



Graduate School of Development Studies

FORMAL LAND REGISTRATION AND SECURITY OF ACCESS FOR
THE RURAL POOR, A CASE STUDY OF KYENJOJO LOCAL
GOVERNMENT IN UGANDA.

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ABBREVIATION AND ACRONYMS

ULC	Uganda Land Commission
LSSP	Land Sector Strategic Plan
LTC	Land Tenure Centre
MLHUD	Ministry of Lands, Housing and Urban Development
DLB	District Land Board
MoFPED	Ministry of Finance Planning and Economic Development
JARD	Joint annual review for decentralisation

ABSTRACT

Access and security of tenure is important for rural livelihoods since majority derive their sustenance from land. The traditional systems of owning land that are common means available to the rural poor, are believed to be insecure and inhibit investment and increased agriculture productivity.

As a result, African countries have promoted formal land registration and titling through land reforms, which is premised to guarantee tenure security and enhance investment. This paper analyses the impact of the land registration process itself on the rural poor and uses *Kyenjojo* local government –Uganda, as a case study.

The results of the study show that the registration process has not served the rural poor hence weakened land rights. A conclusion is drawn that customary certificate of ownership and certificate of occupancy would be a viable option to a land title for customary tenants, bona fide and lawful occupants respectively.

Key words: Land registration, security of tenure, land rights and the rural poor

1.0. INTRODUCTION

Land registration and its impact in African countries has widely been debated. Many studies indicate that it has largely had negative impact on the poor, while the elite have benefited from the process (Atwood 1990, Barrows and Roth 1990, Lund 2000, Platteau 1996, Sellers and Sellers 1999). This paper focuses on one of the reasons for this, the impact of the land registration process itself on the poor.

1.1. Background and indication of the problem

Land registration in Uganda was introduced by the 1900 Uganda land agreement during the British colonial rule. This created freeholds in the central area of Buganda, (locally known as *mailo* because of the unit of measurement in square miles), and the freeholds of *Toro* and *Ankole* in the western part of the country. Land registration carried out during this period was largely centralized and had an asymmetrical effect, (that is, the elite benefited while the peasants lost out), due to the centralized system of governance characterized by the governments of the time.

In 1995, the Uganda Constitution provided for the system of decentralization¹ that 'decentralization shall be a principle applying to all levels of government and in particular, from higher to lower local government units to ensure people's participation and democratic control of decision making'. Consequently, land registration was among the many services that were decentralized to the local governments.

In 1998, land reform witnessed by the enactment of the 1998 Land Act, fully provided the structures and guidelines of registering interests in land at the local government level. It was thought that local registration might reduce the asymmetric impact of registration by making the process quicker and cheaper, by subjecting to local political control and by making it easier to recognize locally based norms on rights to land. It is almost a decade since the enactment of the Land Act; it is time to ask what the impact of land registration has been. This research therefore looks at whether and how the land registration process either diminishes or strengthens the land rights of the rural poor. It uses Kyenjojo local government as a case study.

¹ The objectives of decentralization policy in Uganda (JARD 2004:2) include (i).Transfer of real power to the districts with the aim of reducing the load of work on remote and under resourced central officials, (ii).Bring political and administrative control of services at the point where they are actually delivered, there by improving accountability and effectiveness and promoting peoples feeling of 'ownership' of programs and projects executed in the district,(iii).Free local managers from central constraints and enabling them develop, effective and sustainable organization structures tailored to local circumstances in the long run,(iv).Improving financial accountability and responsibility by establishing a clear link between the payment of taxes and the provision of services they finance,(v). Improving the capacity of local authorities to plan, finance and manage the delivery of services to users.

The case focuses on how land registration and legal review affect the land rights of those utilizing their pieces of land for subsistence purposes and holding land as customary tenants or bona fide and lawful occupants under customary practice. Not everyone in these categories is poor, but these are the ways that most people who are poor in rural Uganda use and have access to land.

1.2. Research questions and Objectives of the research

The research takes as its main objective of ascertaining whether and how land registration protects or diminishes the land rights of the rural poor in Kyenjojo local government. While the leading question that the research answers is, what has been the impact of land registration on land access of the rural poor in Kyenjojo local government? To answer this central question, the following sub questions were handled.

- (a) How do the rural poor own land?
- (b) What are the structures and procedures for land registration put in place?
- (c) Who has been registering land?
- (d) What do different stakeholders think about the impact of land registration for land access of the poor?
- (e) How are the poor and rich treated in land conflict on registered land?

1.3. Relevance and justification of the research

There are two different views about the impact of land registration, one in favour of registration on grounds of securing tenure security, and the alternative view claiming that land registration leads the poor to lose their access to land. This research aims at providing empirical evidence from Uganda where the process has been implemented, and hence intends to contribute to clarifying the debate that surrounds land registration.

Land is a very important asset of the rural poor since the majority derive their source of livelihood from it, especially in the rural community used as a case study in this research. Access and security of such a valuable asset are important to them, and any government that practices democracy should promote security of land ownership of the poor peasants. This research helps to bring to the limelight the fate of the poor as regards to formal land registration.

1.4. Methodology

Both primary and secondary data sources were used to gather information to answer the research question. The information is of two different categories, the first one is on land cases, where documentation of the history of land cases was done, and the second one on land registration records in the land office.

Since the legal provision for land registration dates back to the colonial rule (1900), land cases studied are not necessarily a result of the current registration since history has influenced land rights in the present time. Land cases from the local court were used to explore how poor and rich people are handled in the event of a dispute on registered land. Formal land registration is central to the development of the disputes since registration done before 1998 disregarded the rights of the peasants. Three cases were studied, from freehold, leasehold, and customary types of tenure that exist in the area under study. The differentiation

according to the tenure system was intended to contrast findings from registered and unregistered land as far as security of tenure is concerned. That is, analyze whether indigenous systems of land ownership presents greater security as claimed by some scholars.

The defendants in the first and second cases and the applicant in the third case were visited and detailed discussions about the cause of the land conflicts, ownership, nature of complaint, progress in attaining justice and the status of the cases where a court ruling is yet to be made were established. To cross check the facts about the cases, the land officer provided more insight into one of the cases. In addition, the local council chairperson(s) of the two villages were interviewed to confirm the information given about the land case by the defendants of the respective villages. Consulted also, is an advocate, representing the applicant and the defendant in two of the studied cases. To verify the information, the researcher asked to be availed with the land case files, an analysis of the rulings, time the cases had taken in court, and number of hearings made were looked at. The names of applicants, defendants and other people interviewed in these cases have been changed for confidentiality.

In the second category, information on land applications for registration in the local government from years 2002-2006, was extracted on inter alia: age of the applicants, sex, marital status, size of land holdings, type of tenure, progress in application and attaining of land title, type of land use, and the cost of application. What was particularly collected is summarized in the table 1.

Table 1.

Table showing the data collected

Instrument	Source	Data
Documentation	Land records	<ul style="list-style-type: none"> -Number of applications annually -Who applies? -What are the land uses? -Progress in attaining a title, -Number of titles issued annually -Period taken to get interests registered - Funds paid for land transactions -Size of land holding

Source: land office records

The sample population used was the number of applicants to the land office for a period from 2002-2006 which totalled up to 381 applicants, table 2 indicates the distribution per year.

Table 2

Table showing the sample population

Year	2002	2003	2004	2005	2006
Number of applications	4	72	79	100	126

It is imperative to note that since land records are not always adequately filled in, omissions cannot be ruled out, which is a limitation but has a minor effect on the analysis. In addition, acknowledgement of the fact that applications do change identity was taken into consideration, in this case, the initial applicant was followed.

Interviews with the technical staff in the land office namely, land officer, land registrar, physical planner and staff surveyor were also conducted. They focused on finding out who has used the land offices and why? , what difference has land registration made for the poor? and detail description of the process of land registration. In addition, ten applicants that had not proceeded with their applications to other levels were interviewed, to find out what challenges they encountered in attempting to register their interests in land. Documents for instance the Uganda Land Sector Strategic Plan (LSSP), Uganda Land Use Policy have also constituted the primary data used in the research. Secondary information about the impact of land registration in other African countries was also reviewed.

1.5. Limitations of the research

Land registration is premised on increase in investment, stimulation of agriculture productivity, development of land markets and collateralisation by its proponents. Though this research analyses how it affects the rural poor, it does not measure those aspects but rather explains how the poor's land rights are affected by land registration process itself.

Due to insufficient record management in the land office, especially for the land files, omissions may be possible, but too small to influence the findings of the research. In addition, gender differentiation at the title level was not ascertained on grounds of confidentiality by the registration department at the central government level.

1.6. Organization of the paper

The paper is organized in six chapters, chapter one gives the introduction, states the problem, significance of the study and methodology used in the study. In chapter two, the land debates and conceptions of land registration are presented on which basis the framework for analysis is developed. Chapter three discusses the importance of land rights to rural livelihoods, structures for land delivery services and the history of land ownership in Uganda and Toro kingdom where the case study is situated. Findings about the poor in legal land disputes are elaborated in chapter four. While chapter five presents the findings of the impact of land registration process. Lastly, chapter six draws conclusions from the study.

2.0. DEBATES ON LAND REGISTRATION

Presented in chapter two are concepts and different debates about land registration, one in support of formalization of land rights and the other in support of customary type of land ownership. In either case, the protagonists advance reasons for and against land registration and its impact on different people, but with limited empirical evidence especially for the first viewpoint. Discussed also, is the impact of land registration in other areas where it has been implemented with emphasis on gender and identifies the gaps in the literature. Based on these debates, the framework for analysis is developed.

2.1. Land registration, differentiation and security of tenure

The research uses the concepts of land registration, security of tenure and land rights. Since the research's main objective is to analyze how land registration diminishes or strengthens the land rights of the rural poor, it is important to fully understand what land rights really entail. A right is defined according to Becker as:

The existence of a right is the existence of a state of affairs in which one person (the right-holder) has a claim on an actor forbearance from another person (the duty-bearer) in the sense that, should the claim be exercised or in force, and the act or forbearance not be done, it would be justifiable, other things being equal, to use coercive measures to extract either the performance required or compensation in lieu of that performance, Becker (1977:8).

Becker further illustrates that having a right to a thing does not only preclude other people from claiming the thing, but should be able to protect your thing, restore it when it is lost and not interfere with it, (ibid: 21). By this illustration, having a right presupposes recognition by the society that you actually own the thing. Palmer shares the same view that 'a person may acquire security from a number of sources. First, the Community provides security when neighbours recognize and protect a Person's property' (Palmer 1998:85). While Agarwal, (1996:268), defines rights as 'Claims that are legally and socially recognized as enforceable by an external legitimized authority'. What is clear in all this, is society's acceptance of possession of property by an individual, guarantees security of the same. However, recognition by society alone cannot constitute full ownership, Honore gives more strands to claim full ownership of property.

According to Honore, (1961) in Becker (1977:18-19), certain rights ought to be prevalent to claim full ownership of property, which include the *right to possess*: which implies excludability in the use of the thing. The *right to use*: which is about deriving satisfaction from the use and with out interference. The *right to manage*: this is about exercising agency on how, by whom the thing is to be used. The *right to income*: this is the utility accruing to the owner as a result of use by another person. *Right to capital*: which entails transferability, consumption, ability to make changes or destroy the thing. *Right to security*: which the freedom from appropriation. The *right to transmissibility*: which is about passing on the thing to the next person. *Prohibition of harmful use*: using the thing with out causing negative externalities for other people. *The absence of terms*: which is perpetual ownership of the thing. *The liability to execution*: which implies that the thing can be taken away to repay a debt and *Residual character*: that is the existence of rules governing the reversion of lapsed ownership rights.

The thing in this research is land, therefore for any person to claim ownership of land, the above rights or some of them ought to hold. However, as Honore hastens to add, a person can enjoy some rights but others may be subject to restrictions. For instance, bona fide and lawful occupants may possess use rights over land but do not have the right to possess the land. Land registration for example, may give a possession right in form of a title but it may not necessarily be transferable to another person. Lastly, customary tenants may enjoy use rights, manage and be able to transfer such rights to their children, but may be restricted as regards to right to income especially for women in patriarchal societies.

2.1.0. Land registration according to the proponents

Land debates have revolved around privatization of land rights in Sub-Saharan Africa, witnessed by African countries undertaking land reforms and enacting land laws providing for formal registration of individual land rights. Land registration implying 'registration of property rights in land, Bruce, (1998:4), where property is defined as 'a set of rights and responsibilities concerning a thing; property is a term for the thing', (ibid: 2). Since 1990's over 23 African countries have instituted land laws and policies, Alden, (2003:6.), but with slow progress as far as approval is concerned.

The proponents of formal land registration claim that secure private property is an incentive to investment De Soto (2000:50). De Soto does contend that institution of a formal property system will help convert 'dead assets' into productive capital. According to this viewpoint, land registration that promotes security of land tenure is advocated for as a prerequisite for investment. The concept of tenure security meaning 'the state or other people cannot interfere with the landholder's use or possession of land', Bruce (1998:2).

The proponents of land registration argue that land registration leads to efficient use of land, creation of land markets and collateralization, (Klaus and Gershon, 2000:8). According to Feder and Ochan (1987) cited in Migot-Adholla and Place (1998:360), land titling and registration does create high security of tenure which leads to demand for investment, that leads to development of a credit market and increased agriculture productivity. Feder (1989) in Lund, (2000:17) provides evidence of an increase in investment in two provinces out of three in Thailand because of land registration. While Miceli et al (2000:387) concludes that 'registration may be a preferred choice for developing countries that are in transition to market economies and private property systems.' Land registration is also believed to reduce land disputes, the increasing disputes under customary systems would be done away with institution of land registration, since properties are clearly marked, LTC, (1989:xxi). The proponents of registration assert that customary tenure does not provide adequate security for landholders. In addition, customary tenure inhibits development of land markets because of bans land sales, which are part of the social setting in some traditional societies for example in Ghana. They further argue that land registration provides security that makes landowners willing to make investments in the land since they are assured of the benefit. Also, the possession of a title permit farmers to get credit since they can use their land as collateral in the lending institutions and land transfer is made easy with registration .

2.1.1. Land registration according to the critics

The alternative view argues that land registration excludes the poor due to costs and bureaucracies involved in land registration, with women's land rights affected most, (IIED 1999, Toulmin and Quan 2000, Toulmin et al 2002) cited in Platteau (1995:22), Daley and Hobley (2005:5). In addition, the process favours the rich and the elite who may actually take advantage of the poor. Consequently, land disputes are increased which affect the poor most since they lack resources to defend their rights, and land registration produces inefficiency due to unequal access to land. According to Atwood, (1990:669) registration can exacerbate conflicts over land, Platteau also notes that:

in a social context dominated by huge differences in educational levels and by differential access to the state administration, there is a great risk that the adjudication/registration process will be manipulated by the elite to its advantage ... The fact of the matter is that, in so far as it encourages the assertion of greedy interests with powerful backing and is likely, wittingly or not, to reward cunning, titling opens new possibilities of conflict and insecurity that can have disastrous consequences for vulnerable sections of the population at a time when their livelihood crucially depends on their access to land, Platteau(1996:43-5).

In addition, the claim of development of land markets as a result of land registration does not largely hold, Platteau (1996:49-51). Pinckney and Kimunyu (1994:10.6-10.8) research in Kenya where land registration has been implemented found no stimulation of growth of land markets due to among others poorly developed financial institutions. In one studied community where use of land to obtain credit was expected, two out of 155 households had a land secured loan. One of them was under threat of losing the land for failure to comply with the requirements of the loan recovery (ibid). In the same comparison study between two communities in Tanzania and Kenya which ideally are expected to produce different results due to differences in government land policy, no distinct difference as regards to Credit markets, investment, land markets, and changes in inequality were established, Pinckney and Kimunyu (ibid:10.17).

Also, Migot-Adhola and Place (1998:371), research in Nyeri and Kakamega districts of Kenya revealed no correlation between title and formal credit markets. In the Cameroon case, studies done by (Gurgand, Pederson and Yaron, 1994; Lubin, 1995) are in accord with Pinckney and Kimunyu study in Kenya that, land titling and registration did not lead to development of a credit market due to an underdeveloped credit market, Sellers and Sellers (1999:1119). Odingo in Barrows and Roth (1990:275) indicate that farmers were sceptical about using land as collateral, for fear of losing it. While Thorpe in Honduras notes 'modernized insecurity' as a result of land registration in un developed credit institution environment, quoted in Spoor (2005:582).

The critics further assert that customary means of land ownership do not inhibit investment as claimed by protagonists of the first proposition, Woodhouse (2003:1706). In addition, the assertion of customary tenure inhibiting the development of land markets does not hold. Woodhouse and Chimhowu (2006:348) provide evidence that vernacular land markets have existed for over a century and are still active in African countries. Chanock (1991) in Woodhouse, (2003:1713) argues that evidence from Africa in the 19th and 20th centuries as provided by (Berry, 1993, Bundy 1979, Hill, 1963), indicate that emerging land markets were suppressed by colonial rule. Lund (2000) cited in Ibid concludes that

informal land markets under customary tenure are prevalent and even extra-legal. Also Mathieu(1997:40-41) in Lund (2000:12) confirms illegal land sales in Rwanda that are genuinely accepted despite being informal, while Shipton (1989a:67) in Lund (2000:7) provides evidence dating back to 1920's where disguised land sales in form of pledges were in existence despite the prohibition of selling land in Ghana. Haugerud (1989:83) notes similar practices in Kenya, while Barrows and Roth also indicate that land markets were prevalent in Kenya as early 1930's, but Brokensha/Glazier and Coldham note that land sold could be returned to the seller when repayment is made, Barrows and Roth (1990:270).

The opponents of land registration further assert that creation of land markets leads to the displacement of the poor since only those that can afford to pay have access to land, LTC (1989:xxiv). Consequently, widening rural inequalities is bound to happen, especially where registration is voluntary and the applicants have to pay for themselves. Woodhouse (2003:1713) notes that development of land markets can lead to distress land sales by the poor hence increasing differentiation and landlessness.

About registration providing security that acts as an incentive to investment, Sjaastad and Bromley argue that the reverse does matter as expressed that

disincentive to invest, it is - paradoxically - often also an incentive because investment in itself increases security ... If one accepts that certain types of investment in land are a legitimate way of claiming more secure rights to land, and that investments may be recovered even when land is lost, the assertion that insecurity of land rights in indigenous tenure systems is a serious impediment to investment seems less convincing (Sjaastad and Bromley, 1997:553).

According to this kind of reasoning, investments on even customary land are security themselves that may provide a litigant in case of a land dispute. Also Woodhouse (2003:1713), supports the view that investment on land in form of clearing land for cultivation, strengthens claims of rights of ownership over land, and further gives an illustration of pastoralists who never cleared land, had weaker claims to land as compared to those that did in Botswana.

As regards increase in agriculture productivity due to land registration, Migot-Adhola and Place (1998:371), in their study in Nyeri and Kakamega districts of Kenya found no evidence that possession of a land title had a relationship with land productivity as measured by crop yields.

2.1.2. Land registration and women's land rights

Women's land rights in Africa have historically been dependant on their relationship with men, that is gain access to land through husbands, sons and fathers, Gray and Kevane (1999:32), Tripp (2004:8). This also is in accord with Hunt (2003:14), where she notes that in Mbere community in Kenya 'each male had a right to cultivable land by virtue of lineage membership, while women had derivative cultivation rights through fathers or husbands'. It is argued that introduction of the registration system disadvantaged women who have use rights over the same piece of land. According to Shipton (1989a:13) in Lund (2000:10), privatization increases the rights of the holder to prohibit other users to utilize the land. Atwood too, notes that titling programmes aim to issue exclusive rights to the primary right holder, while Secondary right holders' rights are formally extinguished Atwood (1990: 661 and 663). Green notes that security of ownership by the household head may mean lack of access for other users of land, Green (1987: 226) in Platteau (1996:27). While Pala-Okeyo (1980) cited in Migot-Adhola

& Place (1998:360) does indicate that land titling and registration-weakened women's control over land in Nyaza in Kenya.

Cornhiel (1997:1326) quoted in Whitehead and Tsikata (2003:73) indicate that 'usually women lose access or cultivation rights while male household heads have strengthened their hold on land'. This argument is in agreement with Sellers and Sellers (1999:1119) that 'With commercialization, women's rights have been threatened. As male farmers seek to expand their economic profit, planting larger numbers of coffee trees, they make it impossible for women to continue with food crop cultivation. The titling program has accelerated this process by giving men additional leverage for ignoring women's traditional claims'.

According to Mackenzie (1989:106) study in Muranga district in Kenya, land registration strengthened control and male rights over land. Conversely, a few women have also been able to buy and use the registration system to register land in their own names, a practice that challenges the male dominance in land ownership.

Although experiences of women's weakened land rights are evident as a result of registration, they are contested on grounds that women access to land are not necessarily through husbands, fathers and sons (secondary) as largely presented in the literature, but on social embeddedness, (Bosworth 1995, Cheater 1982, Moore and Vaughan 1994, Yngstrom 1999) in Whitehead and Tsikata (2003:78). However, Whitehead and Tsikata do maintain that women rights have largely diminished as shown by different recent studies, *ibid*.

2.1.3. Experience of land registration in other African countries

Kenya

Land registration is premised on securing tenure security in most African countries but the results are generally contrary to the assumptions made about land registration in virtually all areas it has been implemented. Evidence from Kenya does show no development of collateralisation, efficient use of land or creation of land markets, Platteau (1996:60-77). He also indicates that new disputes did emerge with registration instead of reducing, (*ibid*). Barrows and Roth (1990:274), commenting on the land registration in Kenya note that it accelerated accumulation of wealth for the rich and well placed in society while the weak people's security was jeopardized. The land registration did not only create disputes at a community level between the rich and poor but household conflicts emerged as well. This can be attributed to what Haugerud observes that, 'Since only the possessor of a registered title had the right to sell land or to apply loan charges to it using the title deed as security, the way was left open for often lethal disputes within families', Quoted in Barrows and Roth (1990:274).

Ghana

In Ghana Sittie (2006:10), notes that introduction of title registration was not as effective as envisaged due to poor implementation of the law. The weaknesses of the deed remain unresolved, for example, an individual may have a deed and another a title for the same piece of land, instead of minimizing litigation, litigation continued. Abdulai (2006:11) reveals that insecurity and uncertainty are a product of the land registration to an extent that owners of property have to employ land guards to protect their property rights to land in Ghana.

Niger

Lund, (2000:13) in his findings in Niger-Code rural, the registration process disregarded user rights of secondary claimants and insecurity become synonymous with insufficient rights, strengthening the rights of some to the detriment of others. As far as reduction of land disputes is concerned, Lund's research in Niger fully supports Plateaus' claims (1996:43-5) that formal land registration reduced land disputes but created new ones as well, Lund 1998 in Lund (2000:17).

Zimbabwe

The 1930 apportionment land law put a marked difference between the original inhabitants of Zimbabwe and the European lands. Areas that were under freehold tenure (purchase lands) are reported to have progressive investment as compared to customarily owned areas (reserves) in Zimbabwe. However, commentators have argued that the progressive investment can be attributed to many other factors other than individualization of rights alone, Barrows and Roth (1990:283-284).

Cameroon

In Cameroon case, the outcome has exacerbated inequalities since it worked for the benefit of the elite class and detriment of the poor who could not afford to register. Only 2.3 per cent of the rural land has been registered, Egbe, (2002) in Abdulai (2006:12). While analysis made by Fisiy revealed that state elites and business persons claimed nearly 83 per cent of all titles (Fisiy, 1992:94-95) in Sellers and Sellers (1999:1118). Also land disputes have increased, even on registered land, Abdulai (2006:12). In Cameroon land titling and registration did not achieve policy makers' aims but it helped rural farmers delineate concrete boundary markers that are recognized hence enhanced security for the local people, Sellers and Sellers (1999:1118).

2.1.4. The gaps in the literature about the impact of land registration

While the land debates hold for different situations and are contextual, common between both debates is the consensus that land registration has different impacts on different people. However, there is a commonly used example of Kenya's registration experience in a large body of literature. This research therefore seeks to explore the Ugandan experience picking on one local government. Based on the land debates discussed in this chapter, I take concern for tenure security, which is deemed to result from land registration according to the proponent of land registration. The framework of analysis focuses on how land registration protects or diminishes the land rights of the poor.

2.2 Framework for analysis

The analysis is based on the assumption that land registration has different impacts on different people but the focus is on the poor. It seeks to find out how land registration strengthens or diminishes the land rights of the poor.

The framework has two categories of analysis, in the first part, the research adopted Honore's seven strands of individual rights that should hold in order for a person to claim ownership of a thing, in this case land. The different strands of a right have been used as indicators while studying the land cases to assess whether land registration either diminishes or protects the land rights of the poor. The absence of a particular strand does imply weakened rights while its prevalence means strengthened land rights. The adopted strands include the right to possess, right to use, right to manage, right to security, absence of term, right to transmissibility and residuary character.

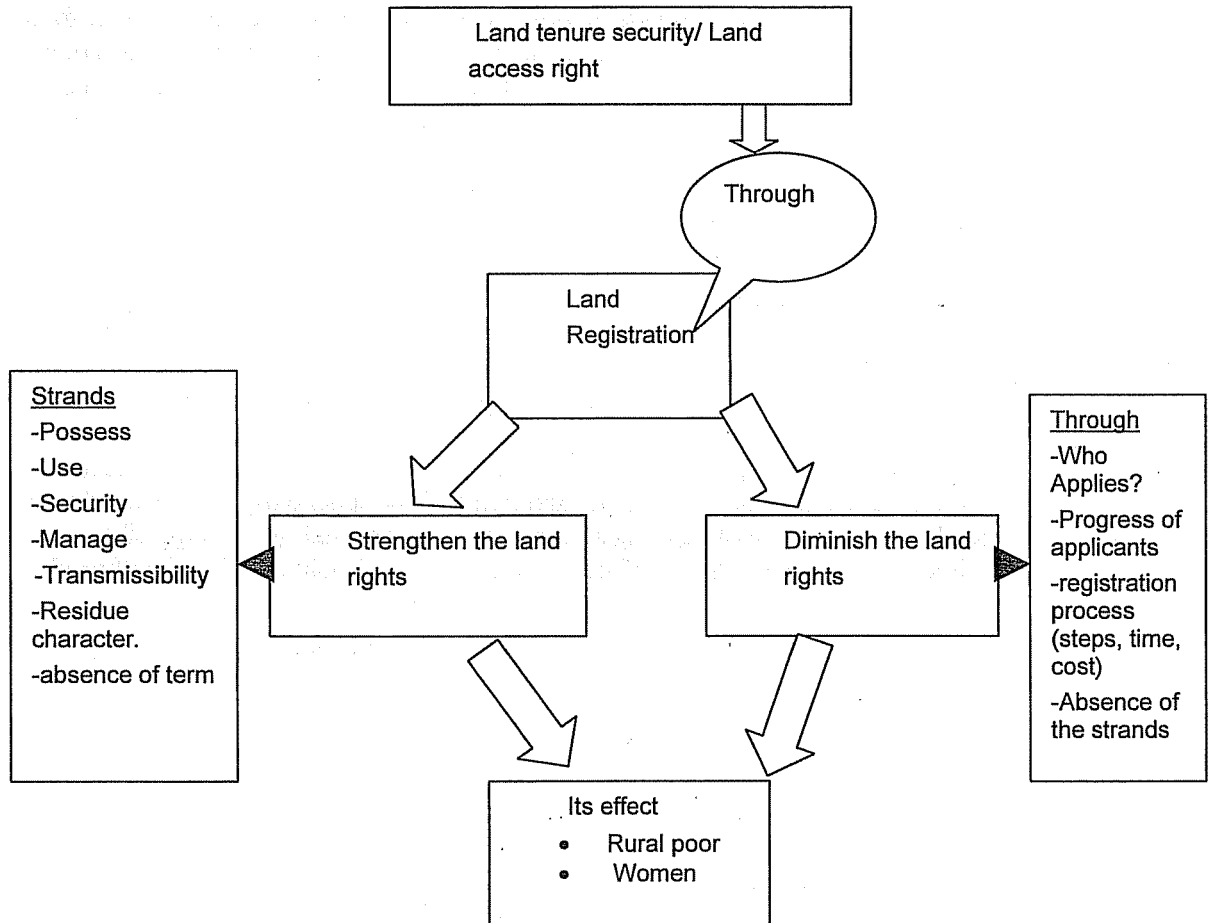
The second analysis is centred on the land registration process, using indicators of (i) who applies, (ii) progress of applicants and (iii) the registration process. Using the obtained data from land records for 2002 - 2006 about applications to the land office, an assessment of who applies in terms of male and female, rich or poor, location of the applicant, land use, which range from commercial, farming, industrial and institutional was made. The gender aspect reveals, how either male or female land rights differ depending on the extent each gender has made use of land registration. In case of a small percentage of application for a certain sex, it implies weakened land rights while strengthened land rights for one that has registered their land interests in their names.

Progress of land applications to the land office also indicates how the land rights of the applicants are either strengthened or weakened. The different levels of progress considered are application level, land board minute level, inspected, offer made level and title level. Every level of application presents different meanings according to the law as far as diminishing or strengthening the land rights of the applicant is concerned. The claims differ, for instance applicants that just stopped at application level have weaker rights compared to other levels.

The registration process itself inhibits or promotes the participation of different categories of people. The time taken to register interests in land, the procedures for registration, costs in terms of money and movements, the requirements for registration for example surveying and planning clearance for urban land are used to ascertain diminishing or strengthened land rights for different people. The current established land structures mainly land board and area land committees are analyzed to establish how they affect the rights of different people. Figure 1 summarises the analysis made in this research.

(Figure 1)

Framework for analysis



Source: Own construction

Finally, this chapter has shown that the impact of land registration in African countries is largely asymmetrical, there are losers and winners, and in virtually all countries, it has been implemented. Even in circumstances where the positive impact is noted, it cannot entirely be attributed to individualization of land rights, but other factors played an even more important role. The next chapter discusses the land holding systems and existing land delivery structures in Kyenjojo, and how they affect the land rights of the poor.

3.0. HISTORY OF LANDHOLDING, ACCESS AND LAND DELIVERY STRUCTURES.

This chapter discusses the history of land holding in Uganda, the different structures of land registration put in place. Rural livelihoods and importance of land rights and differentiation in access to land in the local government are also presented. I do show that the land structures put in place are not within the easy reach of the poor.

3.1. Historical background of land registration in Uganda

In order to understand land registration in Uganda, it is important to review the history of land ownership in the country, since the different land laws enacted since colonial time influence the registration. Land registration in Uganda started with the establishment of the 1900 Uganda land agreement between the British government and the Kabaka (King) of Buganda that introduced the mailo system, Rugadya (2003:3). By this agreement (Clause 15), estimated Buganda land was 19,600 square miles, which was partitioned into wasteland, 9000 square miles vested in the queen of England & Ireland, missionary land 92 square miles, the government at that time received 50 square miles, the king of Buganda got 958 square miles, chiefs who were already in possession of land, received 8000 square miles. The peasants received nothing hence rendered squatters on their own land. From these divisions, it is clear that the agreement served the interests of the British, the Kabaka of Buganda, and marked the very beginning of strengthening land rights of the privileged class and diminishing the land rights of the peasants.

In 1904, the modified Torren system commenced that produced titles to the proprietors. A similar registration was also implemented in Toro and Ankole though on a small scale that created freeholds through the Toro and Ankole land agreements. Also with the chiefs and kings assuming a privileged position in both cases.

The failure to recognize the peasants land rights in the 1900 Uganda land agreement resulted in the 1927 Busuulu and Envujjo law, that sought to guarantee security to the tenants and stated the tribute to be given to the mailo holder, Nyangabyaki (2002:5). This also was intended to make it difficult to evict the tenants, however in a study by Mugerwa in (1973), in areas of Muge and Lukaya revealed that despite the law provision for a court hearing before effecting any evictions, tenants were dispossessed without the hearing. In addition, the proprietors asked substantial amount of money from the tenants disregarding the formal payment, an observation that West made too, LTC, (1987:256-257).

Attainment of independence from the colonial rule on 9 October 1962 set a different trend as far as land ownership is concerned in the country. The Public Lands Act of 1962 and 1969 replaced the provisions of the Uganda land agreement of 1900. By this law, crown land was turned into public land to be managed by the

² According to West (1972:7) in McAuslan (2003:276), the 1900 Uganda land agreement was signed for political reasons. Mainly to advance colonial rule disregarding customary rights to land in the region, which did create long-term grievances that privileged the property owners yet jeopardized the land rights of the majority of the natives.

Uganda Land Commission and land boards. The 9000 square miles originally vested in the queen of England was returned to Buganda and vested in the Buganda land board. The land given to the chiefs that worked to consolidate colonial rule in the region, was taken up as a reward to faithful officials in Obote's governments. This period also does not in any way take care of the poor land rights since vesting land in the Land Boards was not guarantee for access.

With the change of regime, Amin, the president that over through Obote's government enacted the 1975 land reform decree. This law converted all private individual rights in land into 99-years leases that were to be granted by the state through the Uganda land commission, Hunt (2004:176), McAuslan, (2003:280), Nyangabyaki (2002:5). Tenants on mailo and freehold land became tenants at sufferance, yet another diminishing of land rights of the already unprivileged folks.

The coming into effect of the Uganda Constitution set yet another trend as far as land ownership is concerned. According to Article 237, chapter 15, 'Land in Uganda belongs to the citizens of Uganda and shall vest in them in accordance with the land tenure systems provided for in this constitution'. According to this provision, it seems all people are supposed to own and utilize their land according to the tenure system recognized by law, which include inter alia: ³customary, leasehold, freehold and mailo land. However, despite the legal recognition of the customary ownership, section 9 sub section (1) of the Land Act 1998 provides for conversion of tenure to freehold, an issue that has raised criticism about undermining the authority of customary tenure system. Some critics have argued that it is an underestimation of customary tenure system compared to other systems of tenure namely freehold, leasehold mailo that command profound recognition. Adoko, (1997:5) contends that the district land boards (DLB) should take as it's primary task to assist people acquire customary certificates which should be of the same weight with the title deed.

3.1.0 History of land ownership in Toro

Land was customarily owned in Toro (region where the case study is located) and managed according to the customs and traditions of Toro during the pre-colonial period, and administered by the Omukama (King) of Toro.

The 1900 land agreement signed between Sir Henry Hamilton Johnson, K.C.

³ *Customary*: is a form of tenure applicable to a specific area of land and a specific description or class of persons. It is owned according to the customs and traditions of a particular society. It can be communal ownership and use of land, in which parcels of land may be recognized as subdivisions belonging to a person, family, traditional institution which is owned in perpetuity. *Leasehold*: is a tenure system is created by contract or operation of the law. The lesser grants the lessee exclusive possession of land for a specified period in return for either rent (premium) or services and sometimes free of any payment. *Freehold*: refers to holding registered land in perpetuity or for a period less than perpetuity, which may be fixed by a condition. *Mailo land*: is holding of registered land in perpetuity also, but permits separation of ownership of land from ownership of developments on land made by a lawful or bonafide occupant. It further allows the holder, subject to the customary and statutory rights of those person's lawful or bona fide in occupation of land at the time the tenure was created and their successors in title, to exercise all the powers of ownership of the owner of land held of a freehold title.

B., Her Majesty's Special Commissioner and Commander in Chief for the Uganda Protectorate and the adjoining territories representing the Government of Her Britannic Majesty the Queen of Great Britain and Ireland and Empress of India on the one part, and the Omukama (King) and Chiefs of the District of Toro on the other part, marked changes in land ownership in Toro.

Clause (1) of this agreement divided Toro into seven administrative divisions, which included, Toro, Mwengi, and Kitakwenda, Kitakweta or west Chaka, East Chaka, and Nakabimba. Currently, Mwengi is known as Mwenge County and Chaka is referred to as Kyaka County. The two counties together make up Kyenjojo district, which is the case study in this research. Although the agreement delineated the boundaries of Toro then as one district, three districts have since been created altering the original administrative boundaries but the inhabitants still pay allegiance to the King of Toro. The created tenure systems by this agreement are still prevalent and shape the land ownership in the area.

Besides demarcating the boundaries, Toro land agreement just like the Buganda Agreement divided land in the area that disadvantaged the poor. According to clause (4) four of this agreement, all minerals, mines, salt deposits in Toro, all wasteland and uncultivated land at the date of signing of the agreement were declared property of her majesty, the Queen of England.

Clause (7) of the agreement provided for further division of land in Toro amongst the already privileged class in the area to the exclusion of the poor. The King of Toro (Kasagama) at that time, in addition to taxes received was granted an estate out of the wastelands of Toro of 16 square miles. However, large reserves of forest or any salt deposit were excluded.

The Katikiro (principle minister) of the King was to enjoy usufruct rights of an estate out of wastelands of Toro in sub-division of 10 square miles, also exclusive of large areas of forest, or any salt deposit. The queen mother of Kasagama received an estate equivalent to five square miles with the same limitations on forest reserves and salt deposits like the King and the Katikiro. The chiefs of the time, from the subdivisions of Toro district were also granted usufruct rights of an estate of 10 square miles from the wasteland in their respective sub divisions.

Finally, the private estate of the King of Toro was not to exceed 50 square miles and 25 square miles had to be held in the subdivision of Toro. While the Katikiro estates were not to be beyond 16 square miles and those of chief of a subdivision would not exceed 16 square miles each. These divisions marked the introduction of land registration in the region and created freeholds of Toro, mainly owned by the King, his family and chiefs. Just like in the Buganda case, the peasants and poor escaped recognition during the division. Worth noting is the land given to the king, chiefs, and Katikiro was not vacant land, the peasants just like in the case of Buganda became squatters on such lands and were expected to pay tribute to the owner of the freehold. The King, chiefs and other notables in the Toro Kingdom used to grant usufruct rights to any one at their own discretion.

3.2 The case study

⁴Kyenjojo District lies in western Uganda and borders with districts of Kibale to the North, Mubende to the East, Kamwenge to the South East, Kiruhura to the south, Sembabule to the southeast and Kabarole to the West. The district was established by an act of parliament and created out of Kabarole District on 28 November 2000. Kyenjojo has a population of around 420,605 as per 2005, consisting of 208,200 males and 212,405 females, and is growing at a rate of 3.7 per cent per year. The district's proportion of National total population was 1.5 in 2002. The population density has also increased over time, in 1980 it was 42, 62 in 1991 and 95.7 in 2002.

The district is made up of two counties of Kyaka and Mwenge, and consists of 13 sub counties and 1 Town council, as lower local governments (administrative units). As regards land holding, Mwenge County has larger holdings, mainly under agricultural use due to fertile soils. Kyaka County has smaller holdings mainly under grazing activities albeit some agricultural activities as well. Detail description of land holding is provided in table 3.

Table 3.
Land holding in the study area

County/Sub County	Acres	Hectares	Stick (Mwigo)
Kyaka County	14,362	3,249	1,902
Hapuyo	1,222	102	1,001
Kakabara	3,051	569	179
Kasule	1,326	362	78
Kyegegwa	3,081	1,183	422
Mpara	5,682	1,033	222
Mwenge County	39,984	4,868	2,932
Bufunjo	3,734	265	437
Bugaaki	3,575	405	179
Butiiti	4,472	994	466
Katoke	5,848	181	270
Kihuura	6,973	745	455
Kyarusozi	5,646	961	552
Kyenjojo T.C.	2,179	269	17
Nyankwanzi	2,875	100	377
Nyantungo	4,682	948	179
District Total	54,346	8,117	4,834

Source: 2002 Uganda population and housing census report.

(Mwigo/stick was a traditional unit of length, which the local people used to determine the size of their land before the era of surveying. The variations in the size of the holding as depicted in table 3, is due to the different units of measurement that is hectares, acres and Mwigo.)

⁴ Appendix I and II show the location of Kyenjojo district in Uganda and its composition by sub counties and population density.

3.3. Rural livelihoods and importance of land rights

Findings in the 2002 population and housing census report reveal that, most of the population in Uganda is rural with urban population constituting only 4 per cent. The report further indicates that 77 per cent of the employed persons are engaged in agriculture in Uganda. According to the Uganda's Human development report (2005:38), the total land area of Uganda is 84,694 square kilometres, 84,010 square kilometres of this, is farmland area under subsistence agriculture, and only 684 square kilometres are commercial farms. Access to land is a basis for rural livelihoods and human development (MoFPED 2003), therefore, the rural people's rights to land are indisputably important.

In Kyenjojo district, 74.5 per cent of the households are dependant on agriculture as their source of livelihood, therefore access to land is paramount for the rural livelihoods in the local government and specifically women. According to the National Service Delivery Service survey carried out in 2004, 49.2 percent and 40.6 percent of female and male above ten years are involved in agricultural related activities, while 8 percent and 12.8 per cent female and male are involved in professional jobs respectively. In addition, literacy levels at national level indicate that women constitute 54 per cent, and men 75 per cent, all above 10 years.

In view of the above statistics, women access and rights to land is fundamental, since 40.6 per cent are involved in agriculture activities and have less opportunities of accessing formal employment due to the low literacy levels as compared to men.

3.4 Differentiation and means of accessing land

Access to land has evolved over time in the local government, with changes in tenure system before and after the colonial period. Land scarcity and increase in population have also influenced land accessibility. The common ways in which people access land include inter alia,

(a) Inheritance and other traditional means

People access land through inheritance from their parents, brothers, uncles or other relatives. However, the boys are more likely to inherit family land than girls are though there are exceptional cases where girls may inherit land as well. Cornhiel (2003:1) commenting on land inheritance in Uganda states that 'Since most lineages in Uganda are patrilineal, when land was handed down within a family, it passed from father to son'. It is common in the Toro tradition after the death of the household head to have last funeral rites, which is intended to distribute the deceased land in case of no will or read the will to know and socially accept the next owner of the property.

Before and after colonial rule the Omukama of Toro would give land to his loyal chiefs and subjects, though the practice has ceased, people in Kyenjojo local government especially former chiefs accessed land through that process. Common too, in the past was (okutembura), which means any person could own and define his boundaries of the vacant land then. This was possible because of low population and limited scarcity but it is certainly not possible in this era. In all these cases, women largely had use rights to land, that is cultivated and managed land they did not have a right to possess.

(b) Government programs

Resettlement programs are also among the means through which special categories of people access land,

for instance refugees' settlements in Kyaka.

(c) Land markets, sales, rentals

Buying is presently a common means of accessing land especially for people who are not original inhabitants of certain areas, for example in sub counties of *Nyakwanzi, Bufunjo, Kakabara* and *Mpara*. Local Land rentals are also in existence, it is common to find some one with cows renting another persons land for grazing purposes. Formally, people access land through leases granted from land owned by the government or district land board, or leases from other registered proprietors.

(d) Common property

Accessibility to land through common property is also in existence in the local government, for example communal grazing hills. However they are being extinguished very fast, practices of fencing off former communally owned land are prevalent and evidenced by disputes on the same lands.

3.5 Structures for land registration and leverage on the rural poor.

Although land structures at the national level are not the main centre of analysis in this research, it is important to refer to them since the local government structures work in liaison with the national structures. In fact, the final issuing of the certificate of titles is done at the central level, therefore, it is important to review them.

3.5.1 National level land structures

At the national level, land management lies under the Ministry of Lands, Housing and Urban Development (MLHUD), under the directorate of lands. Different departments that have specific functions but are coordinated manage the technical implementation of land policies. The departments include among others;

Land Registration Department: This department carries out the issuance of certificate of titles and registers other land transactions, for instance transfers and mortgages. It is also responsible for conveyance in case of land held by government.

Physical Planning Department: this department is responsible for ensuring orderly development of land in both rural and urban areas in the country. However, the former has not been planned due to concentration on the later because of inadequate financial and human capacity. The department prepares structure and detailed plans for urban areas, contributes in the formulation of the national land use policy, assist districts in preparation of the district land use plans that are in line with the national land use plan.

Lands and Surveys Department: the land and surveys department is divided into three divisions with distinct functions namely Surveys division, mapping division and Land inspectorate. The surveys division carries out cadastral surveys of government land geodetic and hydrographic surveys and is charged with supervising district surveyors especially ensuring standards in the systematic demarcation. Mapping division prepares topographic maps, large-scale maps for urban areas and thematic maps and will spear head development of land information system. Land inspectorate carries out inspection, monitoring of Land Act institutions and provides guidance on land administration.

Valuation Division: this division values land purchased, sold or rented by government, values property for registration for payment of stamp duty, and rating valuations in urban areas.

Uganda Land Commission: is an establishment of the Uganda constitution, formed to hold and manage land held by the central government. It also manages the land fund, which according to section 41 of the Land Act is to assist tenants by occupancy to acquire registrable interest in land. According to the amendment to the land act 2000, section 49, the commission is responsible for:

- (a) Hold and manage any land in Uganda, which is vested in, or acquire by the Government in accordance with the Constitution,
- (b) Where applicable, hold and manage any land acquired by the Government abroad, except that the Commission may delegate the management of such land to Uganda's Missions abroad,
- (c) Procure certificates of title for any land vested in or acquired by the Government,
- (d) Perform such other functions as may be prescribed by or under this Act or any enactment.

3.5.2. Regional/district level land structures

(a) District land boards

Under section 56 of the Land Act (2000), land boards are established for each district. Land boards are a body corporate with perpetual succession and common seal and may sue or be sued in its corporate name. They are responsible for inter alia;

- (a) Hold and allocate land that is not owned by person or authority,
- (b) Facilitate the registration and transfer of interests in land,
- (c) Take over the role and exercise the powers of the lesser in the case of the lease granted by a former controlling authority,
- (d) Cause surveys, plans, maps, drawings and estimates to be made by or through its officers or agents,
- (e) Compile and maintain a list of rates of compensation payable in respect of crops, buildings of a non-permanent nature and any other thing that may be prescribed,
- (d) Review every year the list of rates of compensation.

Kyenjojo district local government on its inception used the services of *Kabarole* land board but its land board has been operational since 2002 carrying out its roles as stipulated by the law. However, the board had engaged itself in land inspections that are legally a function of the area land committees that were not yet in place. The land board's engagement in land inspections was not only legally wrong, but a cost that had to be incurred by the land applicants in the local government. Although the applicants are not supposed to remunerate the board members, the transport costs borne are unaffordable to the poor. The result was abandonment of the application at the application level that has no solid meaning in terms of security of tenure and hence weakened rights. The process was even more costly for the poor when land inspections and registration were still carried out by *Kabarole* DLB and land office.

(b) District land office

Under section 59, subsection 6, every district is supposed to have a land office comprising of the physical planner, land officer, valuer, surveyor and district registrar of titles, these provide technical advice to the land board. Kyenjojo has a functioning land office and the existing different units are summarized below.

Physical planning unit:

The unit is manned by only the physical planner and carries out physical planning activities of the whole district. The planner assists in making structure and detailed plans for rural growth centres and advises on development control in the district. The unit further liaises with the line ministry department about physical planning issues in the local government.

Land surveying unit:

The surveying unit consists of the staff surveyor and the cartographer. The cartographer plots the surveyed pieces of land, and produces location plans for rural lands. The unit surveys district administration lands, checks all surveyed work by private surveyors in the district, and forwards the files to the commissioner land surveys for final approval. The staff surveyor has recently started issuing instruction to survey for the rural land and keeps a record of all surveying records. The surveyor liaises with the line ministry department on surveying matters in the district.

Land administration unit:

The land administration unit under the senior land management officer receives applications for land, coordinates the inspection of land, writes leasehold/freehold offers and advises on land application procedure. The officer is the secretary to district to the land board, coordinates all land registration activities in the district, and liaises with the line ministry on land issues in the district. The land officer liaises with the line ministry about land administration in the local government.

Land registration unit:

Land registration unit is manned by the land registrar and issues certificate of titles. Though the local government recruited a land registrar, the officer works from the land registration department in Kampala since the land registration has not been fully decentralized to the district.

Despite the existence of the above land units at the district level, the final and actual provision of land services are centrally obtained. For instance planning clearance, approval of surveys and issuance of certificate of title. This renders the process long and costly for especially the poor who cannot afford the numerous movements, while the rich may use services of other expertise to register their interests in land.

3.5.3. Sub county level land structures

(a) Area land committees

The land (amendment) act, 2004, section 27 makes a provision for the establishment of the area land committees based at sub county level. They have to be formed by the district council on the recommendation by the sub county or division council. According to subsection 7, the committee is to assist the land board in an advisory capacity on matters relating to land, ascertaining rights in land and perform any other functions conferred on it by the act. Subsection 6 (b) indicates that the district in appointing the area land committees shall take into consideration the extent of demand from the people with in the sub county or divisional areas and Section 6 (c) the areas referred to in subsection 1 indicate that they are prepared to assist in the funding of the committee. Currently only seven sub counties out of 14 sub counties have established area land committees that started in July, 2007. They are constrained by inadequate funding. Evaluation of

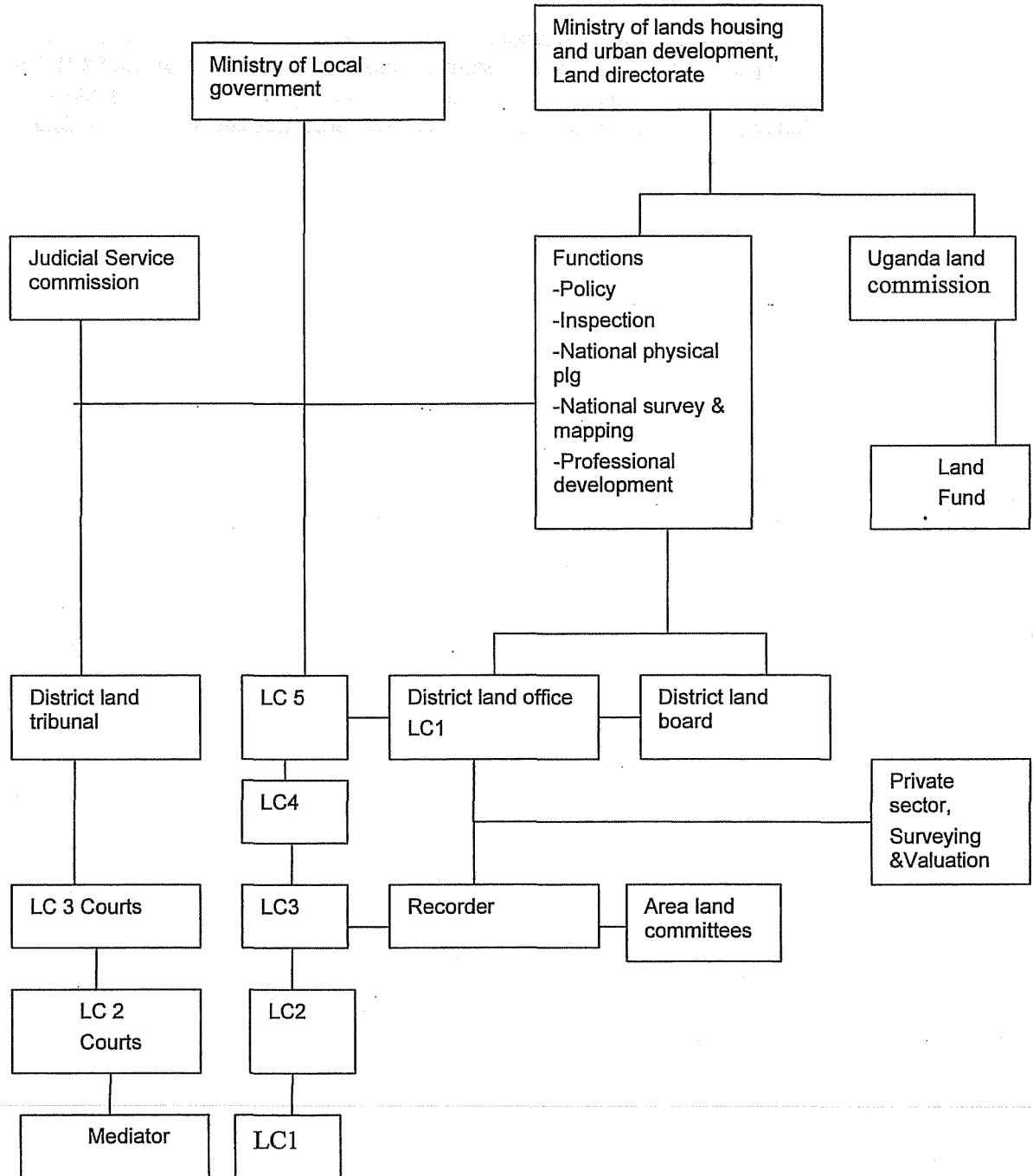
their performance is quite premature but since things tend to be path dependent, due to the inadequate funding, the applicants are likely to be pressed hard just like in the case of DLB, and may achieve less as far as reducing the burden on the applicants is concerned.

(b) The recorder

The recorder at the sub county level is a technical person and writes the customary certificates for the customary tenants after approval by the DLB. This level is not part of the study since they were not in place in the period 2002-2006. Figure 2 summarises the discussed land structures and shows the linkages between them.

(Figure 2)

Summary of the land registration structures



Source: Adapted and adopted from LSSP (2001-2011:40).

Figure 2 summarizes the different land structures according to Uganda's local council ⁵administrative system. The dispute resolution function consists of the mediator at the village level (local council 1), Local council two courts at parish level (local council 2), local council three courts at sub county level (local council 3), district land tribunal at district level (local council 5) but has been suspended in 2007, and Judicial service commission at national level. The land management function include, the area land committees at sub county level,(local council 3),district land board at district level (local council 5) and the Uganda land commission at national level. The recorder at the sub county level (local council 3), the district land office at district level (local council 5) and the land directorate (relevant land departments) implement the technical functions.

This chapter has shown that albeit the established land structures at the local level that are believed to make the registration of interests in land less cumbersome and affordable to the poor, the practice is contrary. The sub county structures that are the nearest and cheaper option for the rural poor to register their interests in land were not operational at the time of the study, yet they were provided for in 1998, during the enactment of the land act. I will show how the land registration process is skewed towards the rich in chapter 5. First, however, it is important to see how formal title functions in land disputes.

⁵ About Uganda's local council system of administration, check Ahikire, J. (2002:4-9) 'decentralisation in Uganda today: institutions and possible outcomes in the context of human rights'

4.0. RICH AND POOR IN LEGAL LAND CONFLICTS.

This chapter presents the findings of the research from the land cases studied conducted in Kyenjojo local government. I argue in the chapter that the poor who access lands mainly customarily, and under lawful and bona fide occupancy on registered land, Nsamba-Gayiiya (1999:4), do not necessarily enjoy security of tenure as stipulated in the land law and the constitution. I further show that the occupants do not only experience diminished land rights but also suffer other injustices.

In order to understand the category of people affected in the two land cases (forth coming), it is important to refer to two laws mentioned in the first chapter. The Public lands act of 1969, which vested all land in the Uganda land commission and left the customary tenure untouched. Land occupied under customary tenure was public land and could be alienated into freehold and leasehold. The consent of the occupiers was, however required and such persons were to be compensated where such a grant was made. The other is the Land reform decree 1975, which abolished all mailo and freehold land tenure. All land become public land and leases of 99 years could be granted from the state. Customary tenure was not touched again but the tenant's state was worsened since the land they occupied could be alienated with out their consent. It is imperative to note that in both cases such lands were not vacant, so the original inhabitants were rendered squatters on their own land.

4.1. Legal status of Bona fide and Lawful occupants in Uganda

According to Chapter 15, Article 327 of the Uganda constitution (1995), Land in Uganda belongs to the citizens of Uganda, and can be owned under customary, mailo, freehold or leasehold tenure. Section 9 of this article stipulates that the lawful or bona fide occupants on mailo land, freehold or leasehold land shall enjoy security of occupancy on the land.

According to the land act 1998, tenants on registered land have security of tenure and can apply for a certificate of occupation for the land they occupy, and are not supposed to be evicted with out adequate compensation. Bona fide occupants as defined in the land Act mean:

a person who before the coming into force of the constitution (a) had occupied and utilized or developed any land unchallenged by the registered owner for twelve years or more or (b) had been settled on land by the government or an agent of government, which may include a local authority, Uganda Land Act amendment 2000, Chapter.227.

While Lawful occupant refers to:

(a) a person occupying the land by virtue of (i) repealed Busuulu and Envujjo law of 1928,(ii) Toro land lord and Tenant law of 1937,(iii) Ankole land lord and Tenant law of 1937,(b) a person who entered the land with consent of the registered owner and includes purchaser (c) a person who had occupied land as a customary tenant but whose tenancy was not disclosed or compensated for by the registered owner at the time

of acquiring the leasehold certificate of title, Uganda Land Act amendment 2000, Chapter.227.

According to the above provisions in the Ugandan law, the occupants' security of tenure is ideally ensured, the president of Uganda quoted in McAuslan (2003:275), affirms the commitment to the protection of the poor people by indicating that, 'Our position has four points and is based on double reform-controlled rent and no power to evict. The points are: recognize ownership of the land lord, accept controlled or nominal rent, a land lord should not evict the tenant as he likes but go through a tribunal and set up a fund so that poor people can also get money to buy land. For me, I am ready to be hanged on those four points'. The New Vision, 19 May 1998.

Evidenced in the formulation of the LSSP in 2001, protection of the security of tenure of tenants on registered land and protection of the security of tenure of people on customary land were among others the main concerns of the land sector, LSSP (2001-2011:3).

However, the studied cases (forthcoming) reveal that the lawful and bona fide occupants have actually been evicted without adequate compensation in the cases presented below.

4.2.0 A case of Freehold tenure

land case one

Company Pusi VS 36 bona fide and lawful occupants

The land where people were evicted is situated in Linda village, Katooke sub county, Kyenjojo district, owned under freehold tenure. Company Pusi, a tea company purchased it from the original registered proprietor who is a grand child of a chief for the Omukama (King) of Toro Kingdom, but tenants lived on this land for a long time.

In this scenario, Company Pusi evicted over 36 people, who are mainly peasants, poor and derive their source of livelihood from tilling the land. The tenants assumed tenancy at different times summarized in the table below, the remaining dates for the 30 respondents could not be ascertained since they moved to different places.

Tenant	Year
T1	1967
T2	1974
T3	1974
T4	1973
T5	1967
T6	Bought from T4 in 1967

Source: derived from the interviews with the tenants
(T –Tenant)

Some of the tenants were permitted to live on the land by one entrusted individual by the registered owner and others just assumed tenancy customarily (locally known as *Kutembura*), a practice prevalent in the past where people just

occupied any vacant land and defined their own boundaries since the population was still so low. Such lands constitute the customary land ownership in the area or what is locally known as (*ebibanja*) that are bequeathed to the next generation.

On assuming tenancy, Company Pusi summoned the tenants to leave after compensation for the developments made on the land. Attempts by the tenants to seek legal redress from the local council courts were futile, since the courts feared to engage in what they thought was centrally decided. The company in its own discretion valued the affected person's property with out clear and transparent means. According to the interviewed tenants, none seems to know whether an appropriate expert like land valuers, agricultural officers etc, did the valuation. For instance, only one tree specie was compensated (locally known as emitoma) and the rest were not valued with out any explanation. Surprisingly about the compensation, the affected folks did not know what they were paid for and did not receive any documents of what they signed for.

In addition, the evicted people were vulnerable to receiving any amount of money offered to them albeit not commensurate with the value of their development, since they had been forbidden from planting any more crops on the land for three months before compensation. The little funds given to them could not enable them acquire reasonable pieces of land. Consequently, majority ended up selling their labour to the same company that had put up camps for whoever was interested in working with the tea estate. However, according to the interviewed workers, the amount paid is not enough to feed their children and send them to school.

The poor people did not only lose their land, their cattle, and perennial crops that were a source of income but have been subjected to low paying jobs at Company Pusi that evicted them.

In view of the above case, and referring to the adopted strands by Honore, the land rights of the poor have diminished in many ways. The occupant's *right to use* the land they had lived on and used for over three decades was interfered with, since they were prohibited from using the land for three months before compensation.

Other rights for instance *right to transmissibility* and *right to manage, which are possible under usufruct*, were also extinguished. The inability of the local council courts to intervene in the situation despite the poor's plea, attests to the diminished *residuary character*.

Although the occupants had developments on land, it did not serve as security, and not all developments were valued and recovered after the loss of land in this case. A situation that differs from Sjaatad and Bromley argument indicated in chapter two, that investment on land is security itself and it can be recovered even when the land is lost, Sjaastad and Bromley, (1997: 553). A view that Woodhouse (2003:1713) also notes in Botswana's context that '...investment is a key factor in strengthening claims over land. At its simplest, investment in clearing land by cutting and burning vegetation forms the basis of all customary authority—usually held by (or transferred from) the descendents of the first settlers who cleared the land'.

4.2.1 A case of leasehold tenure

Land case two:

One applicant vs. 44 defendants.

In this case, one claimant (rich and famous) accuses 44 defendants of trespass and encroachment on his land yet they have lived on the disputed land since 1960 as revealed by the purchase agreements. According to the applicant's claim, the respondents (44 people) without any claim trespassed and erected structures on his land. He prayed that court passes an injunction and stops respondents from carrying out any activity on the disputed land.

The respondents (only ten) in response as stated in the statement of defence challenged the applicants claim and indicated that they had been in occupation of the said land for a long time. They had acquired the land customarily through inheritance and others bought it from customary tenants. The table below indicates the time when each assumed tenancy on the disputed land.

Defendant	Year
D1	1960
D2	1960
D3	1992
D4	1992
D5	1993
D6	1980
D7	1990
D8	1980
D9	1995
D10	12 years

Source: extracted from the statement of defence.

(D-Defendant)

Dates for commencement of tenancy for those that did not write statement of defence could not be established, but the interviews with the local are chairperson indicate that even the 33 people have lived on the land for long too. Important to note is that the applicant recently purchased the disputed land in 2006 from the registered proprietor, who obtained a leasehold title from Uganda land commission in 1989.

The respondents further noted that the plaintiff had neither stayed on that land nor have any developments on the land and prayed for the dismissal of the claimant's claims.

Consequently, an injunction was passed that prohibited the 44 people from using the suit land, an idea that the defendant's counsel challenged on grounds of defendants dependence on their pieces of land for subsistence purposes. This resulted in a ruling that permitted the defendants to use the land under their occupation only for subsistence purposes and restrained them from planting eucalyptus trees, cutting valuable trees, extending the area now under their occupation until a final judgment is made.

Interestingly, some of the respondents are situated in a different place, while the location of the disputed land is plot 1, block 50 at Bwere hill Migogwe, Kyaka county, some of the affected defendants are situated in Kisagani village, Kabwera village, Kyanyarugabwa in Rwibale parish, Kihuura sub county and whose land is not even surveyed and un registered. Extension of boundaries of even registered land to incorporate land that does not even belong to the registered proprietor is

evident in this case.

Again as presented in chapter two, the adopted strands of Honore are used to analyze the case. The findings as regards *right to posses, right to use and right to security* reveal that the land rights of the poor have weakened. In this case, 44 people in both Kyaka county and Kihuura Sub County have lost their land rights even when the law recognizes them as customary tenants, lawful and bona fide occupants. The right to manage has also been affected since an injunction was passed stopping any developmental activity safe for subsistence purposes on land that the defendants had freely owned and used since 1960's, long before claims of the applicant in 2007.

Although 44 people were summoned in this case, only 10 were able to jointly engage services of a lawyer to make a statement of defence. By law, in the event that the defendant does not make a statement of defence in the stipulated time, the court decides in favour of the applicant by granting the prayers of the same hence diminished rights in terms of residuary character. In this particular case, the 30 people's fate is at stake since they have not submitted a statement of defence and according to the area local council chairperson, the respondents cannot afford the legal costs hence loss of their interest in the suit land. Their *rights to use, right to manage, right to security, absence of term, right to divisibility and right to transmissibility* have all diminished.

4.2.2 A case of customary tenure

The customary case presented below is not necessarily an outcome of land registration, the researcher picked upon it to ascertain whether security of tenure under customary tenure differs from registered land.

Land case three

Murungi vs. company Pusi

The case was first filled in Kyenjojo district land tribunal on 13/2/2004. The commencement of occupancy was 1939 through inheritance from the applicant's father who lived on that land before him. The disputed land is situated in Butiiti sub county, Kibirizi parish and Kinyatale village. The applicant accuses company Pusi of encroachment on his land and unlawfully passing a road (approximately 3 acres) in his land destroying his crops.

The respondent in response denies all allegations, that the applicant and his developments are outside the respondents land, and the respondent has not in any way interfered with his developments, finally prays that the claims be dismissed.

The case has dragged on to 2007, while Company Pusi engages the services of a lawyer, the poor old applicant with a physical deformity (blind) has at each moment represented himself at all hearings that are punctuated by adjournments on grounds of inter alia, land tribunal not fully constituted, respondent not a ware of the hearing, visiting the locus etc. During an

interview with the applicant, he indicates that it has taken him long to get justice and has not lost his land, but time, money and physical effort since 2004.

The applicant's liberty *to use* and enjoy his land without interference has been weakened, since he has not been able to use the land productively since 2004, due to dragging in making a ruling by the land tribunal. The situation is likely to be exacerbated by the suspension of the district land tribunals in the country at the beginning of 2007. Land cases are currently handled by the grade one magistrate's court together with all other categories of cases. In addition, the applicant's *right to manage* is weakened, the applicant is not in position to decide how and who should use the land, the rights to bequeath customary ownership is also not possible on a disputed land.

The findings from this case reveal a diverging view from the argument that African customary tenure is deemed secure, (Noronha 1985: 193) in (Atwood 1990:661). The findings are in agreement with (IIED, 1999, Platteau, 1996, Quan, 1997), that 'neither does customary tenure constitute a guarantor of security for the poor. When competition for land intensifies, the inclusive flexibility offered by customary rights can quickly become an uncharted terrain on which the least powerful are vulnerable to exclusion as a result of the manipulation of ambiguity by the more powerful' Woodhouse (2003:1714-1715). Well, the claim of customary tenure being more secure does hold and is contextual but does not materialize in some cases.

From the presentation and discussion of the land cases in this chapter, it is evident the poor's land rights have diminished in many instances. It also appears that if the bona fide and lawful occupants and the customary tenants had proof of occupation and possession right (title) or any other document recognized by courts of law, they would have stronger claims over land. This raises a question, whether land registration and titling is panacea to such problems? In the next chapter, I analyze the land registration process and provide evidence that it is uncharted ground for the poor.

5.0. THE LAND REGISTRATION PROCESS AND ITS IMPACT ON THE POOR.

As presented in the framework for analysis, while analyzing the registration process in Kyenjojo, emphasis will be on (i) who applies, (men, women, poor ,rich ,location etc), (ii) progress of applicants with each level having different claims and (iii) the registration process (steps, time, cost) to ascertain whether land registration diminishes or protects the land rights of the poor. I do show in this chapter that the process of land registration itself diminishes the rights of the poor and the technicalities involved are an arena of exclusion.

5.1. Who Applies?

This analyses the applications according to gender, type of tenure, land use type and size of land holdings.

5.1.1 Gender and land

Findings from the study reveal that men have dominated the registration process in all the five years as presented in the table 4. Mixed applications entail joint application for both male and female while neutral applications include applications made by organizations and institutions that are not important for the gender analysis.

Table 4.

Table showing annual applications per gender

Year	2002	2003	2004	2005	2006
Male	3	44	60	69	91
Female	0	9	12	10	13
Mixed (joint)	0	3	1	7	5
Neutral	1	16	6	14	16
Total	4	72	79	100	126

Source: Own computations from the land records

5.1.2 Size of Land holding

As regards land size holding, findings reveal that women have small land holdings in terms of individual land size (hectares) as compared to men and small hectares in all the five years under study. Table 5 shows the details of size of land holdings for men and women for the five years. It also gives the holdings of the joint (men and women) applications and neutral applications that are not gendered.

Table 5.

Table showing size of land holdings for applicants from 2002-2006

Land holding (ha)	2002	2003	2004	2005	2006
Men	2.1	2284.2	2209.8	4692.6	2354.2

Women	-	322.7	208.8	220.2	72.1
Joint	-	4.3	121.9	163.5	232.7
Neutral	242.8	343.6	155.8	471.5	445.6

Source: Own computations from Kyenjojo land records 2002-2006.

The findings confirm with literature in other African countries where women did not benefit from land registration, while the men gained control since the titles were registered in their names. In addition, the Ugandan land law in itself diminishes the land rights of the women, women are only mentioned in section 27, of the land act. The provision just indicates that 'any decision in respect of land held under customary nature, whether in respect of land held individually or communally concerned, except that a decision which denies women or children or persons with disability access to ownership, occupation or use of any land or imposes conditions that violate the articles 33, 34 and 35 of the constitution on any ownership, occupation or use of any land shall be null and void'. Given the patriarchal societies typical of most African cultures, such a provision leaves a lot to be desired in a situation where the man's decision taken in high regard.

In an attempt to have the co-ownership article included in the land act amendment, the hopes of making a difference in land ownership for women were frustrated when the article mysteriously missed in the final amendment and passed to the domestic relations Bill, a pending and highly contested bill that is likely never to be passed, and if it is ever, it will take so long. The leaders, in reference to the co-ownership amendment, further exacerbated the situation, the president of Uganda quoted in Tripp, (2004:7) indicated, 'when I learnt the bill was empowering the newly married women to share properties of the husbands, I smelt a disaster and advised for slow and careful analysis of the property sharing issue'.

In an interview with the land officer, she indicated that her advice to applicants about joint application for both husband and wife is not positively received, 'people still believe that property cannot own property'. With a weak law as regards co-ownership of land and lack of support from the male dominated society, the land registration will continue to exacerbate inequalities between men and women in the local government.

5.1.3 Applications according to land use

The land uses identified in the records include commercial: which is predominantly plots in rural growth centre's (growing centre's) which have characteristics of both urban and rural areas. With shops at the front side and the rear is used for residential purposes. Included also under this category, are guesthouses, hotels and markets, maize mills and brick making. Subsistence farming: involves ordinary homesteads for people usually with a house, gardens, small diary farms in some homes, producing for the family's basic consumption. Commercial farming: involves tea plantations (that are largely owned by investors), tree planting for production of timber for sell and growing of macadamia. Institutional use: involves applications made by schools, district administration lands, churches and other organizational applications. Industrial use: in this case refers to the small-scale industrial activities, for example tea factory, macadamia factory, petrol stations, washing bays, carpentry workshops. Grazing: is predominantly in Kyaka County, it involves some ranches but majority graze the cows for non-commercial purposes.

Not indicated: under this description are all applications that did not state the use of their land. The percentage of each land use is presented table 6.

Table 6.

Table showing type of land uses

Year	2002	2003	2004	2005	2006
Commercial	1	15	11	14	20
Subsistence farming	1	29	51	69	91
Commercial farming	1	8	3	1	5
Institutional		9	5	12	3
Industries	1	1	2	-	2
Grazing	-	7	4	2	-
Not indicated	-	3	3	2	5
Total	4	72	79	100	126

Source: formulated from the land records 2002-2006.

According to the findings as demonstrated in table 7, subsistence-farming ranks highest, 63 per cent of all applicants utilize the land for subsistence purposes and the majority have not gone beyond application level in terms of progress in land registration. An indication that the land registration process has not benefited the poor. In an interview with some applicants that had not made progress in registering their interests in land, money constraints were cited out as a major obstacle. A claim that the officers in land office do agree with, and evidenced by the land application files in the land office that do not have a receipt for the initial payment of the application fee, which any person is assumed to be able to pay.

5.1.4 Applications according to land tenure

The land tenure system analysis further corroborates that land registration system diminishes the land rights of the poor. The identified tenure system in the local government is summarized in the table 7.

Table 7.

Table showing the Land tenure contained in the applications 2002-2006

Type of tenure	2002	2003	2004	2005	2006
Leasehold	4	65	63	67	32
Leasehold to freehold	-	1	1	1	4
Conversion from customary to freehold	-	3	4	27	85
Freehold	-	3	11	4	4
Not indicated	-	-	-	1	1
Total	4	72	79	100	126

Source: Own computation from the land records

Findings reveal prevalence of leasehold tenure from 2003-2005 and increased trend of conversation from customary tenure to freehold tenure from 2005-2006.

While the 1995 Uganda constitution indicates that land belongs to people and shall own it according to the established tenure systems of freehold, leasehold, customary and mailo, the registration system in the case study tended to register interests mainly under leasehold type of tenure. It is interesting for a rightful owner of land to obtain a lease for land owned customarily. Enquiries done during the study reveal, that delay in operationalisation of the land Act and partly unawareness on the technical side explain issuing of leases on land that is owned customarily.

However, the land regulations that operationalise the land act were produced in 2004, yet table 8 has bigger numbers of applications for leasehold in 2005. Whether it is a mistake done in good faith or not, is not the concern of this paper but the concern lies in the different fees charged under different tenure systems. In this case, the registration system diminished the rights of the poor by subjecting them to payment of certain monies under leasehold tenure, which they were not supposed to pay and hindered progress of those that could not pay.

The findings further reveal an increased conversion from customary tenure to freehold in 2005 and 2006 yet customary tenure is a legally recognized form of tenure in the country, and customary certificates can be issued in respect to that tenure system at a minimal cost since the adjudication is localized. The very act of converting customary tenure to freehold renders weakened rights for the customary owners, who think possession of the land title is the secure form of ownership. This is further accelerated by absence of issuance of customary certificates, which at least would provide registration of customary tenure, which the poor could easily access.

5.2 Progress of application

Results from the sample population reveal very slow progress in the registration process made by the applicants. As indicated in chapter two, each level presents different meaning as far as diminishing and strengthening of land rights is concerned. Ideally, the title level, which entails strong rights, has registered one of the smallest numbers in all the five years studied, coming after extension, renewal and transfer, which is not a very important level for this analysis. On the other hand, the application level that has the weakest claims has the highest number of applicants in all the five years and are dominantly using the land for subsistence farming. Depicted in table 8, are the different levels that applicants have made over the five years.

Table 8.

Table showing the Progress of applicants from 2002-2006

Level attained	Number of applicants
Application level	172
Land board minute level	21
Inspected	40
Renewal, extension & Transfer	5
Offer level	123

Title level	20
Total	381

Source: Own computations from data obtained from Kyenjojo Land office and land registration department (MLHUD) in Kampala.

The application level entails submitting filled application forms to the land office and has a minimal fee paid for application, applications with out payment are also evident in the records. The land Board minute level, imply the board has visited the land applied for and approved by giving a minute to the applicant. The inspected level means the land board has visited the land applied for but has not yet approved, deferred the application due to disputes on ground, missing information about the land or has not yet convened a meeting to deliberate. Renewal, transfer and extension, are usually affiliated with leasehold tenure, where leases for specific years are granted and upon elapse of that period, the applicants have to apply for renewal, transfer entails change of interests to another person. The offer level is freehold offer or leasehold offer. Finally the title level, involves the acquiring of the certificate of title upon paying all the necessary fees.

5.3. The registration process

Findings from the procedures required to register interest in land indicate a long and time-consuming tasking process. This corroborates literature about other African countries where land registration has taken place for instance Kenya and Cameroon. The registration process is also expensive especially for the poor, though the fees paid seem minimal, a very stage in the application process implies an interaction with a complete new person with different expectations and ethical standing. During interviews conducted, one local person indicated, 'Not all people in the land office handle things the way they should be and in a straight forward manner'. The major land application processes that involve substantial amounts of money for the applicant to proceed include inter alia:

(a) Application level

The process begins with the applicant picking and making an application to the land office after making payment of about (22,000 Uganda shillings or 12.6US Dollars) for application. However, applications with out payment were evident in the land records analyzed, which implies either some people cannot afford even the minimal application fee or there is inadequate filing of the land records in the office.

The next stage differs depending on either rural or urban land, for urban land in this case Kyenjojo town council, a preliminary survey is a prerequisite for planning clearance by the commissioner physical planning. The preliminary survey is intended to give location of the plot so that it can be developed according to the detailed and structure plan of the town. The cost of the survey varies depending on the size of the plot and the nature of the surveyor since it is purely a privatized function, but on average a plot of 0.048 hectares would cost around (150,000 Uganda shillings or 86.5 US dollars). Submission by the Town clerk is made to the commissioner physical planning to clear the plots after payment of some fees to the town council. Despite the established office for the physical planner at the district level, planning clearance is still done centrally by the principle planner in charge of western region. Moreover, the reasons for this are somewhat blurred. After the planning clearance, the applicant submits the application to the land office for land

inspection. On the other hand, rural land does not require a preliminary survey but a location map just indicating the approximate location of the land. This is obtained from the cartographer at the district land office in the drawing office at (5000 Uganda shillings or 2.8US dollars).

(b) Land inspection

Land inspection follows in both cases, which ideally is supposed to be done by the area land committee, but the district land board has been performing the function for the five years considered under this study due to absence of the area land committees. The applicants transport the DLB to their sites to ascertain whether there are no disputes and the adjacent neighbours do agree on the boundaries of the land. The cost of transporting the board varies and is dependant on the distance from the land office, but most poor people cannot afford, and is one of the reasons they stop at application level. After inspection, the land board approves or defers application depending on the findings on ground, this leads to the next level of obtaining either a freehold or leasehold offer.

(c) Offer level

This level involves preparation of either a freehold or leasehold offer form, each has different monies that have to be paid in order for the applicant to move to another level, for example obtain an instruction to survey in case of rural land. As portrayed earlier, the offer level has the next largest number of applicants in terms of progress, which implies few do proceed with the process due to the costs involved at that level. On average a freehold applicant pays about (50,000 Uganda shillings or 29US dollars) and the leasehold applicant pay money commensurate with the hectares applied for which varies from applicant to another. However, even in cases where certain amounts ought to be the same for all applicants, records reveal differences in the fees applicants have paid in the five years studied.

(d) Surveying level

Surveying follows the issuing of the freehold offer to the applicant, and is a privatized function in Uganda. It is the most expensive of all the processes that the applicants have to under go. It is also common for private surveyors that are usually not monitored by the government to take advantage of the local people. Firstly, by overcharging and secondly, by producing fake work that cannot be plotted on the national cadastral sheet. Surveying for rural and urban land is also done differently at this level. Instruction to survey (Permission) for rural land, is given by the district surveyor, who also checks the surveyed work. Plotting, and giving of plot number to the surveyed land is done at the district by the cartographer. The file is then forwarded to the commissioner land surveying for final checking and production of deed plans. On the other hand, the commissioner for surveys issues the instruction to survey for urban land. The district Surveyor checks the surveyed work and forwards the file to commissioner for surveys for final checking and production of deed plans. After obtaining deed plans in each case, the land officer submits to the commissioner land registration for processing of a land title.

(e) Registration level

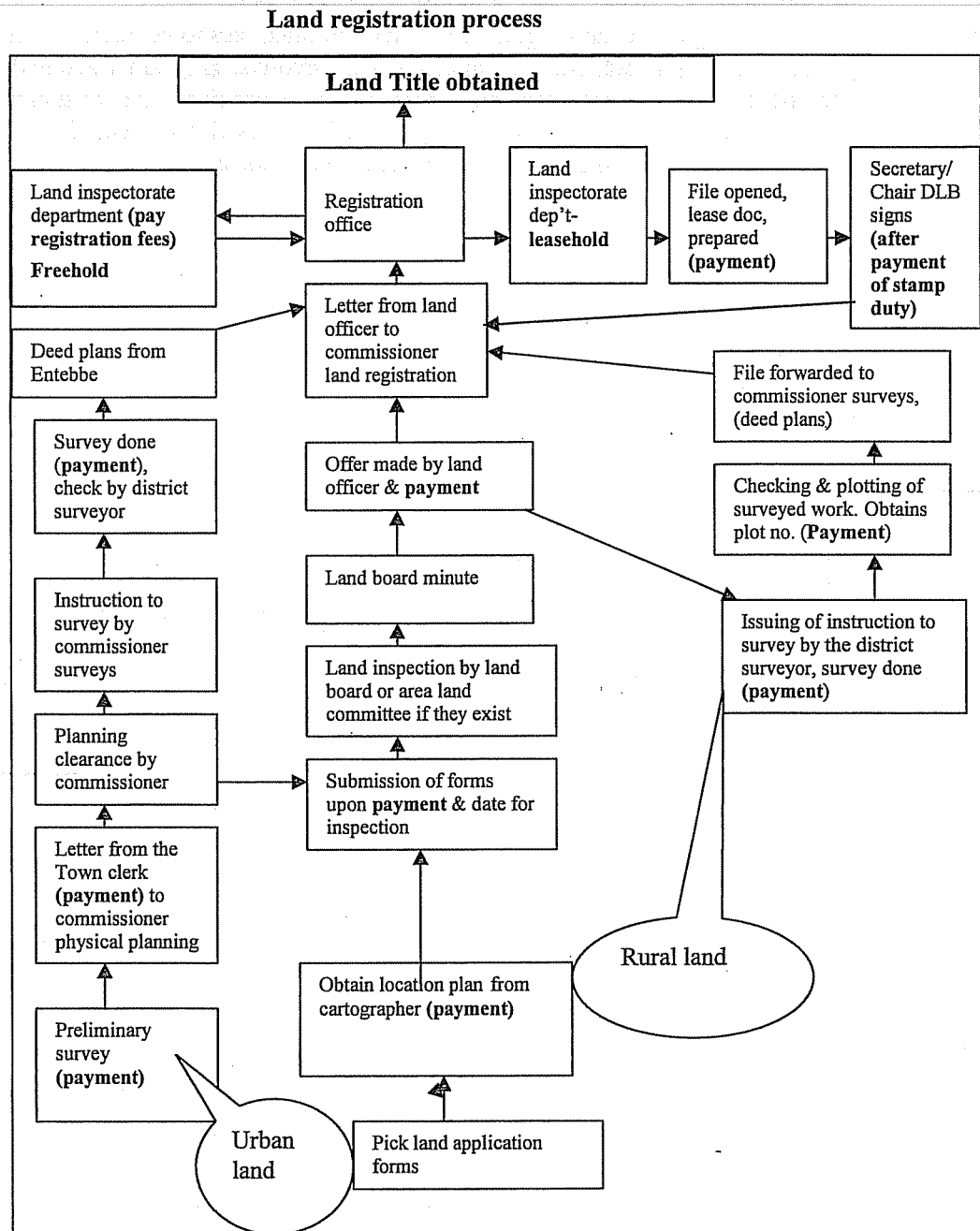
At this level, freehold and leasehold tenure registration is handled differently. Leasehold application is forwarded to the land inspectorate department for checking for quality control purposes. A file is opened and lease documents prepared which are sent back to the district land office for endorsement by either the secretary or chairperson of the district land board. The lease documents are then returned to the registrar of titles and upon payment of stamp duty, the leasehold title is issued to the applicant. While for freehold tenure, the file is

forwarded to the land inspectorate department for checking and upon payment of registration fees, a freehold title is issued to the applicant.

According to the land regulations, fixed⁶ minimal fees to be made by the applicants are stipulated, but the numerous steps involved as summarized under the different levels above make the whole process very expensive, time consuming and physically demanding for the rural poor. Figure 3 reveals all the detailed procedures for land registration that applicants are subjected to.

⁶ Appendix III gives the details of the fees paid for land registration, which are in the second schedule of the 2004 land regulations.

(Figure 3)



Source: Own construction from the process of land registration.

The land registration procedures as described above undeniably diminish the land rights of the poor since they can hardly make notable progress. Commenting on the land registration system by different stakeholders, the staff surveyor does note that the system is not affordable to the peasants and rather opts for systematic demarcation that can lead to issuance of customary certificates for the majority. He further notes that 'Security of tenure is in the people themselves, if society agrees on your boundaries, then you are more secure than the formal registration'.

In conclusion, the chapter has shown that formal land registration is not a domain of the poor but the relatively rich, by identifying who applies, assessing the progress made since 2002 and studying the registration process itself, it would be illogical to claim that an entirely subsistence based person is served by such a system.

6.0. CONCLUSION

The question behind this research was what has been the impact of land registration on land access of the rural poor in Kyenjojo local government. The results show limited impact, but certainly the registration process has especially not served the poor person. It may appear too early to make such an observation since it has been implemented for only a few years in the local government. Yet land registration in a rural community, where even filling in an application form needs an aid, is bound to yield little progress. The process of land registration itself is the first hindrance to the land rights of the poor. Its numerous steps that are unknown to the local person place richer or more educated people in a better position. Land registration is a foreign concept and will remain so for a long time, especially for the local person. Its process and laws that enforce the implementation rightly fits what West (1972:172) in McAuslan (2003:279) described as “.....legalistic plagiarism”.

Despite the legal protection of the bona fide and lawful occupants, the actual practice contravenes the legal provisions. The studied land cases attest to this. The poor are so helpless in defending their rights amidst invasion, due to lack of evidence to prove their tenancy, lack of awareness and inability to engage in legal matters. The study thus shows a need for a document that can provide evidence of tenancy and ownership of land. However, the same study has revealed that the acquisition of land title is not within the means of the poor. Thus, a more easily obtainable customary certificate of ownership for customary tenants is a more viable option. Since the certificates are recognized as evidence in courts of law and do not require surveying, the process is short and cheap. Certificates are issued at sub county level (nearer to people), and the sub county land structures are more familiar to the local person and less intimidating because people have been used to administration at that level for a long time (Kingship). On the other hand, the bona fide and lawful occupants also need certificates of occupation to strengthen their rights; these are also provided for in the land act but do not exist in practice in Kyenjojo local government.

Lastly, the registration of land titles should be open to those that can afford the costs and processes involved, but not every person should be subjected to the same procedures. However, all this requires the support of leaders both at local and national level. Leaders ought to play a vital role in ensuring the protection of the poor's land rights by putting in place structures that are familiar and serve interests of all categories of people.

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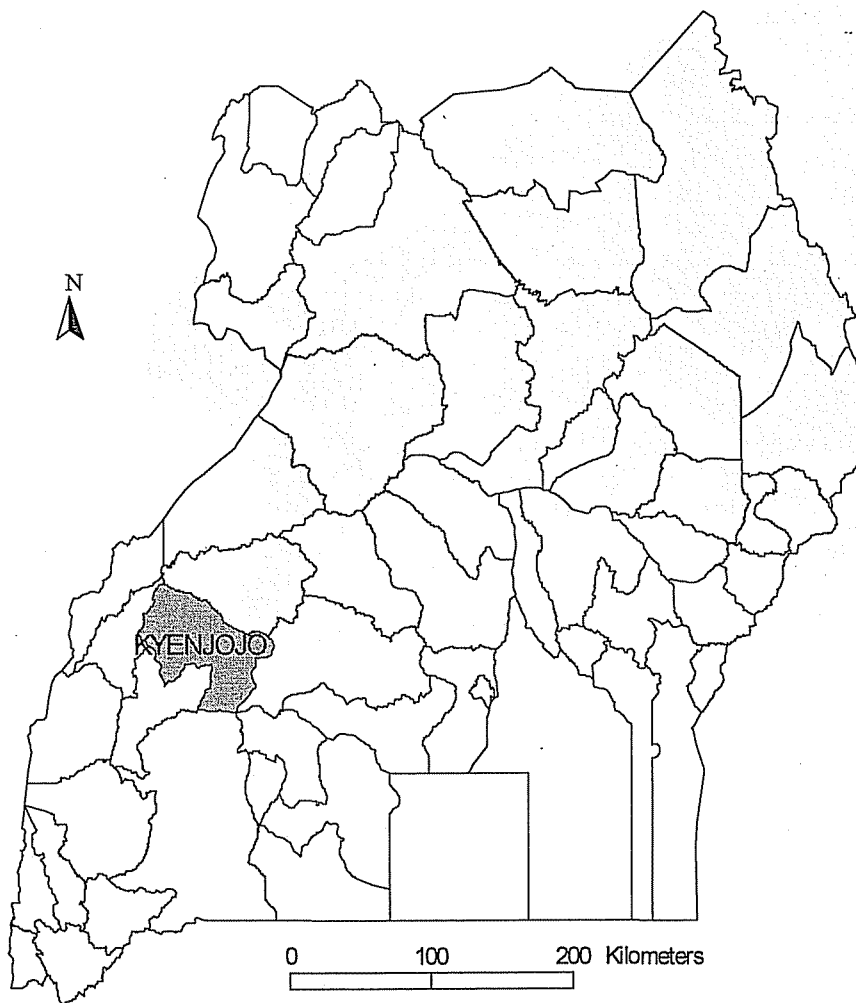
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APPENDICES

Appendix I

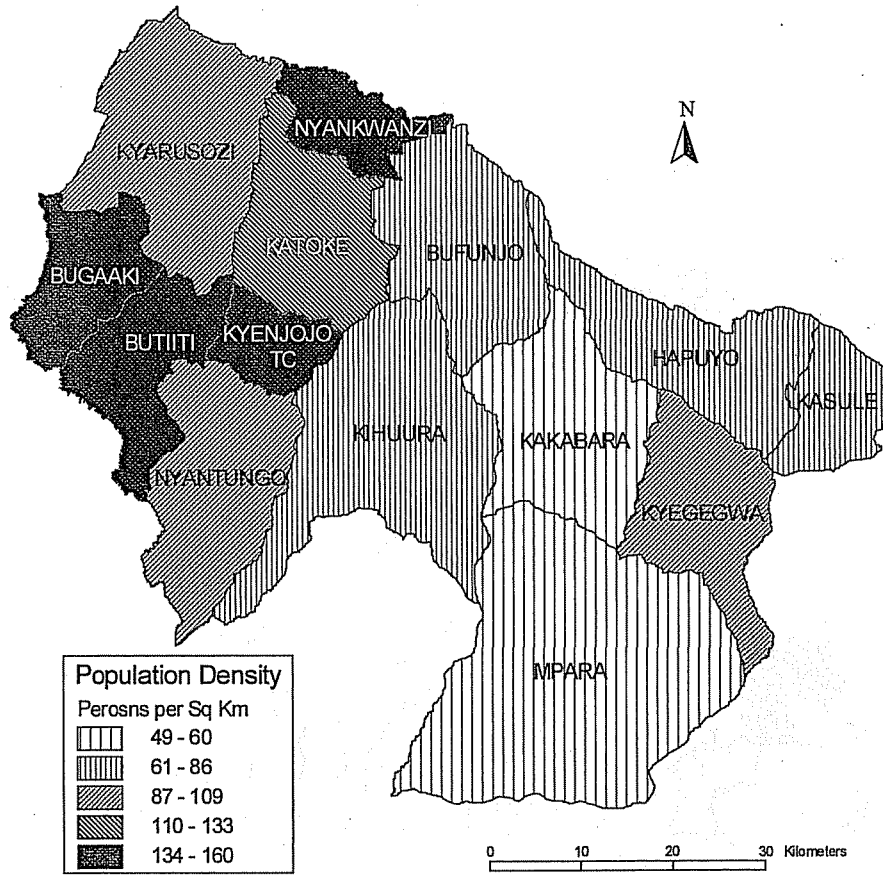
Map of Uganda showing the location of Kyenjojo district.



Source: Uganda 2002 Housing and Census analytical report (MoFPED).

Appendix II

Map of Kyenjojo district showing Sub counties and population density.



Source: Uganda 2002 Housing and Census analytical report (MoFPED).

Appendix III

The Land Regulations, 2004

Fees

Regulations 72 and 95

Application and registration fees

Part A

Activity	Currency point	Equivalent in Uganda shillings.
1. Application for customary a certificate of customary ownership	0.25	5,000
2. Issuing a certificate of occupancy	0.25	5,000
3. Application for a certificate of occupancy	0.25	5,000
4. Issuing a certificate of occupancy	0.25	5,000
5. Application for conversion from customary tenure to freehold tenure	0.75	15,000
6. Application to Convert leasehold tenure to Freehold tenure		
(i) up to 100 hectares in rural areas	2.0	40,000
(ii) over 100 hectares in rural areas	10.0	200,000
(iii) gazetted urban	5.0	100,000
7. Application for grant of freehold	1.0	20,000
8. Application for a leasehold	1.0	20,000
9. Registration of a mortgage/lien	0.25	5,000
10. Release of mortgage/lien	0.25	5,000
11. Transfer of customary ownership or right of occupancy	1.0	10,000
12. Registration of a caveat on a certificate of customary ownership or certificate of occupancy	0.25	5,000
13. Withdrawal of a caveat on a certificate of customary ownership or certificate of occupancy	0.25	5,000
14. Registration of order of tribunal or court	0.5	10,000
15. registration of a document which affects more than one certificate (additional fees for every additional certificate)	0.25	5,000
16. Registration of an instrument in excess of copies (additional fees per extra copy)	0.25	5,000
17. Application to issue a special certificate of Customary ownership or certificate of	0.25	5,000

occupancy		
18.Any transaction not in prescribed form (additional fees)	0.25	5,000
19.Registration of a successor in respect of a certificate of customary ownership or certificate of occupancy	0.25	5,000
20.Application to change the name or address	0.25	5,000
21.Perusal of power of attorney, memorandum and articles of association, rules or bye-laws, Constitution of a corporate body or association	0.25	5,000
22.Search of parcel file (PF)	0.25	5,000
23.Certified copy of any document in the PIN file	0.25	5,000
24.Registration of any transaction not mentioned above	0.25	

Source: Land regulations (2004:876-877)

Part B Fees relating to communal land associations

Activity	Currency point	Equivalent in Uganda shillings
1.Application to form association	0.75	15,000
2.Application to register association	0.5	10,000
3.Application to dissolve association	0.5	10,000

Source: Land regulations (2004:876-877)

Part C-Fees for preparation of documents

Activity	Currency point	Equivalent in Uganda shillings.
1.(a) Leases including sub-leases and tenancy agreements in standard form	0.25	5,000
(b) Lease and other documents not in standard form	0.5	10,000
2.Instrument varying terms and conditions of a lease	1.0	20,000
3.Surrender of lease	0.5	10,000
4.Consent to transfer or assign by board or the commission	1.0	20,000
5.Grant of any easement, concession, license or permit	0.25	5,000
6.Extension of lease	1.0	20,000
Renewal of lease	1.0	20,000

Source: Land regulations (2004:876-877)