



# LAND TENURE SYSTEMS AND AGRICULTURAL DEVELOPMENT IN UGANDA

## The Importance of Land in Agriculture:

Land is the primary factor of production in agriculture, from which smallholder farmers get a livelihood through farming and accessing markets for their produce. Land can be used as collateral to access credit to enable many farmers expand their agricultural production. Women, though key agricultural producers usually lack ownership and control over land, which affects production.

## Land tenure systems in Uganda:

Land tenure refers to the terms and conditions under which access to land rights are acquired, retained, used, disposed off and transferred. Land tenure systems determine how easily farmers can obtain access to and control over land to expand their agricultural production and productivity. In addition; the constitution and the Land Act (1998) provide that; a good land tenure system must support agricultural development by enabling farmers to gain access to land and have their security guaranteed.

Article 237, of the Uganda constitution (1995), provides that land shall belong to the citizens of Uganda and shall have absolute right in accordance with four tenure systems namely; Mailo, Freehold, Leasehold and Customary.

## Mailo land tenure

This is a system where the owner of land referred to as “a mailo owner” owns land forever. The owner has a land title and full powers to sell, lease or deal with it in any way. (This system has roots in the allocation of land pursuant to the 1900 agreement, between the Buganda Kingdom and Her majesty the Queen of England).

## Freehold land tenure

This is a system where the owner of the land, referred to as “a landowner” owns registered land forever. He/she has a freehold land title and full powers over this land and can sell, lease, transfer, mortgage the land as long as it is done in accordance with the provisions of the laws of Uganda.

## Leasehold land tenure

This is a system where by a person referred to as “a tenant” owns land through an agreement between him/her and the owner of land known as “landlord”. Under this system, the landlord allows the tenant to use the land for a specified period of time usually 5, 49, or 99 years but in turn, the tenant pays to the landlord an annual payment called rent. Leases are created and governed by a contract. Leasehold is the only tenure system applicable to non citizens (foreigners) interested in holding land in Uganda.



*Women play a key role in Agriculture.*

## Customary land tenure

This is the most common tenure system of owning land in Uganda. It is regulated by customary rules and regulations of a given community. Under customary tenure, land is held in accordance with the customs, traditions and practices of a particular community concerned, and is usually occupied and utilized by a family, clan and community as a whole without a formal title. However, there is a provision for registration of this land where the owner acquires a certificate of customary ownership.

## Challenges associated with customary land tenure

The majority of Ugandans hold their land in this complex system of land relations. It is alleged that customary tenure is associated with three problems, that

- (a) it does not provide security of tenure for land owners;
- (b) it impedes development because it does not allow



*Underutilised communally owned land in Northern Uganda.*

the advancement of land markets, through which, those who need land for development can acquire it; (c) it discriminates against women, and does not accord them land rights.

Given the above challenges, this tenure is vulnerable to land grabbing and unlawful evictions (without compensation) which leave many smallholder farmers landless, food insecure and in absolute poverty. In addition, marginalization of women's land rights greatly undermines agricultural production. In order to realize agricultural development, smallholder farmers' land rights (especially women) must be secured.

**Strategies to facilitate development of customary land tenure** (Extract from the Uganda National Land Policy, 2011)

**To facilitate the development and evolution of customary tenure in relation to social, economic, political and other factors, Government shall take measures to:**

- Design and implement a land registry system to support the registration of land rights under customary tenure;
- Issue certificates of title of customary ownership, based on a customary land registry that confer rights equivalent to freehold tenure;
- Facilitate conversion of customary land which is already privatized and individualized into freehold tenure.
- Document customary land tenure rules applicable to specific communities at the district or sub-county levels;
- Make an inventory of common property resources owned by communities and vest these resources in the communities to be managed under customary law.

**To facilitate the design and evolution of a legislative framework for customary tenure, Government shall:**

- Amend the constitution and the land act cap 227 to permit only individually owned customary land to be converted to freehold;
- Amend the registration of titles act cap 230 to place customary tenure at par with other tenure systems;
- Modify the rules of transmission of land rights under customary land tenure to guarantee gender equality and equity;
- Make provision for joint ownership of family land by spouses;
- Recognize the role of customary institutions in making rules governing land, resolving disputes and protecting land rights;
- Define family and individual land rights, from communal rights under customary land tenure and distinguish the rights and obligations of customary institutions vis-à-vis those of the community and individuals;
- Make provision for issue of titles in the names of trustees in areas with customary land trusteeship.

**To strengthen traditional land management and administration institutions, Government will take measures to:**

- Recognize and enforce decisions of traditional land

- management by local government and state institutions;
- Ensure full judicial backing for traditional institutions as mechanisms of first instance in respect of land rights allocation, use regulation and dispute processing for land under customary tenure;
- Ensure that the decisions of traditional land management institutions uphold constitutional rights and obligations with regard to gender equality;
- Develop procedures in conformity with customary land law for the allocation and redistribution of land with consideration for inequalities and injustices.



*Pineapple plantation on leasehold land.*

**About PELUM Uganda**

Since 1995, PELUM Uganda has been working to improve the livelihoods of small-scale farmers and the sustainability of farming communities by fostering ecological land use management.

PELUM Uganda is a network of 34 civil society organizations involved in rural development. We:

- Share skills and knowledge about good practices and techniques through a broad network of likeminded organizations
- Undertake research and demonstration projects
- Lobby for policies that better support small-scale farmers

**About ESAFF Uganda**

Since 2002, Eastern and Southern Africa Small Scale Farmers' Forum (ESAFF) Uganda has been working to make the voice of the small scale farmer heard by empowering them to speak out on issues that affect them. This has been mainly through Advocacy on issues that directly affect the farmers for example participation in policy formulation, fair trade, agriculture budget allocation, and food and seed security.

ESAFF builds the capacity of small scale farmers to advocate for an environment that is responsive to their needs; and empowers them with knowledge and techniques of influencing decisions affecting their rights