

8. Pressure from development actors and private developers

Many people want to see development happen in Uganda. Communities want to see their areas developed with infrastructure and services, and Government wants to see all parts of the country develop economically and socially. Other people too have an interest in development. Donors and NGOs want to see their projects bring different kinds of development to the people they are trying to help. Private investors want to see their own developments succeed, because this is the reason why they take the risks of investment and also because they want to bring jobs and income to the areas where they invest.

The people who are pushing for development sometimes put pressure on a community to make land available for the development which they want to bring 'for the community', or they may put pressure on local Government to make land available for their investment or project. Understandably, they may feel they want to take their investment elsewhere if land is not available. Unfortunately, as the case study below shows, they may understand a great deal about the provision of education or health services, or the economic returns of running a business, but they are not usually experts in land law. The law is not there to stop development, but only to ensure that when people want to bring development, they respect the rights of all concerned. Donors and NGOs, and other investors, need to understand the law relating to land and how this relates to their programmes.

Respecting land law often means that it takes time to find land, because it is necessary to ensure that everyone who has rights to the land is in agreement with the project, whether by selling the land to the District, by renting it for the project or simply giving it freely as a gift. NGOs and donors can easily become frustrated by delays, because their funding may be tied to a particular financial year or to other deadlines. Other staff may be kept waiting, e.g. to start training health workers or supplying medicines, while negotiations for the land on which to build a clinic takes place. It is not surprising that in these circumstances they can pressurise Districts, communities and those with land rights to release land for development or emergency projects. Private developers may have made substantial investments already, and need their projects to bring in income quickly, e.g. to repay loans.

When land is provided in a hurry, and when agreements are reached by people who do not understand the principles of land law, it is possible that individuals' and families' rights can be violated,

and it is likely that the seeds for future disputes are being laid. This is not the intention of donors, private developers or NGOs. They often feel that understanding the land issues is not their responsibility, because they are dealing with the District to get land, and so it is the District which is responsible for understanding land law. However, this can easily lead to unfair pressure. It has been seen very often that Districts often do not have staff who are trained in land law, and certainly not in the customary land law which governs most land in Uganda. As a result, they have sometimes acquired land for development without following the law and without respecting everyone's rights.

NGOs, donors and private developers who need land for projects therefore have a responsibility to make sure that they understand what the law says about land rights, so that they know that their projects bring development, and not conflict to communities, and bring benefits, and not destitution to community members. They should always find out in advance how long it is likely to take to acquire land legally, and to make sure that this time is built in to any project from the beginning. A lawyer will always be able to help explain the land rights which are written into State law and in particular the rights which are held by people who own land under freehold title. Remember, though, that most land in Uganda is not held under title, but under customary tenure, and that the customary laws of each community are legally binding for everyone who enters into dealings on such land. It is therefore important to find someone who can explain how customary land rights work.

NGOs and donors may feel that since they are giving services, such as clean water, to 'a community', they can drill a well anywhere on 'the community's land' without stopping to consider that most land is owned by families and not by communities. The landowners may be very happy to make the land available for everyone's benefit – but they also have a right to be asked, and even to refuse. Even when the project is an emergency, people's rights need to be respected. Fortunately, in Uganda most landowners have been very understanding of emergency situations, and have been very willing to help make land available for emergency response on a temporary basis, while the emergency lasts. As long as proper consultations are followed, and the proper acknowledgement of the landowners' rights are made, they should have few fears that their permanent rights to the land will be violated by humanitarian agencies trying to offer help to communities facing crises.

