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THE UGANDAN EXPERIENCE OF LAND MARKET POLICY

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Abstract

This paper reviews the impact of international land market policy on the evolution of customary tenure in Uganda. In particular it considers why it took 95 years to establish a legal recognition of customary tenure, and the impact that this has had on the standing of customary rights holders. It reviews key international policies in respect of land markets, and notes that some institutions have wrongly interpreted the increasing emphasis on security of tenure as a justification for replacing customary tenure with individualized land rights.

The experience of the Land and Equity Movement in Uganda over many years has shown that customary approaches to land management cannot be accommodated in an individualized system. Despite this, the Ugandan Government appears to be set on converting customary rights to other systems, which is based on a misunderstanding of the means by which tenure security can be promoted.

Key Words

Community, Customary, Governance, Traditional, Uganda

1. Introduction

This paper seeks to review the impact of international land market policy on the evolution of land tenure in Uganda. In particular, it considers why it took 95 years for the legal recognition of customary tenure, and the impact that this has had on the standing of customary rights holders. The majority of land in Uganda (estimated at 80% by land mass) is held and managed on a customary basis, particularly in rural areas.

In order to present the evidence, the paper will first describe the realities of customary land tenure in Uganda based on the authors' extensive work and LEMU's current research and analysis. The paper will then consider whether customary land tenure has been misunderstood and misrepresented to the extent that international policymakers, have unfairly dismissed customary tenure. LEMU does not accept the unfair treatment of customary tenure as an inferior form of tenure, and works to protect customary tenure, as a sustainable, resilient means by which land can be held and governed in the interests of rights holders.

It will be concluded that widely held misconceptions about the nature of customary tenure have wrongly encouraged the replacement of the customary system with individualized alternatives, to the detriment of traditional landholders in Uganda. Consequently, there has been reduced support for traditional land governance systems, which has led to a self-perpetuating decline in the status of customary land in the eyes of policy makers and to some extent, customary rights holders themselves. This should be of particular note and concern to policy makers, as the benefits extolled for the land market are not likely to benefit poorer rights-holders for a very long time, and actually risk exacerbating current inequalities. This outcome is presumably not what is intended through international policy ambitions promoted by the United Nations and the World Bank.

2. Customary Tenure in Uganda: Realities and Misconceptions

2.1 The Legislative and Policy Framework

Since 1995, customary tenure has been recognized in the Ugandan constitution as being a legal form of tenure alongside freehold, leasehold and Mailo (a form of tenure introduced during the colonial period). Although 23 years have passed since the legal recognition of customary tenure, in the first years following the adoption of the Constitution, in practice the state sought to encourage the *conversion* of customary tenure to freehold. The legislative means for doing this are set out in the Constitution (1995) and the Land Act (1998). The recognition of customary tenure during this period appears to have been as

a means to an end: the replacement of customary tenure with individualized rights such as freehold and leasehold. There is no equivalent replacement process for Mailo tenure.

It was the National Land Policy (2013) ("NLP") that gave customary tenure a parity of status alongside the other tenures, recognizing the role that customary tenure plays in land governance in large swathes of Uganda. The NLP states: "The 1995 Constitution and the Land Act…attempted to formalize customary tenure and were criticized for destabilizing and undermining its progressive evolution" (NLP, 2013). Having noted the shortcomings of the legislative framework, the NLP set out progressive provisions to: recognize the merits of customary tenure on its own terms; recognize that a 'dual system' of tenure was in place; set out a policy to properly recognize customary tenure; and to set up a land registry system in order that customary rights could be registered. In particular, it sought to ensure that only customary rights that were already held on an individual basis could be transferred into the freehold tenure, and to recognize the resources that are owned and managed by communities. LEMU is supportive of these provisions, and considers that they have the potential offer appropriate protections to rights holders, whilst seeking to support the evolution of customary governance and ensuring that customary principles comply with the "principles of equality and natural justice" (NLP, 2013).

In practice, despite the positive policy intentions outlined by the NLP, the implementation of the policy and legal framework has nonetheless continued on the path of converting customary land towards freehold, even where not held by individuals. This leads to significant concerns about policy being drafted that has positive and laudable intentions, but is not being implemented. This allows policy makers to point to the policy as a progressive attempt to protect rights holders, whilst choosing not implementing it on the ground.

2.2 Customary Tenure in Practice

There are a number of commonly held misconceptions about Ugandan customary tenure. It is the view of the authors that these misconceptions predominantly arise from overgeneralization at an international policy making level by economists. This dates back to colonial days and carried on by subsequent governments after Independence. These misconceptions are considered to be the cause of a continued failure to properly protect customary tenure in Uganda. Examples of misconceptions include that customary land:

a) is communally owned (and effectively open access);

b) does not permit women to own land (and is therefore discriminatory);

c) cannot be used to get bank loans, and therefore cannot contribute to economic development.

We address each of these in turn in more detail:

a) The "open access" fallacy leads to a failure to draw the distinction between privately owned land, family land, and community land, and the different roles that these types play. LEMU's experience shows that most land held under customary tenure is inherited and owned privately by families (as farm land and homesteads) and by communities (as grazing, forest or hunting land). There are strict rules about who can use the land and under what conditions. Family land is inherited within the family through birth, marriage and gifts. The management of the land is passed on from parents to children and their family members, but kept within the family, and to that extent, private amongst a specified group. Strict rules govern customary land, and the need to manage family land in trust, and kept in the family for future generations. Contrary to misconceptions about customary land being communal, and therefore at risk, people feel very secure on their land. Security is evidenced by fewer than 10% applying for titles in the time that this has been an option. After all, tenure security is a matter of perception, not merely fact.

As a result, even without titles, customary landowners do invest in the land by building permanent commercial houses, planting perennial crops such as coffee. They are also happy to invest in this land if they can afford the risk and if an investment is deemed worthwhile. These conclusions came out very strongly from two pieces of research conducted by LEMU, in Apac (Adoko and Levine, 2005) and in Acholiland (Adoko and Levine, 2004). It is important to make the distinction between family (or community) land and open access land. The obligations and shared incentives wrapped up in shared land where that land is shared between those who know each other are very different to those where anyone can access land. Many arguments against customary community land have been (wrongly) premised on them being open access.

b) The idea that women do not own land under customary tenure seems to be rooted in the notion that unless one is an individual landowner, then one does not own land but only *uses* land. However, under customary tenure, land is family and community owned, and the majority of women have rights to this land which they receive by birth or marriage. Women have always been able to acquire and hold land rights, with key events being at birth (and therefore having rights to family land) and marriage (acquiring rights to the husband's land). Policymakers consider that this is insufficient, and that women should own land as individuals. This occurs in

customary tenure where women purchase land, although this is not a regular occurrence as there are few members of the rural poor that are able to buy land. Whilst women's rights to own land as equals are important, the rights that are conferred on women should not be considered lesser merely because they are as part of a network of family and community rights: most men hold land in the same way. Family structures of land ownership contrast sharply with expectations of economists and policymakers, who tend to identify more easily with land tenure systems where land is individually owned and titled.

The second important matter in women's land rights relates to the protection of women. Unfortunately, there are instances of vulnerable women (for example those that are widowed) having land grabbed from them. This is contrary to custom, and where customary institutions are strong, women's rights will be protected. Unfortunately (and due to the undermining of customary tenure institutions through the promotion of freehold), the influence of these institutions has been weakened. Land grabbing from women has erroneously been interpreted as part of the customary tenure regime, and used as an argument for the replacement of customary tenure. The abuse of custom should not be used as an argument against custom, and those that seek to protect women's land rights should shift their focus to improving the standing of community governance to offer protections. The challenge for policy makers should be how they can work with communities to improve on their existing processes and traditions, and to harness the power of local accountability and self-imposed standards.

c) Economists argue that for development to take place, land must be used productively and for this to happen there is need for capital, in the form of bank loans. There is nothing inherent in customary tenure that prevents it from being used for loan collateral. The banks would then take a title as collateral in the event of a default. Since customary land tenure does not have titles, it cannot be used as collateral. It is the responsibility of the State to design and guarantee titles. A question must be asked therefore as to why the state has never designed and guaranteed an appropriate title for customary land but chooses to provide for its conversion to freehold only. This has kept customary land tenure to have a limited opportunity from banks that care for communities who give small amounts of loans.

Setting titles to one side, there are many other barriers in place to the creating of a lending market against existing land rights. Rain-fed agriculture comes with very many risks. Communities therefore often do not seek to borrow against their land, since they fear defaulting the loan and

losing land as a result. Lending rates in Uganda are also high, particularly for investments perceived to be risky, such as small-rural small-holdings. Research in Ghana has shown that banks are often not prepared to offer credit to smallholders, even where title exists, due to the costly and politically difficult prospect of repossessing relatively poor individuals (Elhadary and Obeng-Odoom, 2012). The suggestion that demand for capital in rural Uganda is simply untapped due to the existence of customary tenure, is another fallacy, but one often used in support of increased individualization.

Misconceptions about the reality of customary tenure have led to it being misunderstood, and therefore not properly represented in policymaking. Land market policy is premised on notions of individuals whose behavior is governed by economically rational principles. This simplification (and consequent failure to recognize the realities for many rural Ugandans) leads to them being badly served by international policy. In particular, it fails to recognize the important role that customary tenure plays, and the impossibility (and undesirability) of replacing a well-functioning system of land governance with a western-centric alternative.

There are alternatives to the current approaches. We urge policy makers to work with grass roots organizations to ensure that they properly understand the systems that they are seeking to influence. In Uganda, although it is possible to hold customary land as an individual, the majority of customary land is held either by families or by communities. In trying to apply principles that rely on individual approaches to land rights, we cannot properly serve those communities.

The most important matter in any reflection of land market policy is to consider what outcome is sought. The next section considers the approaches that have been taken towards standardization of land rights in an interconnected world, and why.

3. Ugandan Land Markets in an 'Interconnected World'

3.1 International Policy

Global land market policy seeks to ensure that land resources are part of the global market. Economic theory suggests that this will empower rights holders, and ensure the most efficient allocation of resources. However, these theories rely upon individuals acting in their own self-interest. Land markets as currently envisaged by policymakers assume that customary tenure will be converted to individualized rights, and that this is the route to securing economic development. LEMU cannot agree with this

proposition, since it disregards the value inherent in citizens owning their own land under terms and systems of governance shaped by decades of self-determination. It also fails to recognize the potential for a land market under customary tenure.

However, the important role of customary tenure is now increasingly being recognized by international bodies (see: FIG and World Bank, 2014). The extensive literature and conference dialogue around the role of customary tenure and the importance of protecting it as a safety net of rights shows that the issues are known and recognized. However, there seems to be a governance gap, with implementation, laws and policies continuing to focus on conversion of customary tenure to individualized alternatives. The motives to these continued moves, when there is widespread knowledge on the implications for the rural poor, must be scrutinized.

There are a number of international policies that have an impact on Uganda's national approach to land markets, either due to Uganda's membership of an intra-national organization (e.g. the UN) or due to a need to adhere to the policies of a donor or lending body (e.g. the World Bank).

Uganda has been a member of the United Nations since 1963, and therefore subscribes to the September 2015 Sustainable Development Goals. Although none of the 17 goals is explicitly about land tenure, secure land rights are implicit within a number of the Goals. Secure land tenure is a noble ambition in itself, but the means by which that is achieved are, of course, more complex. The authors of this paper suggest that this is only problematic once 'secure tenure' is read as 'individual, state documented tenure'.

A subset to the first Sustainable Development Goal (to end poverty in all its forms everywhere) is:

> "*1.4 By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance*" (United Nations, 2015)

A subset to the second Sustainable Development Goal (to end hunger, achieve food security and improved nutrition, and promote sustainable agriculture) is:

> "*2.3 By 2030, double the agricultural productivity and incomes of small scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land…*" (United Nations, 2015)

A subset to the fifth Sustainable Development Goal (to achieve gender equality and empower all women and girls) is:

> "*5.a Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws* "

Customary tenure, where properly implemented, is compatible with, and complimentary to these goals. Harnessing good practices within communities, and helping them to develop their own governance, is the most straightforward means to achieve this goal within Uganda. LEMU has worked with many communities in Northern Uganda, along with partner Namati, to assist communities in documenting their existing oral traditions, and ensuring that they are drafted in a way that protects minority interests. Where rights have been documented in this way, there has been a reduced incidence of land conflict within communities, and has better enabled communities to defend their rights against land grabbing attempts (see Knight et al, 2013).

In recent decades, the World Bank's policy approach seems to have softened in its approach to customary tenure (World Bank, 2007). Although there remains a commitment to creating land markets, there is a greater recognition of the role of customary tenure in supporting rural livelihoods, and an acknowledgement of the importance of inclusive growth and the potential for evolution of existing rights systems. This is welcomed.

3.2 The Undermining Effects of the Global Land Market Policy on Ugandan Customary Tenure

The Ugandan Constitution requires that customary laws govern customary land, provided that certain individual rights are protected. The aims under Museveni's presidency have been to work towards having a land market to contribute to economic development, whilst protecting access to land for those with no economic alternatives (Joireman, 2007).

Although we have not identified any policies that are explicit in their intention to move away from customary tenure, the interpretation of such policies is that individualization is the means by which they will be achieved. For example, S.22 of the Land Act provides for family land titles but in the names of "the head of family", an individual, and is therefore effectively a form of individualization. As set out earlier in this paper, the Constitution and the Land Act recognize customary tenure as legal but also provide for conversion towards Freehold by first acquiring Certificate of Customary Ownership (CCO) and eventually a Freehold. It is with lobbying from LEMU that the NLP now advocates for amendment of these provisions to recognize customary tenure in its own right. Disappointingly, despite the positive intentions of the NLP, some five years after it's adoption, these "conversion" provisions are not amended.

The 1998 Land Act sought to allow the entry of customary land into the land market through a system of 'titling' known as a certificate of customary ownership (CCO), which then permits conversion to freehold. This means that, despite the attempt to provide for the ongoing existence of customary tenure, the implementation of the Land Act has fundamentally remained in favor of the conversion of customary tenure. The CCO has revealed that customary tenure is still regarded by policymakers as inferior and a lesser tenure to the alternatives. The inferiority of the CCO is in the need to convert it to Freehold in order to gain the same benefits. By implementing gradual steps towards conversion (first to CCO, and then to freehold), there is a risk that conversion takes place without the full consequences being recognized.

3.3 The Unfulfilled Promise of a Proper Land Information System for Customary Tenure

As noted earlier in this paper, the NLP recognized the shortcomings of the Land Act, and set out to reinforce the importance of customary tenure in its own right. In doing so, it committed to ensuring that proper means for titling community and family land were put in place. This was promising, since in order to promote security of tenure, there should be a land information system recording the rights and responsibilities attributed to land within the customary system. This would also serve to rectify the position of customary tenure against the other systems: unlike customary tenure, the other three tenure systems have land registries and digitalized land information systems. Proper recognition of existing rights is crucial if customary tenure is to participate in the land market, without first needing to convert it.

In order for any buyer, (especially those from international markets) to have sufficient security to purchase land (and for it to therefore feature in the global land market), in Uganda the land must be titled under the Registration of Titles Act, in order to offer a buyer sufficient assurances about legally recognized tenure and protection by the State. At present, and despite the provisions of the NLP, this assurance and protection does not apply to family and community owned land. Policy makers therefore know that customary tenure cannot form part of this land market unless it is first converted to freehold, and therefore able to seek guaranteed title. Although by law customary and freehold tenure are of equal standing, in practice a hierarchy has once again been created.

If the CCO is supposed to be the equivalent to "title" for families and communities, it falls short of this because it does not provide security of tenure in the same way that the title issued to freehold, leasehold and Mailo would. For one to own land that has a title, the name of that owner must be recorded in the title. This is simple logic because it is the names in the title that will give a buyer security that the individual selling is the real owner of the land in a legitimate transaction. Those who own land as individuals therefore have no difficulty meeting this condition. For family and community land that is not

individually owned land, the individual land title is inappropriate, since it cannot reflect the names of all those with rights to the land. For any CCO issued, the process would need to be impeccable and ensure that all the owners of the family and community land are entered in the title. The impact of titling in Uganda has been considered by Bikaako and Ssenkumnba (2003) who found that "the introduction of private ownership has merely shifted the form of control from communal ownership to individual male ownership" (ibid, p.16, emphasis added). It is unfortunate that customary systems, with their inherent protections for women's rights, have been eroded and replaced by a system that cannot offer the same protections.

Policy makers therefore need to discuss and agree with customary landowners what family and community land title should look like, what laws govern customary tenure, its registry, and its land information system. For example, agreement is needed to consider whose names should be entered in the title for family land. Some CSOs have been working towards the creation of CCOs, which do not include family names. This risks unnamed family members having a lack of clarity on their rights, or at worst, losing their rights completely.

In the case of community land, the state legal regime requires that before community owners can own land, they must first register to become a legal entity (known as an Association) with the ability to own land. Currently, the Land Act provides for this registration of the community owners in the names of the Association, and in the names of 3 to 9 elected individuals. This risks the named individuals becoming de facto owners of the land on behalf of the community. The role as intended is to be administrators or managers of the community land. In all other laws in Uganda incorporation is in the name of one entity.

Any title issued on community land following the current law is therefore unlikely to provide security of tenure to all the owners of community land without additional protections. On the contrary, there is potential for rightful tenure holders to become less secure, since the individuals whose names are in the title, in practice, can sell the land without the consent of the community land owners, despite the protective provisions of the law. If the land is sold without consent it is the same people whose names are incorporated, the same people who sold the land who would need to be sued. It may be culturally very difficult for community members to challenge the named individuals on the title. Besides, defending a title means the cases are taken to the State courts where an advocate is necessary to represent the community. This might not be affordable or accessible for community members. Most important is the fact that the people who sell the land are also those legally mandated to sue and be sued. It is unlikely

that they will sue themselves in the event of mismanagement - and very difficult for any aggrieved community members to sue the leaders.

The State guarantees title in a way that does not extend to CCO. Under Section 59 of the Registration of Titles Act ("Certificate to be conclusive evidence of title") states: *"[Certificate of Title] shall be conclusive evidence that the person named in the certificate as the proprietor of or having any estate or interest in or power to appoint or dispose of the land described in the certificate is seized or possessed of that estate or interest or has that power"*. This section gives a guarantee to the buyer that the person whose name is in the title is the owner of the land and therefore can enter into a transaction. However, this section does not apply to CCOs since this the Land Act was passed before 1998, when CCOs were brought into law. Who then will give the same guarantee to titles given to customary land owners or to CCOs? Will it be feasible and safe for the government or the state to give this guarantee when customary land is owned by citizens and managed by clans? Without this guarantee, the buyer of customary titled land will be insecure and this will mean the land market will be inefficient and affected negatively. These questions confirm to LEMU why the CCO is but an intermediary towards conversion to Freehold. It also confirms to LEMU that a title is more for the security of the Land buyer rather than customary rightsholders. If the consideration were for security of customary rightsholders, policy makers would have provided for family and community land, without the need to convert it towards individual titles.

S.22 (2) of the Land Act ("Individual holding of land created out of communal land") states: *"For the purpose of holding land under customary tenure, a family shall be deemed to be a legal person represented by the head of family"*. In other words, change will occur from family land being owned by all family members before grant of title to being owned by *"head of family"*, an individual, especially as the Land Act does not provide for the "head of family" to hold family land in trust and not to sell without family and clan consent. For a title to give security of tenure to all those with rights to family land, a new document needs to be designed to include the names of all the family members and to provide for customary land laws.

A form of 'title' can only provide security for customary landowners if the following conditions are met:

- All the names of family and community land owners are in the title;

- Affordable maps drawn by the land owners are provided for by policy and considered equivalent;

- The rights and restrictions governing customary family and community land are clearly understood, respected, documented and applied by all actors;

- The clans who are the managers of customary land rights are given the space and legal authority to manage customary land effectively; and

- Policy makers and the traditional institutions discuss and agree who will give guarantee on the information in the titles to customary land.

- A registry for these titles is provided for in the head office and in branches.

- A land information system (LIS) is provided for.

Some of the proposals made by LEMU are already provided for in the National Land Policy of 2013, but have not yet been implemented. Until the Government of Uganda engages the managers and owners of customary land to agree how to meet the above conditions, the current push to implement titles to customary land will only serve to convert customary land to the individualized tenure system. This will have the impact of freeing the land from the clans into the land market to have land sold, which will in turn lead to livelihood insecurity for the majority of Ugandans. This is contrary to the 2013 National Land Policy.

Since 2011, LEMU has had discussions with the Ministry of Lands, Housing and Urban Development (MLHUD) on cheaper and culturally appropriate ways to title customary land, as provided for above but there has been no oral or written response to the two written proposals sent to the Ministry. LEMU has documented customary laws in the regions of Lango, Teso, West Nile and Bunyoro in the hope of making land rights more understood. It has been a struggle to get the State organs to accept and respect these customary laws. Some stakeholders continue to focus on the fact that "customs are discriminatory to women". This is akin to saying that 'democracy is bad because some politicians are corrupt'.

3.4 The Damaging Impacts of Individualization

Of the 4 tenure systems in Uganda, (Customary, Freehold, Leasehold and Mailo), customary land tenure is the least supported by the State. It is also the only type of land holding that can be converted to tenure, never converted back to customary tenure. This has devastating effects on the land rights of women and children, especially through irresponsible land sales of land without consent from family members and land grabbed from them and immediately sold. The state has not given the managers of customary land tenure the power they need to protect land rights of women and children and of land from irresponsible sales and land grabbing.

Negative statements about customary land tenure lead customary owners, especially the educated men and women to feel insecure and to want to apply for titles without understanding the implication (namely that they are exiting customary land governance and rules for good, and entering the state managed land tenure system – which many customary rights holders do not understand). LEMU research has shown that this can lead to increased land disputes in families, as a father might title land in his names (believing the land is still held in trust) and after his death, the heir grabs the land for his family to the exclusions of his father's family members). The lack of statutory support to customary land managers also means they are not able to effectively protect the land rights of women and children; the men in families therefore grab land from women and children and sell it. The existence of land disputes and land grabbing in customary tenure are then used to confirm the negative attitude that was said about the system as far back as the colonial days. This perpetuates the weakening of the traditional institutions that exist to protect land rights from abuse.

4. For whose benefit?

As set out in previous sections, the Ugandan legal framework appears to be intended to lead to the acceleration of individualization of rights (in accordance with global land market policy). It is understood that this is based on the premise that a global land market will only be achieved through standardization and individualization. However, an increased emphasis on individualized rights has immediate welfare implications, in particular the potential to:

- further weaken traditional land governance;
- force rights into an alternate structure that cannot accommodate them;
- not protect the land rights and the land of the vulnerable people; and
- result in landlessness of the very people whose livelihoods depend on land.

The basis for many of these outcomes is the inevitable information asymmetries and power imbalances, when considering rights holders, particularly those in rural communities far from Kampala. This can lead to rights being lost, in particular outside the community. This has particular welfare implications when there are not alternative income streams.

Elites are also beneficiaries of the land market policy because the elites have the money to buy land cheaply and the government gains tax from land sales. The consequences of landlessness of the poor is lost on them or at least not predicted and avoided. Currently, land market sales are often from those in a position of distress, rather than willing participants in a land market. Families and communities in

particular are concerned about unregulated land sales that allow land to be grabbed from vulnerable persons and sold, or and members of family land selling land without family and clan consents.

LEMU has consistently sought to lobby the government to give weight to low-key strategies that befit the context, could improve security of tenure of customary land owners and are without the risks of loss of land rights for women and children and land loss. There has been little interest in this approach by the Ministry.

5. Conclusion and Recommendations

After many decades of trying to replace traditional land management systems with freehold land management systems, the government has not succeeded in creating an interconnected land market and has instead created more confusion and insecurity for customary land owners: hardly in line with the international standards already noted in this paper.

Consequently, government actions have weakened the traditional governance system that the majority of customary landowners depend on. The weakening of customary land tenure is leading in particular to sales of land by vulnerable people. This cannot be a good basis for economic growth. These are the same categories of people that most development stakeholders prioritize to help and the category who need the land the most as a secure source of income. A better strategy to protect the rights of women and children would be to support customary land tenure to evolve.

Classical western economic theory says that more secure land rights will lead to economic development. The policy reforms adopted to improve land rights security (e.g. documentation) are not likely to have this impact because of systemic failings, e.g. weak governance, illiteracy and limited access to rights of legal recourse, and their inability (at present) to reflect the realities of customary tenure. Existing land rights systems (including customary rights) are in many circumstances already fit for purpose, because a rural smallholder will gain limited benefit from a title document. Policy interventions should focus on providing security for family and community land, though appropriate customary titles.

LEMU acknowledges that with the adoption of the 2013 Uganda National Land Policy, Government has now realized and accepted that a better path is to restore traditional land governance system and has promised to support traditional land governance to use local materials to mark boundaries, draw sketch maps of their land, be the first to hear land disputes, have a registry for customary land tenure systems; and have their own title. However, we consider that that there has been a lack of interest from international institutions who provide funding to Government and that because of this, there seems to be

an ambition to move away from customary tenure towards an individualized land market. It is therefore unlikely that there will be speedy implementation of the progressive National Land Policy in favor evolution of customary tenure (and not its accelerated conversion to freehold). The possibility of this happening is remote because the elites and the government have been indoctrinated for a very long time of the benefits of titles.

Although the NLP provisions are welcome, their implementation is doubted because of the interest of the economists to promote individual land titles so as to create an efficient land market. Customary land tenure cannot easily sit alongside this ambition, which relies on individualistic principles, and cannot accommodate the rights and responsibilities that are an inherent part of customary tenure. LEMU seeks to share the message that land reform policy is about freeing land for the land market and in the process, the powerful in families and communities will convert customary land. The law encourages this. This process will not empower economic development for the most vulnerable. It will kick land from the communities through the elites to the international stage, upon which the players are the banks, the lawyers, the multinationals and the Government. How can this be considered good?

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