents to exhibit token forms of resistance, such as largely ignoring the formal economic institution of land law altogether. Thus, through various forms of resistance, these organizations and individuals acted to shape the formal institution of Uganda's land laws – much like the institutional environment had shaped their behaviour previously. This fluid interaction of institutions and organizations/individuals demonstrates the dynamic overlap of these two NIE concepts and how organizations and individuals can equally influence the hybrid institutional environment.

The overlapping and conflicting influences of formal and informal institutions and their economic, social and political leanings, together with the influences of organizations and individuals, have evolved to create the hybrid institutional environment which incentivizes economic behaviour in Kayunga today. The findings from the chosen Sub-County depict an informally formalized tenure system which is individual in nature. Notably, this tenure system appeared to offer more seamless transfers and stronger protections for land tenure when compared to the state system: a finding that runs counter to mainstream land tenure theory (Deininger, 2003).

This hybrid institutional environment also appears to have produced a strong sense of tenure security amongst local residents despite the growing threat of land grabs in the District of Kayunga. Therefore, lower transaction costs combined with low levels of uncertainty with respect to land tenure security have enabled the hybrid institutional environment to facilitate what appears to be a functioning land market.

In sum, this paper provides deeper insight on NIE framework in areas where research was previously lacking. By exploring the institutional adaptation of land tenure in greater detail, whereby I investigated how decentralization within a formal economic institution can influence a mixture of institutions to create an unstable and often incoherent hybrid

institutional structure, I demonstrated how state-led institutional adaptations can lead to unexpected outcomes. Also by examining decentralization's impacts on organizations and individuals, this paper helped to unpack the ways in which these two categories of actors can also influence the institutional environment, as well as create, adapt and undermine institutional change in unexpected ways.

Although these findings offer important insight on how an institutional environment may evolve and ultimately influence land tenure security, they are derived from limited, exploratory field research. Limited time and resources for example, required that I use a Rapid Rural Appraisal (RRA) methodology, which offered few analytical tools to explore the micro power relations within my group of residents or within the kiganda and banyala networks. Extended time in my research area and a full anthropological approach would have provided greater nuance in understanding how resistance strategies are created and evolve within these groups of actors. Extended time would have also allowed me to explore the opinions and perspectives of other local categories of actors, such as NGOs, local business organizations and co-ops, which likely influenced the institutional environment as well. Although I touched on the potential influence of these actors during some of my key informant discussions or observations, there was neither the time in the field, nor the space in this thesis to adequately cover their role. Finally, additional time in my research area would have also allowed for a different methodological approach in terms of how I met and interacted with my research participants. As stated before, there were flaws in my use of the Area Land Committee to connect with residents since the committee had vested interests in promoting the country's current land legislation. Had I been able to live in my research area for longer, there would have been more time to meet residents directly, without the intermediation of an interested party. In sum, years rather than months of field research would have allowed me to extend and validate my findings.

Looking beyond my methodology, it is also important to note that more research is required to better understand what conditions are required to effectively implement institutional change. Although theorists like North (1990) offer an important starting point with the classical NIE framework, greater attention must be placed on comprehending why and how institutions are negotiated. As the report from the Research Programme Consortium for Improving Institutions for Pro-Poor Growth (IPPG) and UKAid (2010: p. 12) states "this

takes us into the territory populated by actors and organizations which is well 'beyond' many of the conventional approaches to institutional analysis." This paper begins the exploration beyond conventional approaches by focusing on the intersection of formal and informal institutions. Although Nee and Ingram (1998), Opper (2008) and Ostrom (2008) have already noted that a thorough understanding of economic behaviour is derived from the intersection of informal and formal institutions, there is very little research on why and how this intersection evolves. This paper, therefore, sheds light on this gap in the literature by demonstrating that decentralization within a formal institution can instigate conflicting changes within the formal and informal institutional environment, and that individuals and organizations can facilitate these changes through various types of resistance. Using Scott's (1985) framework, this paper delves even further into how these resistance strategies allow individuals and organizations to subvert or alter institutional change. This paper also demonstrates a clear example of how the interaction between formal and informal norms can cause the emergence of opposition norms at the local level. Residents' avoidance of the formal land registration system in my research area supports Oppers (2008) theory that these opposition norms can cause people to decouple from the formal framework of rules.

In addition to theoretical contributions, my findings also offer important land policy insight for Uganda, and other countries with similar histories, informal political networks and agriculturally dependent yet poor constituencies. In light of the unexpected and unwanted effects of Uganda's poorly implemented 1998 decentralised land reform, policy-makers would be best served in the future to evaluate the feasibility of the financial and operational requirements of their legislation ahead of time. Additionally, and perhaps most importantly, they would do better to deepen their understanding of local opinions and perspectives on land, and prioritize this input when enacting land decentralization policies. As Scott (1998: p. 49) states, "we must keep in mind not only the capacity of state simplifications to transform the world but also the capacity of the society to modify, subvert, block and even overturn the categories imposed upon it."

Annex A

Bundles of rights associated with the positions in formal tenure regimes in Uganda

	Non-Mailo Customary occupants	Mailo owners with bona fide and lawful kibanja	Bona fide and lawful kibanja	Owners (freehold)	Lessees (on all tenure types)	All individuals on Public Land
Access	X		X	X	X	X
Withdrawal	X		X	X	X	

	(dictated by customary leaders)					
Management	X (dictated by customary leaders)		X	X	X (unless terms established by the lessor in the lease)	
Exclusion	X (dictated by customary leaders)		X	X	X	
Alienation		X (can sell or lease but cannot displace bona fide and lawful kibanja in the process)	X (conditional on owner's consent)	X		

Based on Ostrom's (2003) 5 categorizations of property rights: Access, withdrawal, management, exclusion and alienation.

Annex B
Focus Group Discussion Schedule

Focus Group Discussion (FGD) #	Parish #	Date	Start Time	Economic level of the Parish*	Gender break-down
FGD 1	1	15 April 2014	15:30	Medium	4 Males / 6 Females

FGD 2	2	24 April 2014	15:00	Medium	4 Males / 2 Females
FGD 3	2	24 April 2014	17:00	Medium	5 Males / 2 Females
FGD 4	3	1 May 2014	15:00	Rich	4 Males / 2 Females
FGD 5	3	1 May 2014	17:00	Rich	4 Males / 3 Females
FGD 6	4	2 May 2014	15:00	Poor	6 Males / 0 Females
FGD 7	4	2 May 2014	17:00	Poor	6 Males / 1 Female

* According to the Sub-County's five year development plan (2011)

Annex C
Service Costs for Land Administration System
No. 16 – May 2013 (in Ugandan Shillings)

LAND INFORMATION SYSTEM (LIS): PROCEDURES & SERVICE COSTS

ACCESS TO ACCURATE LAND INFORMATION

MINISTRY ZONAL OFFICES (MZO)

All mailo, leasehold and freehold land transactions for land registration, administration, valuation, and surveys and mapping in the districts listed below will be handled by the respective Ministry Zonal Office (MZO).

MZO/Land Office	Location	Opening Hours	Districts Covered
KCCA	City Hall	8am-12.45pm	Kampala
Jinja	Next to UNRA	8am-12.45pm	Bugiri, Buyende, Iganga, Jinja, Kaliro, Kamuli, Luuka, Mayuge, Namayingo, Namutumba
Mukono	Next to District HQ	8am-12.45pm	Kayunga, Buikwe, Buvuma, Mukono
Wakiso	District HQ	8am-12.45pm	Wakiso
Masaka	Next to Magistrate's Court	8am-12.45pm	Bukomansimbi, Kalangala, Kalungu, Lwengo, Lyantonde, Masaka, Rakai, Sembabule
Mbarara	Kamukuzi Hill	8am-12.45pm	Buhewju, Bukanga, Bushenyi, Ibanda, Isingiro, Kiruhura, Mbarara, Mitooma, Ntungamo, Rubirizi, Sheema
MLHUD HQ	Parliament Ave, Kampala	8am-12.45pm	Butambala, Gomba, Mpigi, and the rest of Uganda

PROCEDURES

Clients simply need to follow the steps listed below:

1) The officer at the reception will provide clients with the list of documents required and fees payable for each type of transaction.
2) On submitting the full set of completed forms and documents, general receipts of payment and a photocopy of the documents submitted; the MZO will date stamp your photocopy as an acknowledgement of lodgment.
3) When you return to the MZO on the date indicated on the receipt, present the dated stamp photocopies and receive the finalized transaction or an update.

SERVICE COSTS

Department of Surveys & Mapping

No.	Service	Time (Working Days)	Cost
1.	Check and process a file for surveyed land/plot up to issuance of Deed Plans / Prints	10	3,000/= per job; 150/= per point measured
2.	Issuance of Deeds Plans on request	5	7,500/= per set (Small Size) 15,000/= to 30,000/= per set (Big Size)
3.	Provision of Survey data	2	10,000/=
4.	Isssuance of Instruction to Survey (I/S)	2	5,000/=
5.	Provision of site plan/working print	1	5,000/=
6.	Provision of hard copy Map/ chart	1	10,000/=
7.	Provision of an electronic version of a map/chart	1	75,000/=
8.	Provision of a copy of Map Cartridge	1	10,000/=
9.	Provision of Aerial Photographs	2	15,000/= (per 5 copies)
10.	Provision of print out satellite Image	2	30,000/=
11.	Provision of a Cadastral standard sheet on film	2	30,000/=
12.	Provision of Report on Boundary Opening for dispute resolution	10	No Cost
13.	Approval of a Land subdivision/ mutation	5	20,000/=
14.	Respond to any mapping/ surveying queries	5	No Cost

NOTES

a) All payments attract an additional bank charge which is currently 2,500/=
b) Fees charged by the Department are provided for under the Law in the Twenty - Second Schedule of the Registration of Titles Act CAP 230
c) Where an instrument of Lease, Sublease or Mortgage is lodged in triplicate, an additional fee of Ug Shs 2,000/- is charged
d) On Lodgement of any instrument or other document whose purpose is to deal with or effect more than one Certificate of Title, Mortgage or Lease, for each entry after the first one, Ug Shs 5,000/= is charged
e) For perusal of Power of Attorney, a Memorandum and Articles of a limited liability company, rules or byelaws of a charter or other written constitution of a corporate body, an additional Ug Shs 5,000/= is charged.

*** Statutory period for notice**

Department of Physical Planning

No.	Service	Time	Cost
1.	Prepare Physical Development Plans	9 months	The determined costs vary and are met by clients.
2.	Prepare Detailed Layouts	6 months	Costs vary and are met by clients.
3.	Consider and approve plans by the National Physical Planning Board	60 working days	• 1,000,000/= for District Physical development Plans; • 2,000,000/= for City Physical development plans • 1,000,000/= for Municipal Physical development plans & • 500,000/= for Town Council Physical Development Plans.
4.	Communication of Board's decisions to Local Governments	5 working days after the Board's decision	No Cost
5.	Respond to requests for change of User	60 working days	No Cost
6.	Provide Feedback to LGs on Planning clearance/guidance	5 working days	No Cost
7.	Inspection of gazetted urban centres	Atleast once a year	No Cost
8.	Gazettement of approved Physical Development Plans	6 months after approval by National Physical Planning Board	No Cost
9.	Availing land use information &/ or plans to users	2 working days	Reproduction costs are met by clients
10.	Induction of new LG Physical Planning staff	Within the first three months of their appointment	No Cost

Valuation Division

No.	Service	Time (Working Days)	Cost
1.	Valuation for stamp duty	Within 5 (Greater Kampala) 10 (Up-country)	No Cost
2.	Valuation for Probate	10	No Cost
3.	Determination of Premium and Ground Rent	10 (After inspection in Greater Kampala) 15 (After inspection Up-country)	No Cost
4.	Advice on compensation Rates	15 (After inspection)	No Cost
5.	Valuation for boarding off	15 (After inspection)	Costs vary and are met by client
6.	Determination of Premium and Ground Rent	5	No Cost
7.	Advise on compensation rates	Within 15	No Cost
8.	Valuation for sale and/or purchase by Government	15 (Within Greater Kampala) 20 (Up-country)	Costs vary and are met by client
9.	Supervision and approval of valuation reports by Consultants on land acquisition for roads, way leaves, etc	30 (After initial submission of reports to final submission for approval)	Costs vary and are met by client

ACCESS TO ACCURATE LAND INFORMATION

LAND INFORMATION SYSTEM (LIS): PROCEDURES & SERVICE COSTS

Department of Land Administration

No.	Service	Time (Working Days)	Cost
1.	Processing upcountry instructions to prepare land titles (both leasehold and freehold)	10	• Registration fee: 10,000/= • Issue of certificate of title: 20,000/= • Assurance of title 5% of premium or 20,000/= incase of freehold • Preparation of lease: 20,000/=
2.	Provide technical advice in writting	10	No Cost
3.	Give consents to tranfer	3	• Consent fee: 20,000/= • For each additional plot: 5,000/=
4.	Processing extentions on expired initial leases and renewal of expired leases	20	• Registration fee: 10,000/= • Preparation of lease: 20,000/= • Issue of certificate of title: 20,000/= • Assurance of title: 20,000/= • Extension/application fee: 20,000/=
5.	Processing of extensions of running leases	10	• Registration fee: 10,000/= • Extension/application fee: 20,000/=
6.	Processing variation of terms lease/change of User after approval from controlling Authority and National Physical Planning Board	7	• Registration fee: 10,000/= • Variation fee: 20,000/= (Premium and Ground Rent must have been assessed and paid by the client)
7.	Processing conversions from customary tenure to freehold	10	• Registration: 10,000/= • Assurance of titles: 20,000/= • Issue of certificate: 20,000/= • Application fee: 50,000/=
8.	Processing sub divisions	15	• Registration: 10,000/= • Assurance of titles 20,000/= per title • Issue of certificate 20,000/= per title • Application fee: 20,000/=
9.	Conversions from leasehold to freehold	10	• 100,000/= for Urban areas • 40,000/= for rural areas • Registration fee:10,000/= • Issue of certificateof title: 20,000/= • Assurance of title: 20,000/= • Applicaation fee: 20,000/=
10.	Process grant of leasehold & freehold	15	• Preparation of lease: 20,000/= • Registration: 10,000/= • Issue of certificate of title: 20,000/= • Assurance of title: 20,000/= • Application fee: 20,000/=
11.	Issuance of search report on information from the Land Administration Registry on ownership, status of Land, plot number	3	• Search fee: 10,000/= • Perusal fees: 5,000/=
12.	Processing of certified document after receiving the relevant land file	1	• Search fee: 10,000/= • Perusal fee:5,000/= • Certificate per page: 2,000/=
13.	Issuance of search report for information in the map record office to establish status of the land	10	Search fee: 10,000/=
14.	Processing building plans	10	Search fee: 10,000/=

Department of Land Use Regulation and Compliance

No.	Service	Time	Cost
1.	Monitor, Inspect and Supervise Local Governments and Urban Councils for Land Use Compliance	• Once a year for districts & Town Councils • Twice a year for Municipalities • Quaterly for KCCA Divisions	No Cost
2.	Provide feedback to inspected LGs on corrective actions required of them.	2 weeks after inspection	No Cost
3.	Publish a 'State of Land use Compaliance Report'	Once every two years starting 2012	No Cost
4.	Respond to request by LGs & other MDAs for Technical Support in the area of land use regulation & compliance	Within 1 month of reciept of request	No Cost
5.	Respond to Requests for Change of User	Within 5 Working days	No Cost

Department of Land Registration/ Office of Titles

No.	Service	Time (Working Days)	Cost
1.	Conduct a physical /personal search on the registered piece of land	1	10,000/= per search
2.	Issue a search letter	2	10,000/= per letter
3.	Register Transfers on Certificate of Title	5	• Stampduty: 1% of the value of the land • Registration fees: 10,000/=
4.	Register a Mortgage	3	• Stampduty: 0.05% of the mortgage sum • Registration fees: 10,000/= • Persual 5,000/= and 2,000/= for extra copy
5.	Release a Mortgage	5	• Stampduty: 5,000/= • Registration fees: 10,000/=
6.	Remove and expired Mortgage	40/30*	• Registration fees: 10,000/=
7.	Lodgement of a caveat	1	No cost
8.	Register a Caveat	2	• Stampduty: 10,000/= • Registration fees: 10,000/=
9.	Remove a Caveat (based on requests by another party other than the person who placed it)	70/60*	• Stampduty: 5,000/= • Registration fees: 10,000/=
10.	Withdraw a caveat (based on requests by the person who placed it)	5	• Stampduty: 5,000/= • Registration fees: 10,000/=
11.	Lodgement of a court order	1	No Cost
12.	Register court order/decrees	1	10,000/=
13.	Rectify the Register (with notice)	40/21*	No Cost
14.	Rectify the Register (without notice)	5	No Cost
15.	Register Administrators or executors of a will on Certificate of Title	5	• Registration fees: 10,000/=
16.	Issue of certificate of Title upon subdivision	10 - 20	• Registration fees: 10,000/= • Title charge per new certificate: 10,000/=
17.	Issue Condominium Certificates of title	10	• Registration fees: 10,000/= • Title charge: Ug 10,000/= per each condominium certificate of title
18.	Issue Speciall Certificate of Title (to replace owner's copy)	45/30*	• Stamp duty: 10,000/= • Registration fees: 15,000/= • Gazzettement fee: 120,000/= (paid to Uganda Printing & Publishing Corporation).
19.	Issue Substitute Certificate of Title (to replace registry copy)	10	No Cost
20.	Issue new Leasehold & Freehold Certificates of Titles	10	Registration fee: 10,000/=
21.	Extend a lease on certificate of titles (For running lease)	5	Registration fee: 10,000/=
22.	Renew a lease on certificate of title (For expired leases)	10	• Stamp duty is paid as to 1% of the revised rent.
23.	Preparation of a variation	5	Preparation fee: 10,000/=
24.	Register Variation of a Lease	5	• Stamp duty: 10,000/= for 2 copies of variation lease documents • Registration fees: 10,000/=
25.	Preparation of surrender of a lease	5	Preparation fee: 10,000/=
26.	Surrender of a Lease	10	• Stamp duty: 5,000/= • Registration fees: 10,000/=
27.	Register certificates of re-possession & Purchase of certificates of title	5	Registration fee: 10,000/=
28.	Register correction of errors on certificates of Titles brought by client	5	Registration fees:10,000/=
29.	Amendment to the Register	30/21*	No cost
30.	Register change of names & address	5	Registration fees: 10,000/=
31.	Acknowledgement of receipt of communication to office of Titles / Department of Land Registration	2	No Cost

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