

The Uganda Land Alliance

QUARTERLY NEWSLETTER

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L-R: "Marriage is bliss"- ULA Finance Officer Robert Nyeko in a relaxed mood with his fiancée Jessica during his Introduction ceremony held at Arapai in Soroti District on April 16th 2011. See related picture story on Pages 6. *Photo by: Tumusiime K. Deo*

HERE COMES THE NATIONAL LAND POLICY...

“Access to land for investment”

By: Doris Mitti Kimuli - Deputy Director
 Communications and Public Relations
 Uganda Investment Authority

“No country can successfully compete for investment without the ability to offer land to investors that has at least basic infrastructure, clear title and transparent and effective planning regimes to enable fast development and time to market for new investors.”



Editor's Note

Dear readers,

Welcome to the 6th Edition of the ULA Newsletter, a quarterly publication that does not only inform our readers, but also provides them an avenue to share views on their rights to land.

This particular Edition is special in a way because it gives the readers an opportunity to critically analyze the National Land Policy. It may appear too late to amend the policy at this level, but the concerns raised in this publication are not in vain. Our hope is that continued discussions on key components of the NLP will enable policy makers to look back, appreciate and correct any inconsistencies.

At the end of the day, it's everyone's prayer that the NLP does not be like one of those rosy legislations that are shelved soon after their first birthday. All Ugandans need to see is the translation of the policy into tangible results that contribute towards the improvement of their lives as individuals, families or communities.

In the 7th Edition of our Newsletter, we shall continue our analysis of the NLP, focusing on different topics of interest. You can have a look at the latest draft of the NLP by visiting the following link on our website: <http://ulaug.org/new/departments-and-programs/knowledge-management/the-land-observatory/land-laws>

Please send us your perspectives to: tdo@ulaug.org before 10th September 2011. Word limit: 400

Tumusiime Kabwende Deo

According to the National Land Policy and the mandate of the Uganda Investment Authority (UIA), the Government of Uganda has a duty to attract private investment both domestic and foreign into productive sectors of the economy, by creating an enabling investment climate, including facilitating investors to access land.

Sadly, while this is a key aspect in achieving Uganda's development plan, it has continued to be punctuated with controversy, accusations and counter-accusations between the Government of Uganda, the Public and the investors. The land policy presupposes that allocations of land "have taken place amidst an environment of incoherent and/or nonexistent and/or non-transparent processes and procedures..., have not considered the ecological, environmental, economic and social impacts, and as such have displaced vulnerable land and natural-resource-dependent communities, whose rights of land access, food security and livelihoods are lost".

To Page 4

Ula Newsletter

Increasing Access to Land for Investment in Uganda

Can it Yield Equitable Benefits for Smallholder Farmers?

By: Samuel B. Mabikke,
Chair of Land Management, Technische
Universität München Germany



In the wake of the increasing food prices and the subsequent financial crisis, large scale land acquisitions and investments have attracted considerable interests in developing countries. Governments sometimes give investors big chunks of land in exchange for promises of investments in infrastructure or education, employment but sometimes these promises remain unfulfilled while local people's land and water rights, food sovereignty and food security remain at stake.

Uganda is a major target of agro-investors from Europe, the Gulf States and other Asian investors. The interests of these investors are mainly spurred by concerns of food insecurity in their countries as well as the expanding markets for bio-fuels. Also the current global financial crisis has increased their fears and prompted them to embrace massive investment in land development, normally viewed by them as "the safest investment in developing countries". They therefore, target governments with weak land governance and/or where the implementation of land policies is rather feeble.

Uganda having just finalised a widely consultative National Land Policy development process, the challenge ahead is how this policy will be implemented in an environment that is chronically infected by institutional corruption particularly the land sector. Although Section 89 (1:a) of the Land Policy proposes to regulate the amount of land investors can access, in reality, the amount of land allocation entirely depends on the use that land will be put to. This encourages brokering deals that allow large swaths of fertile

lands to end up in the control of foreigners. In a February 29, 2009 letter, written by the President to Finance Minister, Mr. Museveni argued that foreign investors should only be limited to small pieces of land ranging from 3 to 50 acres where they could establish factories. Contrary to the president's directive, we continue to see large chunks of land allocated to foreign investors e.g. over 8,000 acres of forest land in Kalangala district was allocated to edible oil producer (BIDCO), Hebei Chinese Company with over 6,400 acres for fast growing commercial trees (the company plans to grow its operations to about 100,000 acres in 8-10 years).

Similar reports show that Members of Parliament, on 25 September 2008, tasked the government to explain the circumstances under which 2 million acres of fertile land was given to Egyptian Ministry of Agriculture for wheat and corn plantations. The list of such foreign companies is growing every year. Many scholars have termed these investments as a new form of neo-colonialism.

Since Chapter 15 (237:1) of the Constitution prescribes that land in Uganda belongs to the citizens of Uganda, it will rather be unconstitutional for local Ugandans to lose their land and water rights to foreign investors in the interest of promoting large-scale investments in land in Uganda. The problems like inefficient production, bad infrastructure, poor access to markets and lack of capital investment characterised by most smallholder farmers in Uganda, can be solved if the government prioritises investment in agriculture and guarantees local investors support in land development in Uganda.



One the successful land consolidation project areas within Bayern, mainly used to grow cereals and fodder.



The Thermal Power plant at Namanve Industrial Park

Continued from Page 2

In my view, no country can successfully compete for investment without the ability to offer land to investors; and not just land, but land that has at least basic infrastructure, clear title and transparent and effective planning regimes to enable fast development and time to market for new investors. It is clear for example that outside the major Entebbe-Kampala-Jinja corridor, there is little private sector interest in providing the capital resources required to acquire and service business and industrial sites in the foreseeable future. Yet even outside the capital region, supply of land for business use is equally limited and hard to access. This state of market failure justifies the intervention of UIA alongside the government and donors to address this issue.

Following a Government directive in 1996, to establish Industrial Parks and Free Export Processing Zones in twenty two (22) Regions around the Country, the Uganda Investment Authority in coordination with respective local authorities embarked on identifying areas with sufficient land in the designated districts. The aim of developing these parks in all regions

of Uganda is to promote regionally balanced development. These parks and zones are expected to create employment, ease land access and site development for investors and, boost Uganda's exports.

However, while promoting private sector investment in land and natural resources, safeguards ought to be put in place to ensure a transparent process with due diligence, so that land rights of the vulnerable sections of society, and the environment are not compromised.

Investors have very short memories.
Roman Abramovich

Ula Newsletter

Understanding the logic behind land taxation

By: **Rexford A. Ahene: ahener@lafayette.edu**

“The economic argument for land taxation stems from the fact that, if income from labor, buildings or machinery and factories are taxed, people are discouraged from constructive investments and enterprise and effective developments are penalized due to the disincentive effects of the excess burden of taxation”



Throughout Africa today, land policy reforms attempt to find lasting solutions to land tenure conflicts that result from the simultaneous operation and often discouraging effects of several tenure systems juxtaposed to each other. The government's role in the orderly management of land resources increases through the granting of titles and the delivery of affordable housing and human settlements. This is made possible by the introduction of formal land use planning, environmental regulations, tax incentives and other strategies for disseminating land use decisions. This being so, and in view of Uganda's steadily increasing pressure on land resources exerted by a growing population and conflicting claims, a clear policy on land is important for ensuring security of tenure, peaceful co-existence and growth-oriented investments. A good land policy is an equally important reflection of the values of Ugandans and the structure of incentives necessary to assure the effective utilization of land.

In emphasizing the need for sustainable and optimal use of land, the policy acknowledges the fact that land resources have been chronically under-utilized and inefficiently managed. The policy stipulates incentives for productive use and development of land by calling for the creation of an enabling investment climate, as well as facilitating investors to access land. To ensure efficient and equitable development of Uganda's land and land-based resources, the policy draws attention not just to the land ownership and tenure regularization objective. A process of systematic adjudication, formalization and registration is expected to generate data for use in developing evidence of proprietary interest in land; but such parcel specific data is the building blocks for the aggregating and/or disaggregating pertinent land information in a manner to assist in creating a land tax cadastre. In fact, a tax cadastre needs to record only such

information about boundaries, ownership and improvements.

In essence, a land tax or site valuation tax is a levy on the unimproved value of land. It is an ad valorem tax on land excluding the value of buildings and other capital improvements. A land value tax is different from other property taxes, because these are taxes on the combination of land, buildings and improvements to the site. The land value tax takes into account the effects of location on land value such as proximity to public roads, schools, hospitals, access to electric power, etc. or of improvements made to neighboring land, such as proximity to shopping complex, pristine parks and recreation facilities.

The philosophical basis for levying the land tax derives from the fact that the appreciation in value of land is created by the combination of public works and the collective actions of the community and therefore belongs to the community. The economic argument for land taxation stems from the fact that, if income from labor, buildings or machinery and factories are taxed, people are discouraged from constructive investments and enterprise and effective developments are penalized due to the disincentive effects of the excess burden of taxation. This does not apply to taxing land which is the creation of nature. Provided that the supply of land is fixed by nature, land values are determined by scarcity and what tenants and potential developers looking for land in the market are prepared to pay, rather than on the expenses of landowner. The rent accruing to the landlord is the result of the location of the land relative to public works and other natural soil attributes and the competition generated by the market and not as a result of any direct investment by the landlord.

As a result, a land value tax set as a proportion of ground rent leaves the income from land owners, capital improvements such as buildings, commercial farming and other land-based enterprises free from taxation. It is this feature of land value taxation which discourages land speculation. In fact, placing the tax burden on land rent rather than the improvements can be justified because it will not deter production. Instead, the necessity to pay the tax encourages landowners to develop vacant and underused land properly or to lease the land to others who will develop the land to generate the income needed to pay the tax. The goal is not to reduce the rental value of land to zero. Instead, a land value tax only reduces the amount of the communally generated land value appreciation that is captured privately as an increase in the market price of the land by the landowner.

Jessica Introduces Robert to family in Arapai

A pictorial Recap

Below: John Mwebe (Front) leads the ULA delegation. The stars point to him as next in the queue to graduate from Bachelorhood.

On April 16th 2011, all roads led to Arapai in Soroti for the introduction ceremony of one of ULA's very own, Robert Nyeko, the Finance Officer. Indeed the ULA family got a new addition in style, this time not through the rigorous interview schedules, but through cross cultural relations.

ULA cameras watched the colorful ceremony and we thought we should share this memorable event with our readers. Here we go..



Ula Newsletter

Tax Administration

There are legitimate questions concerning the administrative feasibility and realistic assessment of the advantages of using a land value tax for the land management aspirations outlined in the National Land Policy. Modern principles of taxation require that optimal revenue needs for a desired policy objective and/or economic growth rate be compared with the potential impact on capital formation and equity implications of such a tax policy. However, during the land policy consultative process, it was evident from public sentiments that the majority of Ugandans were opposed to the speculative accumulation and holding of non-productive land which contributes to shortage of land for settlement, investment and production. The policy, therefore has recommended the adoption of a land tax to deal with this pattern but cautions that such a tax cannot be designed solely for raising revenue. Instead, it should aim to achieve optimality in the use of land and to provide incentives to encourage land conservation and habitat preservation, while taking into account the protection of smallholder producers with low acreage, agricultural practices that entail fallowing to restore soil fertility.[1]

In general, levying a land value tax is straightforward, requiring only a valuation of the land and a register of the identities of the landholders. However, determining the value of land can be difficult in practice. In most cases, the market is the best determinant of value. The valuation of land involves fewer variables than the valuation of buildings and modern computerization and statistical techniques now makes the process quite easy. Land value for tax purposes is assessed using market evidence. Such evidence may comprise both selling prices and land rentals even in rural areas. Where development already exists on a site, the value of the site can be discovered most easily by the residual valuation method. That is, the value of the site is the total value of the property minus the depreciated value of buildings and other structures. The simplicity of the valuation method makes the system relatively easy to implement. The land value data is then collated and stored in a database linked to unique property identification numbers and mapped using GIS and translated onto a fiscal cadastre for each jurisdiction. However, leaving the valuation process up to Valuers often causes numerous methodological complexities, as well as non-uniform valuations due to inadequate policies and their interpretations.

Rate Determination

The full sale price, based on open market transactions, is the preferred standard for tax valuation. The value of the improvement is ascertained by subtracting the land value from the total sale price. However, in practice, the valuation office establishes standard values per plot based on the pattern and distribution of land sales for use as the basis for land valuation. In urban areas, commercial property rates should be computed by the capitalization of net rents when the required information is readily available. However, this is usually not the case in most countries. The more common practice is to use the market approach to value existing buildings and the cost approach to value new buildings. The data required is easily compiled from information submitted to the deed registry and retained by each municipality.

In Uganda as in many other African countries, Land Value Tax is difficult to implement because of lack of certainty regarding land titles and clearly established land ownership and tenure systems. For instance, wetlands, grazing land and other forms of communally land administered by the village elders may be difficult to tax. If the government cannot accurately define ownership boundaries and ascertain the proper owners, it cannot know from whom to collect the tax. Even in urban areas, low land registration and poorly surveyed land boundaries as well as elusive landlord can make it significantly more difficult to administer the land tax efficiently. However, because local authorities and municipalities are responsible for providing public works, social services and amenities that enhances the value of land, removing almost all business taxes, including property taxes on improvements, and replacing them with taxes on land values that reflect the additional social cost of public services provided to citizens and communities would substantially strengthen the efficiency of local authorities to provide services in their respective districts and should be encouraged.

ULA Member profile



Kikandwa Environmental Association

Think Global, act Local, but start small and end Big



Kikandwa Environmental Association Director John Kaganga sorting crops during a recent study visit to the United States. He says crops like human beings deserve to be cared for, treated and monitored regularly for any sicknesses, deficiencies or excesses in oxygen, water and sunlight. Courtesy photo

Why KEA? The District of Mityana and particularly Kikandwa Sub-County, is located in the cattle corridor, a semi-arid land. In this area, vegetation cover especially the trees take long to grow to maturity. Due to political, economic and social changes in the area, people especially the youth gave up farming for charcoal burning, firewood collection and local brew distillation as their major economic activities aiming quick cash. However, after realizing the danger such activities posed to the environment, KEA founders decided to come together and galvanize efforts for a collective voice to avert the situation.

The first three years were particularly very difficult for the founders and some almost threw in the towel, but co-founder Kaganga John urged them on. "It is very difficult, almost impossible, to start an organization using

KEA started in 1999 as small group with an office under a mango tree, and no one could believe that such a small group with nine (9) staff members would mature into the big organization currently recognized both nationally and internationally. Founder members include; Kaganga John, Serunjogi Vincent, Namukuye Prossy Kamya Jackson, Ham Kizito Nakuzabasajja (RIP), Marry Nansubuga, Ruth Namazzi (RIP), Nakirembe Eleth, and Joseph Bukya.

bottom-up approach", one of the community members from Kasejere village once commented. The organization had no operational fund, but driven by the hunger for positive change, the group persisted. "We relied on our membership contribution, subscription, registration fees and support from well-wishers," says John Kaganga. Besides, getting the community to abandon their 'lucrative' sources of income in the interest of protecting the environment was a move received with a lot of apathy.

To Page 9

Ula Newsletter

From Page 8



John Kaganga in Wisconsin Milwaukee USA attending to the micro-crops in the green Houses. John was participating in a Professional Food Security Fellow programme organized by Growing Power organization and sponsored by U.S State Department .

“The late Peter Mugisha who was the District Environmental Officer at the time, gave us a lot of support technically and financially. He introduced us to National Environmental Management Authority (NEMA) for recognition, and KEA was subsequently recommended for registration with the National NGO Board.” In 2003, KEA started receiving some technical and financial support from NEMA, which also contributed a great deal to the organization’s profile both on the local and international scenes. KEA was in 2004 registered as a CBO focusing on environmental issues in Mubende District.

According to KEA, “Globally, agriculture is under immense pressure to maintain a growing population. In more areas, the attempt to raise agricultural production is leading to overuse of the natural resources, reflected in loss of genetic diversity, deforestation, soil erosion etc. These



KEA Greenhill Centre students learning how to manage crops

forms of environmental degradation cause long term decline in agriculture production as they deplete the resource base itself.

There is need therefore for sustainable agricultural farms in order to satisfy human needs while maintaining the quality of the environment and conserving natural resources”

Today, KEA is a fully rooted and well supported organization in Mityana District with a membership of 46. In order to further strengthen the initiative, KEA in 2004 established the Green Hill Education Centre (KEAGHEC). “Students who have completed primary seven throw our school are 96, we have never registered any failure since our students started sitting their exams from 2006, so far we have 246 students in the school (2011) from which more than 60 students are orphans and vulnerable,” says John Kaganga.

KEA values the importance of Networking, and as such partners with a number of local and international organizations among them: Uganda Land Alliance, Uganda Coalition for Sustainable Development, Friends of the East African Living Lakes Network, Environmental Alert, Uganda National NGO Forum, Eastern and Southern Africa Small Scale Farmers, National Association of Professional Environmentalists, Uganda Nile Discourse Forum, Mukono Zonal Agricultural Research Institute and Development, National Environment Management Authority, Participatory Ecological Land Use and Management, Mubende-Mityana District Farmers’ Association, and NOGAMU, to mention but a few. KEA joined ULA in 2000, and has since gained a lot of skills and knowledge in land matters; the same knowledge it has used to build the capacity of its members and the communities on land right issues.

All is not rosy though as KEA is still grappling with institutional, technical and financial deficiencies that are affecting her progress, but continues to fundraise widely in order to extend her services to the wider community.

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Ula Newsletter

Land for investment in Uganda

an untold story unfolding

By: Ilse Zeemeijer

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“Finally, we visited Amuru and Gulu, to learn more about the proposed investment by Madhvani Group. This is still a hot topic of debate between former MPs, religious leaders, ‘big shots in Government’, traditional

leaders, the local communities and the District Land Board. People are straight forward that they are willing to ‘die for the land’.”



According to the final draft (Draft 5) of the New National Land Policy (NLP), ‘growth in Foreign Direct Investment (FDI) can lead to alienation of land from peasant rights holders and result into tenure insecurity, food insecurity, land conflicts and poverty.’ The NLP calls for mechanisms ‘to deliver the right balance between improving livelihoods, protecting vulnerable groups, and raising opportunities for investments and development’. Furthermore, the Government of Uganda acknowledges that ‘in the past, Government proposed to harness the power of compulsory acquisition of land in order to avail land to investors. This proposal was roundly rejected by the Citizens of Uganda because in some instances it was not based on any criteria’ (NLP, 2011, art. 87).

The fourth draft of the NLP (2009) framed it a little bit different. It stated that growth in FDI can lead to alienation of land from peasant rights holders and concentration of land in private hands, ‘as is already happening in some isolated cases’. It also stated that there ‘is need to ensure that land claims and economic needs of the poor and the vulnerable are not ignored in the process of structural economic transformation through investment in agriculture and related key sectors of the economy’ (NLP, draft 4, 2009, art. 156).

It was exactly this statement that implored me to conduct a research for my Master in International Development Studies in Uganda, and to ‘stick my nose’ into these complex, but otherwise very interesting issues. With the help of Esther Obaikol and Sam Tumugarukire from Uganda

Land Alliance, we selected five investments. In April and May, Sam and I visited the different areas. The aim was to talk to the different stakeholders involved in and affected by new land acquisitions for investment, in order to get a clearer and more realistic story. Although this sounds nice on paper, in practice it meant a lot of interviews in five different places in five weeks... it was a challenge, but we succeeded!

It started with the visit to the Oil Palm investment on the Bugala Island in Kalangala made by Oil Palm Uganda Ltd, which is part of the Kenyan BIDCO Oil Refineries Ltd. Since it has an agreement with the Government of Uganda and IFAD, it was a perfect example of a public private partnership, which is becoming more popular in the development debate. The second investment was that of Mukwano in Masindi and Lira. Mukwano owns a commercial farm in Kiryandongo, Ziwa Ranch in Masindi and works with thousands of sunflower and maize out-growers in Lango region. Especially, the out-growers’ scheme and the collaboration between Mukwano and several development organizations such as SNV, USAID and DANIDA makes it an interesting case.

In Mubende, the German Neumann Kaffee Gruppe (NKG) owns the Kaweri Coffee Plantation, which argues to be an example of ‘sustainable farming’. Finally, we visited Amuru and Gulu, to learn more about the proposed investment by Madhvani Group. This is still a hot topic of debate between former MPs, religious leaders, ‘big shots in Government’, traditional leaders, the local communities and the District Land Board. People are straight forward that they are willing to ‘die for the land’.

What was most striking about all these field visits is that almost all stakeholders (investors, local community, laborers, Non-Governmental Organizations, district land board, land office and other district officials) told different stories. On the one hand, , since each of them has different interests, but on the other hand, it also shows that there is a need for more in-depth research in order to get the true story, especially that these interests play a huge role in the ultimate socio-economic impact of the investments.

Since this research is yet to be concluded, the key observations and findings will be shared in the next newsletter in order to take the debate on land policies to the next level. What does investment in land mean in practice? A debate about new policies is a good start, but we need to go beyond the nice words on paper and bridge the gap between policies and practices.

Editor’s remarks: A detailed overview of research findings coming up in our Issue 7 of the ULA Newsletter (July-September)

What the readers said about Issue 5

Dear Editor,

**Susuma Susuma, Communication Officer:
Mtandao wa Vikundi vya Wakulima Tanzania
(MVIWATA) E-MAIL: susuma9@yahoo.com**

Congratulations for the nice newsletter, which I found useful. I therefore add your address in my mailing list so that you will also receive our monthly bulletin. please add me in your mailing list. I received this through women land rights network.

Nyakana Joseph, Dean of Studies, Cavendish University Uganda

Wow, the newsletter brought back the memories of our departed and of course the good times of other colleagues. We still need more information on what other members are doing/activities/achievements. Ciao

Sophie Kyagulanyi, Research & Policy Analyst - Governance ActionAid Uganda

Thank you for the newsletter well received, Maybe it needed more pictures of rural women tilling their land as an example otherwise nice piece.

John Okello, ojatyema@gmail.com

Thanks for the news letter. This will support us in the district level advocacy with the partners in Concern Worldwide livelihoods intervention in Pader district. Keep on with your good work.

Angela Wauye, Pan Africa Livelihoods Advisor, Agency for Cooperation & Research in Development (ACORD) International

Thank you very much, I would love to contribute to the next issue, and I will appreciate if you send me the National land policy-

Santos Odhiambo-sanodhi@gmail.com

Thanks for the newsletter 5th edition which has been received well. Allow me to appreciate what ULA has been able to achieve as indicated in the newsletter and the close dialogue you seem to have with top-political figures.

Thank you so much for yet another issue of ULA newsletter. I am honored to have been featured. The only error though negligible was on my name which was wrongly spelt as Sylvia Namukasa, the correct name is **Sylvia . N. Mukasa** (N is the initial for my maiden name Namubiru).

Marc...Dar es Salaam, Tanzania :

Nice newsletter, do you have it on your web site somewhere so we can share the link with people? [Yes: <http://ulaug.org/new/newsletter/ula-newsletter-issue-5-womens-land-rights-the-times-now/>]

John Segujja, Executive Director CODI:

Thanks for sharing with us this newsletter, it will help us to build on our work to fight for women's land rights in Luweero

Thierry MATABISHI. Musole, DG/Aide et Action pour la Paix +243 81 007 32 85 Goma, Eastern DR Congo:

This is to acknowledge your newsletter with many thanks. Just keep it up!



A woman's Right to Land is a Human Right

**Support Women's Ownership of Land to
increase Food Production**

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