

**A Review of Land Tenure and Land use
Planning in the six Kagera TAMP Districts
in Uganda**

Bernard Bashaasha

**School of Agricultural Sciences, Makerere
University.**

Outline of Presentation

- Background
- Objective and Methodology
- Research Questions
- Preliminary Findings
- ✓ Land tenure structure

Background

Key Laws and regulations relating to the ownership, management and transfer of land and related resources in Uganda.

- The Constitution
- The Land Act (1998),
- The Land regulations of 2004
- The Physical planning Act of 2010. This act specifically provides for the design and implementation of land use plans.

Background cont'd

Other Relevant Laws:

- The land acquisition Act,
- The Water Act and associated water resources regulations,
- The National Forestry and tree planting Act (2003),
- The National Environment Regulations (2001),
- The mortgage Act,
- the registration of titles Act and the rent restriction Act.

Objective & Methodology

Objective

- To achieve a deeper understanding of the land tenure structure and land use planning in the six Kagera **TAMP** districts
- Highlight the constraints and identify the opportunities for priority action.

Methodology

- A combination of literature review and key informant interviews with district level staff.

Research Questions

- What is the current land tenure structure and its distribution in Uganda and in the six districts of the Kagera **TAMP** project?
- What are the strategies and plans in place to improve the land tenure structure in Uganda and in the six Kagera **TAMP** project districts, in particular?
- Do land use plans exist at the National level and in the six Kagera **TAMP** project districts?
- How do the existing land use plans compare (in content, design process (approach) and coordination arrangements) with best practices.

Research Questions cont'd

- How effective (in terms of likely impacts) are existing district land use plans on the key variables of sustainable land management, agricultural productivity, general food security, biodiversity and climate change?
- What are the **existing gaps** in district level land use plans and how can these be addressed (in terms of type of action and actor/partner)?
- What are the existing and looming land management and related conflicts/problems in the six Kagera TAMP districts?
- What are the likely solutions to these problems?

PRELIMINARY FINDINGS



1. Land Tenure Structure

Land tenure refers to someone's right to live on land, use and own it.

The law recognizes 4 types of land tenure:

- Customary,
- Freehold,
- leasehold and
- Mailo

There are however pockets of what is referred to as native freehold in parts of Bushenyi and Mbarara districts

Regional distribution of Land tenure system(%) (2002/03)

Tenure system	Uganda	Central region	Eastern region	Northern region	Western region
Registered freehold mailo	7.8	8.9	7.8	1.8	11.1
Unregistered freehold mailo	35.7	78.3	11.9	6.6	33.6
Leasehold	15.9	12.3	26.4	15.6	8.8
Customary	40.6	0.4	53.7	76.1	46.6

Land tenure structure in 5 Kagera TAMP districts (%)

	Kabale	Ntungamo	Isingiro	Mbarara	Kiruhuura	Mean
Customary	75	80	85	80	60	76
Leasehold	22.6	5.0	10	15	20	14.5
Freehold	2.4	15	4	5	20	9.3
mailo	00	00	1	00	00	0.2

Development and NRM

Implications of tenure category

Freehold	<ul style="list-style-type: none">●Held in perpetuity==no ground rent●Easily transferrable--good as collateral●Bestows too much power to land owner=can block developments of public interest●Costly in terms of time & money to process●Encourages long term and NRM investments
Leasehold	<ul style="list-style-type: none">●Next preferable==has problem of ground rent and an expiry date●Type of development is conditional●Appropriate in urban areas●Regarded most conducive for land use planning●Does not encourage long term and nrm investments

Development and NRM

Implications cont'd

Customary	<ul style="list-style-type: none">● Most dominant in the Kagera TAMP districts● Regarded not conducive for development● Blamed for the rampant land fragmentation● Actual size unknown hence hard to plan for● Reinforces gender disparity in land ownership as culture bestows ownership to the men● Does not favor long term and nrm investments
Mailo	<ul style="list-style-type: none">● Negligible in the Kagera TAMP districts so far visited

Efforts to Improve the land tenure

Perhaps with the exception of Isingiro, other districts are not actively involved in influencing the land tenure.

Some actions include:

- Sensitization on conversion of customary and leasehold to freehold (rural areas)
- Encouraging formation (and sensitization) of sub-county land committee to educate local communities on land matters

2.Land Use Planning

- We understand land use planning to refer to the systematic assessment of physical, social and economic factors in such a way as to **assist and encourage land users** to select land – use options that increase their productivity, are suitable and meet the needs of society.

Land Use planning cont'd

- The physical planning Act (2010) designates the whole of Uganda as a planning zone and hence provides the legal framework for land use planning
- Although the constitution provides that land belongs to the people, the development & organization of the land belongs to the govt.

Land Use planning-national level

- Uganda's Land use planning process can be characterized as moving in "reverse order" why?
- The Land Act (1998) is said to be "orphaned" due to the absence of a land policy
- The same can be said of the National Land use policy (2007) that should have been based on a land policy
- Currently Uganda only has a draft land policy whose target completion date remains unclear
- Uganda has no national land use plan

Land Use planning-Kagera TAMP districts

Only the district of Kiruhuura has land use plans:

- There is one for Kiruhuura town council covering an area of 8 sq. km and one for the Rushere town Board. Kazo town council is working on one
- The land use plan for Kinoni rural growth centre is also in progress and the one for Karengo rural growth centre will soon follow.

Land Use planning-Kagera TAMP districts-cont'd

Land use plan for Kiruuhura and surrounding areas was prepared in partnership with a private firm (Danbik Enterprises) through a bidding process

Implementation has been frustrated by the rigid land tenure structure in the area (less than 10% of the plan has been implemented since 2008)

Land Use planning-Kagera

TAMP districts-cont'd

All the remaining districts have no land use plans of any kind

The districts of Kabale and Ntungama have enterprise zones designed on the basis of topography, temperature, rainfall and guesstimates of soil soil quality

The enterprise zones for Kabale have been mainstreamed in the district dev plan but those of Ntungamo district have not

The level of consultation in designing these zones is undocumented.

Land Use planning-Kagera TAMP districts-cont'd

The districts of Isingiro and Mbarara are still lacking both land use plans and enterprise zones. Absence of a land use plans is attributed to:

- Absence of a national land use plan on which to base district plans
- Inadequate financial resources
- Lack of the required planning data and associated data gathering equipment
- Lack of the required expertise
- Lack of political will at all levels

Land Use Planning Partners

District level physical planning committees to lead the process in collaboration with:

District: surveyors, engineers, environmentalists, economists, sociologists, health inspector, architects, civil society, cartographers, local politicians, local communities, farmers

National level: Line Ministry, National planning authority, private consultancy firms

International: UN agencies (FAO and UNEP), World Bank

Preliminary conclusion

- There seems to be adequate legal provisions for land use planning at all levels in Uganda
- The Absence of land use plans appears to be on account of inadequate financing,
- There is lack of political will, insufficient appreciation of the usefulness of plans,
- There is lack of technical expertise rather than absence of the required legal provisions

Preliminary conclusions

- Implementation on the other hand is constrained by
- lack of political will,
- the rigidities imposed by the land tenure system and
- lack of appreciation of the role of planning on the part of the local people.

Preliminary Conclusions contd

- Land tenure and land use plans are closely linked to the extent that lack of progress on one implies lack of progress on the other
- District and local land use plans can be prepared even in the absence of the national land use plan provided the required expertise is locally available
- The need for data and detailed maps cannot be over emphasized but it is possible to start from what currently exists e.g. by updating existing maps and soils data

Preliminary Conclusions contd

- The biggest constraint to moving forward on these issues is
- the absence of collaboration and coordination among the various technical units at the district level.
- There are many instances where staff are totally unaware of closely related activities taking place in a sister unit.
- The above and other disciplinary barriers will need to be overcome if progress is to be made in designing land use plans.