

MAKERERE INSTITUTE OF  
SOCIAL RESEARCH  
Land reform and  
sustainable development in  
Kibaale district, Uganda

## **Land Reform and Sustainable Livelihoods in Kibaale District, Uganda**

**Research Conducted Jointly by the Department of Food Business and Development,  
University College Cork and Makerere Institute of Social Research, Makerere University  
Kampala**

**Funded by Ireland Aid and APSO**

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## **Executive Summary**

### *Chapter One – Background and Introduction*

This report is one of the direct outputs of policy orientated research on land tenure / land reform conducted in specific areas of Uganda and South Africa.

The main goal of the research is to document information and analysis on key issues relating to the land reform programme in Uganda. It is intended that that the following pages will provide those involved with the land reform process in Kibaale with information on:

- how the land reform process is being carried out at a local level
- who the various resource users are, how they are involved in the land reform, and how each is likely to benefit / loose
- empirical evidence on gainers and losers (if any) from reform in other countries
- the gender implications of tenure reform
- how conflicts over resource rights are dealt with
- essential supports to the reform process (e.g. legal, institutional, technical etc.), including the role of donor/funding agencies

The study deals with these issues with a particular focus on agricultural productivity, equity and sustainable resource use. The research is conducted and analysed from a sustainable livelihoods perspective.

### *Chapter Two – Some Empirical Evidence on Land Reform Programmes*

Should a farmer choose to increase farm productivity, in a sustainable way, his ability to do so will largely depend on his capital assets/endowments. How a particular land tenure regime influences the other factors necessary to increase production and promote sustainability is the subject of much debate. In the case of Kenya it was found that titling and registration do not automatically result in increased sustainable agricultural production. However where titling and registration increase tenure security, then some positive benefits were visible. In order for these benefits to materialise however other capital assets must be available and accessible.

Many land reform programmes include a redistribution element to reallocate land to smaller farmers. Greater equity in land distribution is thought to contribute significantly both to poverty reduction and to promoting sustainable rural livelihoods due to the evidence of an 'inverse relationship between productivity and farm size'.

Only in certain conditions should there be an intervention to transform tenure regimes. The real constraints on production in much of Sub-Saharan Africa are more likely to be a lack of rural infrastructure, poor market efficiency for both credit, farm inputs and outputs, and poor knowledge. However where efforts are underway to improve these factors a land reform programme has the potential to be successful under certain conditions.

### *Chapter Three - Background to Land in Uganda*

Like many countries in Sub Saharan Africa, the imposition of colonial rule in Uganda at the end of the nineteenth century marked the beginning of a shift of land ownership patterns from group rights (tribal, clan, village, family and official) under customary tenure towards more

western style individualised holdings. There are today four main types of tenure recognised in Uganda: *mailo*, customary, freehold and leasehold.

*Mailo* (square mile) tenure set up during colonial days conferred individual land rights to a minority elite class. Those actually cultivating the land became tenants and were thus obliged to pay rent. They became *bibanja* holders (a customary tenure term).

The term 'customary' tenure refers to traditional tenure patterns. The term in Sub-Saharan Africa covers a complex and diverse spectrum of rules and customs to manage land rights that existed prior to colonial or external influence, but in many places, co-exists with the latter to the present day. In most parts of Uganda today, the customary tenure term '*kibanja*' (plural: *bibanja*) is very widely used. A *kibanja* basically means a piece of land occupied under some duty or obligation to the legal owner.

The two other recognised forms of tenure in Uganda are freehold and leasehold. The remainder is public land, vested in the state.

Despite the land concentration present during colonial times, in general there is not overall land scarcity in Uganda at the present time. Today average holdings in Uganda are estimated to be 2.2ha per household.

The 1998 Land Act was drafted in accordance with the principles laid down in the 1995 constitution. The Land Act:

- gives legal recognition to the existing, more common, tenure regimes in Uganda
- calls for the establishment of Parish Land Committees, District Land Committees, Sub County and District Land Tribunals and a Land Office
- sets up a land fund to facilitate the redistribution of legal title over land to those that are cultivating it
- gives greater representation for women in decision making institutions and the adoption of the consent clause
- allows customary tenure to be recognised by the issuance of a certificate of customary ownership and provides for the conversion of customary tenure into freehold
- enables communities to establish communal land associations for management of communal land.

Many *Bibanja* holders under the Land Act are offered security of tenure as lawful or *bona fide* occupants. A lawful occupant is defined in the Act as a person occupying land by virtue of a number of repealed tenancy laws that apply to *kibanja* tenancy on *mailo* land. Many occupants in Kibaale district are lawful occupants whose *bibanja* are owned by absentee Baganda landlords.

The law also recognised as '*Bona Fide*' occupants all those who have been settled on land by government. This also includes a number of people in Kibaale district.

Lawful and *bona fide* occupants are recognised in the act as 'tenants by occupancy'. The tenant by occupancy is obliged to pay a ground rent of not more than one thousand Uganda Shillings

per year (less than one Irish pound) to the landlord. Such tenants cannot be evicted (unless they do not pay their ground rent). Also the tenant-by-occupancy can apply to the registered owner for a certificate of occupancy (1998: Land Act).

The Land Act has however, remained largely unimplemented. The two reasons that stand out are a lack of capacity and lack of finance at district level. This year (2001) the Ministry of Water Lands and Environment initiated a new Land Sector Strategic Plan (LSSP) that identifies the drafting of a clear land policy as a first priority. It also outlines the proposals to overcome the Land Act's implementation difficulties.

#### *Chapter 4 Kibaale District*

Kibaale district, the focus of this study, lies west of Kampala and is bordered by Hoima in the North, Kiboga and Mubende in the East, Kabarole and Kyanjojo in the South and Bundibugyo and Lake Albert in the West.

Throughout its colonial past, the Buganda and Bunyoro kingdoms contested much of the district. In 1964 through a referendum, the 'lost counties' - present day Kibaale District - were returned to Bunyoro.

Agriculture is the mainstay of the district economy although only 12 percent of the arable land is currently cultivated. The population is mainly engaged in subsistence production of food crops such as sweet potatoes, cassava, millet, beans, bananas and groundnuts. Bananas cover an estimated 14,400 hectares of which 90% are for brewing *waragi*.

Uganda has been a priority country for Ireland Aid since 1994. In the same year, Kibaale became the first Ugandan district to receive assistance through an area-based programme. This year's support to the district is worth IEP1.1million. Activities supported under the programme include: institutional support and training, primary education, primary health care, rural road rehabilitation, provision of water and sanitation facilities.

Kibaale does not have its own Land Office. Information obtained from the regional land office in Fort Portal in neighbouring Kabarole District shows that 965 square miles or 2,470 square km are surveyed under *mailo* tenure.

Since the Land Act was passed in 1998 the district has established a District Land Board, and several sub-counties have Parish Land Committees, but these are not functioning.

Another land issue of increasing importance in the district is the large in-migration of people from the South and South West of the country. It is thought that the catalysts for this in-migration were two Government resettlement schemes.

There are widespread concerns amongst the indigenous Banyoro community that this in-migration will continue and that as it does, the balance of political power in the district will shift towards a new majority of Bakiga.

On the other hand, many of the resettled community are also in a state of limbo. Having left their native districts with the promise of a new plot of land, they too are waiting to gain some documentary proof that their future on their new *kibanja* is secure.

#### *Chapter Five – Research Findings*

For research purposes the district was divided into three study areas. Study area one is in Buyanja County. Respondents include both indigenous Banyoro and immigrants. Study area two represents Bakiga people who were resettled by the Government from the Fort Portal area to Bugangaizi County. Study area three, near the district HQ represents indigenous Banyoro people living in an area where there have been no resettlement schemes to date.

Natural capital endowments of people in study area one are lower than the other study areas. In an area with higher population density there is evidence of higher demand for land. The average size of holdings is smaller, and there are a higher number of land transactions. There is also ambiguity over control of natural capital with clear evidence of tenure insecurity. The low level of boundary markings between *bibanja*, the high level of disputes, the slightly lower levels of investment to conserve soil and water and less tree planting are all signs. Livelihood strategies that focus on cash cropping, measured in terms of the gross value of cash crops per year, indicate that it is the most productive area in the district. This is heavily influenced by the price of *waragi*: over 60% of income from cash crops is generated from the distilled banana juice.

It can be questioned how sustainable this land use is over the longer term, if measures are not taken to encourage more farm improvements. It is very likely that tenure insecurity is significantly contributing to this.

Proximity to larger urban centres like Kagadi and proximity to good roads indicates how improved physical capital (financially supported by Ireland Aid) has had a positive impact on livelihoods in this area. Physical capital still requires some improvement especially in terms of water supply to areas like Mpeefu.

Natural capital endowments of people in study area two also present an interesting picture. Average holding size is larger. A definite pattern of better tenure security can be seen. Highest levels of farm improvements, significantly higher agricultural output (if *waragi* is excluded from the calculations), higher levels of tree planting and plot boundary markings and the lowest levels of land disputes are evidence of this. This is probably due to the nature of the resettlement scheme that involved surveying and demarcation. However natural capital endowments need to be enforced now by providing respondents with the promised documentary proof of registerable interest.

Physical capital endowments appear to be poorer here than in the other study areas. The feeder road network and other infrastructure necessary to allow market development were issues identified by many respondents. So too was the inadequate supply of bore holes. Ireland Aid's continuing support to the district is likely to contribute to the improvements needed.

Study area three also presents a different picture. Non-use value of natural capital here is stronger and is more politicised. Natural capital endowments are also poor. Tenure insecurity amongst *bibanja* landholders is high and the rights/duties relationship with landlords is unclear (this is also the case for the other study areas, but it seems to be more politicised in this area).

Transforming structures here, such as markets, are weakest in the district despite relatively well-developed physical capital. Land transactions are lowest here and agricultural cash cropping is a less popular livelihood strategy. Clear reasons for this include tenure insecurity, coffee wilt and distance from the main urban centres.

A transforming structure in all study areas is Ireland Aid. Its presence is apparent in the district, so too is the awareness of the benefits it has brought to livelihoods.

The vulnerability of small holders to recent trends in increased coffee disease and banana pests is highlighted in Kibaale. Food security appears to be good in all areas but signs of malnutrition in the North West of the district surprised the researchers. A nutritional survey would provide more accurate information on this. Human capital endowments are also poor across the district in so far as there is little knowledge or action on tackling issues like *todura*, and soil infertility.

Financial capital endowments in all study areas are also low, many people lack the cash stocks necessary to make investments on their land and improve output.

**List of Acronyms**

APSO Agency for Personal Services Overseas  
BUFA Bugangaizi Union of Farmers  
CAO Chief Administrative Officer  
CEO Chief Executive Officer  
DDSP District Development Support Programme  
DfID Department for Foreign International Development  
EMESCO NGO operating in Kibaale district providing microfinance and extension services to small farmers  
FAO Food and Agriculture Organisation  
LA1998 Land Act 1998  
LC Local Council  
LCI Local Council – Village Level  
LCII Local Council – Parish Level  
LCIII Local Council – Sub County Level  
LCIV Local Council – County Level  
LCV Local Council – District Level  
LSSP Land Sector Strategic Plan  
MISR Makerere Institute of Social Research  
NAADS National Agricultural Advisory Services  
NGO Non Governmental Organisation  
PEAP Poverty Eradication Action Plan  
PMA Plan for Modernisation of Agriculture  
SIDA Sub County Integrated Development Association  
UCC University College Cork  
ULA Uganda Land Alliance  
URDT Uganda Rural Development Trust  
VIBADEB Village Based Development



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## Chapter One – Background and Introduction

### 1.1 Background to Study

This report is one of the direct outputs of policy orientated research on land reform conducted in specific areas of Uganda and South Africa.

The research was proposed by UCC Department of Food Business and Development and was funded by APSO and Ireland Aid. UCC and the Makerere Institute of Social Research (MISR), Makerere University, Kampala, conducted the Uganda based research jointly. The selected study area in Uganda was Kibaale District.

The primary justification for carrying out this research is the increasing attention of governments and donors to land reform as a development issue – particularly in Sub-Saharan Africa. Countries undertaking land reform include most of the priority countries where Ireland Aid provides bilateral development assistance.

### 1.2 What is Land Reform?

The majority of the population in Sub Saharan Africa is rural and land has always been, and continues to be an asset of great importance. Land provides both the means of subsistence and income generation to a majority of its people. Unlike Asia or Latin America, in most parts of Sub Saharan Africa land is fairly evenly distributed (the main exception being parts of Southern Africa). Access to land is generally guaranteed by customary systems of land tenure in which kinship confers usufruct rights to land and land is held and managed by extended family linkages (Quan, 2000).

Many African countries are currently implementing land reform programmes. Motives and objectives differ from country to country. Large redistribution programmes in parts of Southern Africa seek to address great inequities in the distribution of land. Other land reform processes, in some countries in East Africa, are focused on reforming current tenure systems to promote efficient land markets, farm investment, modernisation of agriculture or decentralised control of land resources. Government land institutions are implementing such programmes against a difficult background. Statutory tenure systems inherited from a colonial past and often poorly implemented, are superimposed on customary tenure systems that have been in place for generations.

Land reform itself refers to a number of inter-related processes that seek to: (a) redistribute rights over land from one section of the population to another *and/or* (b) reform existing tenure patterns. Tenure is the set of terms and conditions on which land is held, used or transacted. It defines the rights and obligations of the holder.

The institutions that underpin it largely determine the characteristics of a tenure regime. In this context institutions are regarded as sets of rules that define the rights of individuals with respect to each other in the use of their property (Barrows *et al*; 1990). Corresponding to one person's rights is another's duty not to interfere in their exercise. Transactions in any tenure regime are the outcome of interactions among individuals or groups concerning land. The details of property rights therefore determine the range of possible transactions concerning

land. A clear tenure regime will define the owners of a piece of land and will also clearly identify the complete set of its associated use, exclusion and transfer rights (Barrows; *ibid*).

Many tenure reform programmes seek to promote 'tenure security'. In strict legal terms, tenure is secure when there is no interference from public or private organisations or from individuals with the landholders' possession or use of the land. A given tenure arrangement itself may be short but still secure, for example a rental agreement for two months can be secure. As pointed out by the Land Tenure Centre however, most people use the term to include a long duration. Security of tenure most often relates to a minimum time: from an economic point of view the time needed to recover the cost of an investment. When tenure is too short or too uncertain for most investments, it is said that the landholder lacks security of tenure (Bruce; Land Tenure Centre, Univ. of Wisconsin; 1998).

### **1.3 Objectives and key questions of this study**

The main goal of the research is to document information and analysis on key issues relating to the land reform programme in Uganda. It is intended that the research will provide stakeholders involved in the land reform process in Kibaale with information on:

- how the land reform process is being carried out at a local level
- who the various resource users are and how they are involved in the land reform
- empirical evidence on gainers and losers (if any) from reform
- the gender implications of tenure reform
- how conflicts over resource rights are dealt with
- essential supports to the reform process (e.g. legal, institutional, technical etc.), including the role of donor/funding agencies.

The study deals with these issues with a particular focus on agricultural productivity, equity and sustainable resource use.

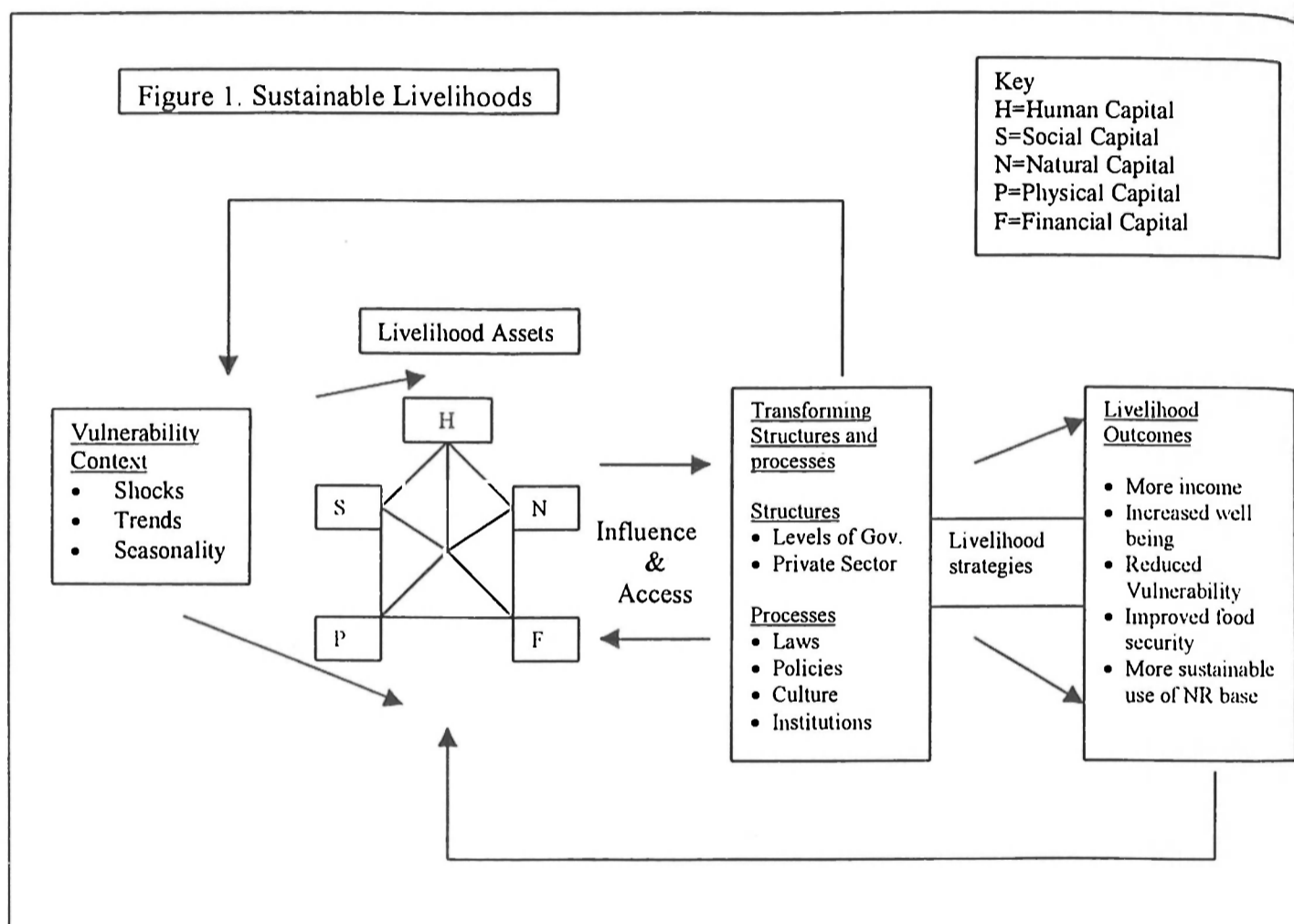
### **1.4 Relevance of this study**

The land reform process in Uganda is taking place amidst a number of Government initiatives to reduce poverty and promote sustainable rural livelihoods (Plan for Modernisation of Agriculture, Poverty Eradication Action Plan). Indeed the goal of promoting sustainable rural livelihoods is one of the strategic objectives of the Government's recent Land Sector Strategic Plan (LSSP).

This report analyses the research findings in the broader context of this government development priority. The Sustainable Livelihoods Framework is used to help establish to what extent the current land situation in Kibaale district is a constraint on sustainable livelihoods, particularly in relation to agricultural productivity, equity and sustainable resource use. The research then looks at how implementation of the Land Act is likely to change any of the issues identified.

## 1.5 Sustainable Rural Livelihoods Framework

Figure 1. Sustainable Livelihoods Framework



The framework provides a checklist of important factors determining livelihoods and maps out the likely relationships between them. It is a broad based approach that recognises the reality that rural livelihoods are not neatly packaged or clearly defined but are instead diverse, complex and ever changing.

**Human capital** represents the health, education, labour (or the ability to command labour) that is required to make use of the other assets in the 'asset pentagon'. **Social capital** represents the social resources that people use to achieve livelihood objectives. It includes neighbour-to-neighbour contact and help in times of need. Membership of community or farmer organisations is also an example of social capital.

**Natural capital** refers to the natural resource stock; land (of particular importance to this study) trees and water as well as the less tangible assets like the atmosphere and biodiversity. It also considers terms of *access* to natural resources, and therefore the **tenure** arrangements under which land is held and how secure that tenure is. **Physical capital** includes the basic infrastructure required to pursue livelihood choices successfully, such as: affordable transport, secure shelter and buildings, adequate water supply and sanitation. **Financial capital** includes financial flows as well as financial stocks. Financial *inflows* refer to regular incomes, pension payments etc. Financial stocks refer to savings, liquid assets and credit (DfID; 2000).

The asset endowments of an individual therefore are the building blocks of his or her livelihood. There are two particular aspects of the framework that describe the environment within which communities and individuals use their assets to create a livelihood. The first of these is known as **the vulnerability context**: this describes how vulnerable communities are to external impacts that bring about a sudden, sharp change to economic circumstances. Shocks and trends can destroy assets directly: drought, floods, earthquake or conflict are all examples. They can also be destroyed indirectly by forcing a farmer to liquidate his assets urgently to finance the purchase of food or medicines. A sudden change in crop prices or sudden onset of crop pest or disease would also constitute a shock for many small farmers.

**Transforming structures and processes** is the second part of the framework that describes the context within which communities exist. This includes both local and national institutions, organisations, policies and legal frameworks (DfID; *ibid*).

The range and combination of activities and choices that people make and undertake in order to achieve their livelihood goals form another part of the framework referred to as **livelihood strategies**. In the past there was a tendency by development planners to categorise rural people as farmers, brick makers, fishermen or as some other discrete or clearly defined occupation. The Sustainable Livelihoods approach describes a more realistic situation where some household members, apart from working on the family farm, often 'live and work in different places, doing different jobs' throughout the year. In a single household, one member may share a brick making venture with a neighbour, while another works part time on a bigger farm in the neighbouring parish for a share of the harvest.

Finally **livelihood outcomes** are the achievements of livelihood strategies. The fruits of labour; cash received at the market for crops or livestock sold, wages for casual labour. The outcome is the result of choices made by households and communities on how to use assets, in their institutional and physical environment.

While the terms used in the sustainable livelihoods approach are used throughout the text of this report, the framework itself will be used in more detail in the final chapters, to analyse information from the focus group discussions and household surveys in Kibaale.

## **1.6 Research Tools and Methodology**

The research begins with a review of contemporary literature on the relationships between land tenure and the key focus areas: productivity, equity and sustainable resource use.

A national level overview then provides information on the background and current status of implementation of the Land Act in Uganda. It also provides information from key informant interviews from the Ministry of Water, Lands and Environment, the Uganda Land Alliance and other organisations. The district level research begins with basic geographical and administrative information on Kibaale, predominant existing tenure patterns and progress to date on implementation of the Land Act. Also at district level a number of focus group discussions and key informant interviews are conducted with district NGOs, farmers' and elders' groups and district officials.

Three study areas were selected within Kibaale to represent different communities. Each study area comprises at least three sub-counties. Key informant interviews were conducted at sub – county level, then focus group discussions were conducted at parish level, at least one of which included a women's group. Within each study area thirty households were randomly selected for the household survey.

Therefore information is gathered from both secondary and primary sources. Primary data collection methods are predominantly qualitative using Rapid Rural Appraisal. But findings are supported with a sample survey of ninety households. The different research methods are used as a means of triangulation to cross-check that findings are reasonably consistent.

See **Annex 1** for interview checklists and sample questionnaire survey.

## Chapter Two – Some Empirical Evidence on Land Reform Programmes

### 2.1 Land Reform and its effect on sustainable productivity

A local NGO in Kibaale district describes sustainable agriculture as: 'agriculture that enables the same piece of land to be used for a long time with optimum output' (EMESCO).

Sustainable agricultural practices would include therefore, measures to maintain soil fertility and manage water resources, for example water harvesting, terracing and contouring to prevent run off and soil erosion, and planting trees and plants that promote water retention and provide nutrients to the soil.

Should a farmer choose to increase farm productivity in a sustainable way, his ability to do so will largely depend on his endowment of capital assets:

- knowledge and labour (human capital);
- financial stocks to purchase new seed varieties, water retaining plants, nitrogen-fixing plants, new tools (financial capital);
- infrastructure necessary for markets to function such as roads, sheltered trading centres and water supply for the farm (physical capital);
- membership of farmers' groups would also be an asset for sharing knowledge and neighbourly support during busy times (social capital);
- and last but by no means least: land itself, the nature of the tenure regime under which it is occupied, and how secure that tenure is.

How therefore does a particular land tenure regime influence the other factors necessary to increase production and promote sustainability? Do some land tenure regimes provide greater incentives to farmers to invest in increased production? Would a different regime promote a more sustainable approach to farming? Which tenure system will support an active land market? How can land distribution be made more equitable? With the advent of a number of concurrent land reform programmes in Sub Saharan Africa over the last decade these questions have given rise to a broad dialogue on the ability of existing customary tenure systems (or mixtures of customary and colonial tenure systems) to support the need for increased agricultural productivity, sustainable land use and a more equitable allocation of land.

Earlier theories held that the existing property regimes in many Sub Saharan African countries act as constraints to transforming or 'modernising' agriculture. This was mainly thought to be the case because indigenous systems provided inadequate tenure security to reap the rewards of investments made to improve productivity. Land was thought to be too strongly associated with cultural values, thereby preventing its allocation to the most efficient user.

There was therefore a need to introduce a land reform programme that would give rise to a tenure system more conducive to farm investment and increased productivity. This usually implied a move towards a more individualised property regime - typically characterised with demarcation and registration of freehold title - and a move away from the more common property type system that exists in much of Africa. More individualised tenure regimes with titles were not only believed to allow a greater return on investment but also created a demand



for more land improvements and increased the credit worthiness of the farmer who would have access to formal credit.

In more recent times however these assumptions have been questioned. Kenya is often quoted as an example. It provides empirical evidence to contradict the earlier assumptions outlined above. Perhaps this is because it is the only Sub Saharan African country, with more than thirty years' experience of a national land registration programme.

### **2.2 Early empirical evidence on land registration and its impact on farm investments to promote sustainable production**

A study carried out by Migot-Adholla and others looked at the use of credit, land improvements and productivity and how land registration in Kenya was related to these variables. Little relationship could be found between land rights or land title and the use of formal credit. With regards to productivity or farm investments, no relationship could be found. However the researchers noted that where titling and registration increased existing tenure security some positive results were seen (Blarel *et al*; 1991).

Also Barrows *et al* cite examples of other empirical evidence on Kenya. One study showed a decreased incidence of land disputes – a sign of tenure security. This led to a reduction in the number of costly court proceedings previously undertaken to solve disputes. They also noted that (like Blarel *et al*) there was little or no correlation between titling *per se* and long term investments. In one study cited in Kisii in Kenya, farmers were just as willing to plant permanent crops before registration as after.

The authors (Barrows *et al*) caution readers to the limitations of researching the effect of titling on investments and productivity. They point out that the utilisation of inputs may take place in any of four scenarios, all of which yield a different outcome:

- (a) scenario one: low demand for investments: supply side constrained
- (b) scenario two: low demand for investments: supply side unconstrained
- (c) scenario three: high demand for investments: supply side constrained
- (d) scenario four: high demand for investments: supply side unconstrained

Only under scenario four would the use of inputs be high. Therefore in the case of Kenya it was found that titling and registration do not automatically result in increased sustainable agricultural production. However where titling and registration increase tenure security, then some positive benefits were visible. In order for these benefits to materialise other capital assets must be available and accessible.

### **2.3 Equity – land markets and land redistribution**

Land markets are considered by some to be an important factor in agricultural productivity. If a land market is well developed, the assumption is that land will be transferred, through sale and purchase, to the most efficient user - the progressive farmer - thus increasing agricultural output. Barrows *et al* cite a number of studies on land markets in Uganda and how relatively pervasive they are. This, one study claims, is due in the main to the large quantity of *mailo* land (Ugandan tenure regime where land is surveyed and titled). In fact the authors note that the

*mailo* system facilitated the emergence of an agricultural middle-class, progressive farmers with land-holdings larger than tenant plots but much smaller than the original block grants received under the Buganda Agreement of 1900. A study in 1967 by Hougham, found that their owners had purchased 67.5% of estates surveyed. The authors concluded by saying that while favourable commodity prices also helped develop this land market, nevertheless *mailo* freehold allowed farmers to take advantage of agricultural opportunities (*ibid*).

However there is also considerable evidence to show that a totally free land market may not always be desirable. Julian Quan points out that the link between relative equality in land ownership and higher levels of growth in developing countries is due to the relative efficiency of farm production by large numbers of small producers as compared with a small number of large producers. This is the inverse relationship between farm size and productivity (Quan; 2000). Barrows and Blarel (cited above) also noted in their studies in Kenya that a strong inverse relationship existed between capital investment per acre and farm size.

Given that a large number of smaller farms result in a more efficient allocation of land, one would expect that a free land market would result in the transfer of land to small holders. Empirical evidence however, shows the opposite. Free markets in land often lead to land concentration. The author gives a number of reasons for this including:

- (a) In practice the market value of land often exceeds the income stream that it generates. In the reality of free markets the better off invest in land as a hedge against inflation and speculate on future increases in land values.
- (b) Landlords may have an incentive to dispose of land, at the expense of claims by tenants who lose access to land and gain little from the sale.
- (c) Fixed transaction costs make it more difficult for a landlord to sell off his land in small parcels.
- (d) Poor education and lack of access to credit make it difficult for poor farmers to get a foot on the property ladder.
- (e) Natural disasters or other shocks can bring about swings in the supply of and demand for land. Distress sales for example often result in land being sold below its market value (Quan; 2000).

Therefore while a developed land market may be considered important by many to allocate land to the most efficient user, there is considerable evidence that it can sometimes create land concentration thus removing land from the most efficient user: the small holder.

Many land reform programmes include a redistribution element to encourage the reallocation of land to smaller farmers. Greater equity in land distribution is thought to contribute significantly to poverty reduction and to promoting sustainable rural livelihoods due to the evidence surrounding the 'inverse relationship between productivity and farm size' (mentioned above).

A land reform programme that includes a redistribution element seeks to facilitate the redistribution of land most often in an effort to reverse or avoid land concentration. Quan gives the example of land redistribution programmes in Tunisia, Egypt and Morocco that proved to be quite successful towards promoting economic growth and poverty alleviation (*ibid*).

Deininger *et al* also give several examples of redistributive reform that impacted positively on equity and economic growth; Columbia, Brazil, Philippines and India, amongst others

It was mentioned earlier that much of Sub Saharan Africa does not suffer from a significant land concentration problem (excluding parts of Southern Africa), and does not therefore require redistribution to any great extent. However as will be shown later in this chapter the land reform programme in Uganda does have a small land redistribution element.

Whether a land reform programme includes a redistributive element or just seeks to reform existing tenure patterns, the benefits it offers to farmers should be accessible to smaller farmers, if the land reform programme is to reduce poverty. Quan notes that in Kenya titling and registration did not contribute to greater equity because the costs involved were too high for many small holders (Quan *ibid*).

#### **2.4 Gender equity**

It is widely acknowledged that women are central to household food security and poverty reduction. Access to livelihood assets, and the ways in which transforming structures and processes constrain or improve that access, is seldom the same for men and women. Many women in Sub Saharan Africa have access to land only through secondary rights. For example rights of access to land may only exist as long as a woman is married. If she loses her husband she risks being dispossessed by other members of his family. This is a particularly common scenario in much of Sub Saharan Africa. Customary institutions that determine women's land rights are deeply embedded in local culture (Hilhorst *in* Quan *et al*; 2000).

#### **2.5 When and how therefore should land reform take place?**

In summary therefore there is empirical evidence to disprove a definite correlation between titling and a number of variables, including use of credit, long-term on-farm investment and productivity. But where land rights are secured (greater tenure security), there is evidence to suggest that this promotes investment and productivity.

A number of studies also found an inverse relationship between investment per acre and farm size, making a case for more equitable distribution of land. Are land reform interventions therefore necessary or even wise?

There is a school of thought to support the theory that indigenous systems are dynamic and evolve over time – without intervention - to respond to increasing population and a consequent increased demand for land. The Evolutionary Theory of Land Reform developed by Jean-Philippe Plateau is, as the name suggests, a theory of natural changes in land tenure systems with time. The theory argues that increasing population pressure and the commercialisation of agriculture tend to cause the emergence of private property rights. Once established, these rights evolve to become more individualised and formalised (Plateau; 2000).

Blarel *et al* state that only in certain conditions should there be an intervention to transform tenure regimes. They point out that the real constraints on production in much of Sub-Saharan Africa are more likely to be a lack of rural infrastructure, poor market efficiency for both

credit, farm inputs and outputs, and poor knowledge. However they state that where efforts are underway to improve these factors a land reform programme has the potential to be successful if:

- the indigenous tenure system is absent or very weak, as is frequently the case in land settlement schemes (*pertinent in the case of Kibaale*).
- the incidence of land disputes is high (*again, pertinent in the case of Kibaale*)
- major interventions are planned that require a full privatisation of land rights for their success (*possibly also pertinent in this case for the implementation of the Ugandan government's Plan for the Modernisation of Agriculture*).

(Blarel *et al*; 1991)

Barrows *et al* outline the necessity of extension advice to promote investment. They point out that: "the success of land registration depends partly on the market environment, and the package of complementary inputs in the agrarian sector" (Barrows *et al*).

Quan and others point out that when designing a land reform intervention, geared towards economic growth and poverty reduction, customary tenure practices should be built on, and broad assumptions should be avoided (Quan; 2000).

Deininger and van den Brink also found that a well-designed land reform programme could have positive impacts on agricultural productivity and poverty reduction. They cite examples from all over the world. In West Bengal, for example, land reform programmes led to significant increases in productivity. In Columbia implementation of market-assisted reform has been shown to have a potential of targeting the most unproductive areas, thus leading to considerable productivity increases (Deininger *et al*; 2000).

## Chapter Three – Background to Land in Uganda

### 3.1 Historical background to the land reform process

Chapter two examined some of the empirical evidence on land reform programmes and their effects. This chapter discusses the background to the land reform programme in Uganda and progress with implementation.

Like many countries in Sub Saharan Africa, the imposition of colonial rule in Uganda at the end of the nineteenth century marked the beginning of a shift of land ownership patterns from group rights (tribal, clan, village, family and official) under customary tenure towards more western style individualised holdings. There are today four main types of tenure recognised in Uganda: *mailo*, customary, freehold and leasehold.

#### 3.1.1 *Mailo*

A predominant form of tenure in Uganda is *mailo* (square mile) tenure. Through the Buganda Agreement of 1900 fifty per cent of land in Buganda (over 19,000 sq. miles) became crown land and was apportioned out, in square mile units, to crown agents, Buganda chiefs and church organisations (Bibangambah 2001). *Mailo* tenure therefore conferred individual land rights to a minority elite class. Those actually cultivating the land became tenants to the grantees and were thus obliged to pay rent. They became *bibanja* holders (customary tenure term, discussed below).

In 1964 *mailo* estates were surveyed and the holders obtained certificates of title under the Registration of Titles Act. A good deal of subdivision of the original *mailo* holdings occurred between 1900 and 1974. In time also *mailo* land titles became quite easily transferable, negotiable and marketable amongst individuals, to banks and credit institutions as security for loans (*ibid*).

#### 3.1.2 *Customary*

The term 'customary' tenure refers to traditional tenure patterns. The term in Sub-Saharan Africa covers a complex and diverse spectrum of rules and customs to manage land rights that existed prior to colonial or external influence, but in many places, co-exists with the latter to the present day. In Uganda, like elsewhere, customary tenure is difficult to classify or describe. A study carried out by MISR and University of Wisconsin (1989) found that customary tenure in Uganda could be partly represented (though not fully) by reference to the customary tenure system in former Buganda (one of the larger kingdoms in Uganda):

##### *Rights of clans over land – Obutaka;*

*Obutaka* rights were bestowed on heads of clans and sub-clans (who were known as *bataka* - singular: *mutaka*). The land they occupied was clan ancestral land and the head of the clan or sub-clan resided there. Other members of the clan only had the right to be buried there. *Butaka* tenure was neither strictly collective, nor could it be described as private ownership. A *mutaka* might allocate usufruct (user rights) in exchange for rent. Consent of the clan was always necessary for a *mutaka* to give away *butaka* land and sale of *butaka* land was not permitted. On the death of a *mutaka*, the *butaka* estate was not divided among his children, instead the *butaka* land passed on to his successor (MISR; 1989).

#### *Rights of the Kabaka and Chiefs – Obutongole*

The *Kabaka* (king) held paramount title to all land. He granted land to his great chiefs (*Bakungu*) who were few in number, and to his lesser and more numerous chiefs called *Batongole*. These rights in land were collectively described as *Obutongole*. The grantees had usufruct rights that ran strictly with the chiefly office and could not be inherited by the chief's personal heir (MISR; *ibid*).

#### *Individual hereditary rights – Obwesengeze*

*Obwesengeze* were individual rights over land stemming from long undisputed occupation and/or original grant by the *Kabaka*. They could be acquired by a chief or by an individual peasant. The public act of royal recognition of these rights consisted of the planting of a bark-cloth tree (*mutuba*) on that piece of land by a royal messenger. *Obwesengeze* could be inherited by one's children and carried no political duties (*ibid*).

#### *Peasant rights of occupation*

Ordinary people in pre-colonial Buganda were called *bakopi* (*mukopi*). The *bakopi* were free to choose the chief under whom to live. A *mukopi* got a piece of land for his occupation and use under a chief of his choice who would guarantee his security and general welfare while the *mukopi* in return was obliged to respect his chief and occasionally work for him. This land was a *kibanja* (plural *bibanja*) and *kibanja* tenure amounted to undisturbed right to use the land cleared. Upon his death, the *mukopi*'s successor had a right to remain in occupation (MISR, *ibid*).

This pattern of customary tenure was – according to the same study (MISR 1989) - replicated in other kingdom areas of pre-colonial Uganda namely: Ankole, Bunyoro (includes present day Kibaale district), Busoga and Toro.

#### *Commonly used customary tenure terms today*

In most parts of Uganda today, the term '*kibanja*' (plural: *bibanja*) is very widely used and its meaning has broadened from simply involving a peasant right of occupation. A *kibanja* basically means a piece of land occupied under some duty or obligation to the legal owner. Therefore when an occupant speaks of his or her '*kibanja*' he refers to the plot of land itself and also to the *kibanja* tenancy whereby he has a duty to the owner.

Such *kibanja* rights did not receive statutory recognition in the original *mailo* arrangement but later secured recognition through the *Lukiiko* enactment and the *Busulu* and *Envujjo* Law of 1927. This law fixed absolute rents at 10 shillings per year, plus a small payment for cash crops. Rights of tenancy although inheritable, could not be sold, and tenants could not be evicted unless they abandoned their land (Barrow *et al*; 1990). This act is discussed in the following sections in relation to the current Land Act.

#### *3.1.3 Freehold*

The more common form of tenure in the western world, *freehold* is defined by the Wisconsin Land Tenure Centre as: '*full private ownership, that is free of any obligations to the state other*

*than the payment of taxes and observance of land use controls imposed in the public interest'* (Bruce; 1998).

In Uganda, the Crown Lands Ordinance of 1903 introduced the first freehold estates under the colonial protectorate. There were also a number of native freeholds established in the kingdoms of Ankole and Toro (MISR; 1989). Later in 1958 some districts introduced a system of adjudication and registration pilot schemes. These districts included North Kigezi (now Rukungiri district), West Ankole (now Bushenyi district) and Mbale (Bibangambah 2001).

#### *3.1.4 Leasehold*

Leasehold is tenure for a specified period for payment of rent, conferred by the owner, whether state or private. MISR and University of Wisconsin (1989) defined two types of lease, a private lease and a public or statutory lease. In Uganda a public or statutory lease was provided for under the Public Lands Act of 1969.

#### *3.1.5 Public Land*

All other land in Uganda was 'held in trust' for the Ugandan people by the Governor of the Protectorate. In 1969, after independence the Public Lands Act vested all public lands and former crown lands in the Land Commission and local land boards. Then in 1975, Amin's Land Reform Decree vested all land in Uganda to the state – to be administered under the Uganda Lands Commission. All freeholds and *mailo* were therefore converted to long-term leaseholds.

The fundamental change brought about by the Land Decree was that no person or organisation, other than the Uganda Land Commission, could hold an interest in land greater than leasehold. Leaseholds could be granted, at the discretion of the Land Commission, for periods of up to ninety-nine years.

This was later repealed with enactment of the 1995 constitution and 1998 Land Act, both of which are discussed below.

### **3.2 Land Distribution**

Despite the land concentration present during colonial times, there is not an overall constraint to land availability in Uganda; however land shortages do occur in some areas. A recent document produced by the Ministry of Land notes that at household level relatively widespread landlessness exists (LSSP; 2001). Today average holdings in Uganda are estimated to be 2.2ha per household (LSSP; *ibid*).

### **3.3 Women's access to land prior to the Land Act 1998**

Most customary systems in Sub Saharan Africa ascribed chiefly authority to men, and while women could be and often were very influential, their influence was exercised through their male relatives. Hilhorst (*in Quan et al: 2000*) describes a woman's claim to land in many Sub Saharan African countries as a 'secondary' right. The author points out that women's rights to land are generally through their marital status. A married woman may gain access to land but is likely to lose this if she becomes widowed or divorced. While statutory law generally doesn't prevent women from owning land, customary influences remain strong.

Hilhorst notes that in Uganda, for example, it is believed in some communities that a woman who owns land will never have a stable marriage and, as a consequence, will not be respected within her community. A recent study in Uganda showed that women refrained from planting trees and similar long-term productive investments because they would not be able to control the profits of their investment (*ibid*). In Uganda, most customary inheritance laws try to ensure land stays within the control of the clan lineage. Inheritance is therefore patrilineal and women, once they are married, become part of their husband's family. Customary practices have continued to influence women's control over and access to land to the present day.

### 3.4 Land Act 1998: objectives

Museveni's government which came to power in 1986 commissioned a number of studies to inform policy makers about the best way forward towards solving the land question in Uganda. The 1975 Land Decree came under critical review. Then in 1995, the new constitution of Uganda stated that all land in Uganda belonged to its citizens, basically repealing the Land Decree of 1975. It recognised customary, freehold, *mailo* and leasehold tenure. It declared that:

- 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.'
- Land in Uganda shall be owned in accordance with the following land tenure systems: customary, freehold, *mailo* and leasehold.
- All Ugandan citizens owning land under customary tenure may acquire certificates of ownership in a manner prescribed by the Parliament.
- Land under customary tenure may be converted to freehold land ownership by registration.
- Lawful or *bona fide* occupants of *mailo* land, freehold or leasehold land shall enjoy security of occupancy on the land.
- Within two years after the first sitting of parliament elected under this constitution, parliament shall enact a law that regulates the relationship between the lawful or *bona fide* occupants and the registered owners of that land.
- The law would also provide for the acquisition of registerable interest in the land by the occupant (Constitution of Uganda; 1995).

The 1998 Land Act was drafted in accordance with the principles laid down in the 1995 constitution. However there was no (and still is no) documented land policy. The intentions outlined in the constitution (noted above) and a number of studies informed the legislative process. Therefore the objectives of the Land Act of 1998, while widely known, are not officially documented. Other multi sectoral plans like the Plan for the Eradication of Poverty (PEAP) and the Plan for Modernisation of Agriculture (PMA) state the importance of land as an important productive asset for poverty reduction and promoting sustainable livelihoods. A review of the PEAP process in 2000 highlighted the importance of poor people's access to productive assets, particularly land (McKinnon *et al* 2000).

The PMA states that 80% of the labour force of Uganda is employed in agriculture-based livelihoods. It states that a key strategy to enhance people's livelihoods should therefore be to enhance capital assets – natural (including land), physical, financial, human and social. It also



states that modernisation of agriculture will entail significant land reforms that should 'provide security of property (tenure security), develop land markets and increase efficient use of land and investments' (PMA; 1999).

It can be seen therefore that the land reform process, notwithstanding the lack of a clear policy on land, has taken place in the context of at least two key multi-sectoral strategies both of which are geared towards poverty reduction.

### **3.5 Land Act 1998: Institutions**

The 1998 Land Act has been broadly commended as an inclusive and ambitious piece of legislation that seeks to decentralise control of land down to parish level. Parish Land Committees were to be appointed on enactment of the 1998 Land Act as the first point of contact for rural people. Their main function was to inform and advise the District Land Boards on all matters relating to land. The District Land Boards (one for each district) are the key institution of the Land Act. Their functions include:

- (a) holding and allocating land in the district which is not owned by any person or authority
  - (b) facilitating the registration and transfer of interests in land
  - (c) cause surveys, plans, maps, drawings, and estimates to be made by or through its officers or agents
  - (d) deal with any matter which is incidental or connected to the foregoing
- (Land Act; 1998).

The Land Act also called for the establishment of a land office in each district to provide technical services to the Board and to facilitate the Board in the performance of its functions under the Act. Each Land Office was to be staffed with a Land Officer, Valuer, District Surveyor and District Registrar of Titles. A Uganda Land Commission (at national level) was formed to hold and manage any land in Uganda that is vested in, or acquired by the government in accordance with the Constitution (Land Act 1998). The Act also called for the establishment of sub-county and district land tribunals to solve land disputes.

The Land Act:

- recognises customary, mailo, freehold and leasehold tenure
- allows customary tenure to be recognised by the issuance of a certificate of customary ownership to individuals, families or communities occupying land under customary tenure
- provides for the conversion of customary tenure into freehold
- enables communities to establish communal land associations for management of communal land.

The Land Act also incorporated a redistributive element involving the setting up of a Land Fund (under section 42) to be managed by the Uganda Land Commission. The fund was to be utilised:

- to give loans to tenants by occupancy to enable them to acquire registerable interests (lawful and *bona fide* occupants – including those on *mailo* land)

- by Government to purchase or acquire registered land to enable tenants by occupancy to acquire registerable interests pursuant to the Constitution
- to resettle persons who have been rendered landless by Government action, natural disaster or any other cause
- to assist other persons to acquire titles.

### **3.5 Land Act 1998: Landlord-tenant relationships**

Many *Bibanja* holders under the Land Act are offered security of tenure as lawful or *bona fide* occupants. A lawful occupant includes persons occupying land by virtue of a number of repealed tenancy laws including the *Busuulu* and *Envujjo* Law of 1927. This law (discussed above) related to *kibanja* tenancy on *mailo* land and therefore is applicable to most occupants in Kibaale district.

The law also recognised as '*Bona Fide*' occupants: all those who before the coming into force of the Constitution (October 1995) had 'occupied or utilised or developed any land unchallenged by the registered owner or agent of the registered owner for twelve years or more'; or 'had been settled on land by government or agent of the government which may include a local authority'. This is also very significant in the case of Kibaale, where two government resettlement schemes have taken place in recent times (discussed further in the next section).

The land act also recognised as *bona fide* occupants, all those 'who had purchased or otherwise acquired the interest of the person qualified to be a *bona fide* occupant' (Land Act 1998).

Lawful and *bona fide* occupants are recognised in the act as 'tenants by occupancy'. The tenant by occupancy is obliged to pay a ground rent of not more than one thousand Uganda Shillings per year (less than one Irish pound) to the landlord. Such tenants cannot be evicted (unless they do not pay their ground rent). Also the tenant-by-occupancy can apply to the registered owner for a certificate of occupancy (1998: Land Act).

This rights / duties relationship between landlords and tenants is particularly pertinent in the case of Kibaale.

### **3.6 Land Act 1998 - Gender equity**

Chapter fifteen of the 1995 constitution did not make any specific reference to women or men in particular but referred to Ugandan 'citizens' and their rights of access and control over land. Other sections of the constitution did however, affirm a commitment to gender equality. As mentioned earlier the revised PEAP (although this was produced after the Land Act) mentioned the importance of women's land rights.

While the Land Act was being discussed and drafted a coalition of women from many organisations and sections of society undertook a campaign to lobby the law reform process for greater access to land for women. They requested:

- mandatory consent by spouses and dependent children to transactions concerning land,
- co-ownership by spouses of family land and

- affirmative action to increase the number of women represented in land management bodies to at least one third (Hilhorst *in* Quan *et al*: 2000).

The Land Act responded to two out of three requests. Section 40 of the Land Act ('the consent clause') forbids land transactions involving the land where a family resides, without their consent. In detailing how land institutions should be established, the Land Act states that at least one member of the Uganda Land Commission has to be female and that at least one member of the district land boards and parish land committees has to be female (one third representation as requested by the lobby group). The District Land Tribunals did not include this requirement but the sub county land tribunals did.

Many were disappointed however that arguably the most important of the three issues, co-ownership (or joint titling), was not adopted.

### 3.7 Implementation progress

In summary therefore, some of the main components of the Land Act include:

- legal recognition to the existing, more common, tenure regimes in Uganda
- the establishment of Parish Land Committees, District Land Committees, Sub County and District Land Tribunals and a Land Office
- setting up a land fund to facilitate the redistribution of legal title over land to those that are cultivating it
- greater representation for women in decision making institutions and the adoption of the consent clause.

However **despite the general consensus that the Land Act was certainly a significant move in the right direction, towards integrating customary and statutory tenure and towards providing security of tenure to a large section of the community, it has remained largely unimplemented.** A number of studies have identified reasons for this. The two that stand out are a lack of capacity and lack of finance at district level. This year the Ministry of Water Lands and Environment initiated a consultative process to review the progress of implementation and to look at the best way forward.

The output is currently in the final stages of completion. This new Land Sector Strategic Plan (LSSP) identifies the drafting of a clear land policy as a first priority. It outlines the policy context of the LSSP including the PEAP and PMA (discussed above).

LSSP recognises the bottlenecks to implementation of the 1998 Land Act and tries to address them in the wider context of establishing a sector-wide strategic plan. The Land Act had called for a very large number of institutions down to parish level. This required resources to train the newly formed institutions on the contents of the Land Act. These resources were not available. While most districts have established District Land Boards and Parish Land Committees they have received little or no direction on how to implement the Land Act. The establishment of a land office in each district, with a land officer, valuer, surveyor and registrar has also proven a significant obstacle to implementation. Without a functioning land office District Land Boards and Parish Land Committees are further impeded in providing the services required of them in the Land Act.

The Land Act had removed power to resolve land disputes from the local councils and had given this mandate to new institutions: the Sub-county and District Land Tribunals. However most districts did not have the capacity or resources to set up these institutions. The number of unresolved land disputes began to increase and the resulting confusion led to a decision, earlier this year, to return power of adjudication on land disputes to the local councils.

LSSP supports a number of amendments and proposals as phasing steps to assist with implementation. Two of these amounted to:

- a revised institutional framework based on a combination of Land Tribunals at district level (new institution) and Local Council courts at lower level (already in existence). The District Tribunal would, as a phasing measure, run on a circuit basis (where one magistrate would rotate between three districts). This would be funded centrally
- also a phasing measure, to establish and fund centrally 18 zonal land offices, so that services necessary for implementation of the Land Act can be provided.

On the Gender issue, LSSP notes that while women's land rights were strengthened by the 1998 Land Act, "further legal amendment is desired to provide for joint ownership of family land by spouses" (LSSP 98).

At the time of writing this report, other options were also being examined. The zonal land offices have proven to be a less popular proposal with many stakeholders. There is a perception that they may remain 'zonal' and that district land offices might never actually materialise. Despite some constraints to getting consensus on the way forward, increased funding and commitment this year make prospects of further progress with LSSP and the 1998 Land Act look very promising.

## **Chapter Four - Kibaale District**

### **4.1 Geography**

Kibaale district, the focus of this study, lies west of Kampala and is bordered by Hoima in the North, Kiboga and Mubende in the East, Kabarole and Kyanjojo in the South and Bundibugyo and Lake Albert in the West.

The district lies on the Central Plateau of Uganda with an altitudinal range of about 680 – 1500 metres above sea level. The climate is tropical with annual rainfall varying between 1000mm to 1500 mm. Rainfall comes in two peaks, one from March to May and the second from September to December. The Western part of the district, bordering the rift valley, is generally drier. Temperatures vary from 15 to 30 degrees centigrade with highest temperatures in the West (DDSP; FAO; 2000).

The vegetation in Kibaale can be broadly classified into three groups namely: forests, savannah and swamps. Kibaale's soils are of the ferrallitic type and their fertility largely depends on favourable rainfall and adequate depth and maintenance of the humic topsoil (FAO; *ibid*).

### **4.2 History and People**

Throughout its colonial past, the Buganda and Bunyoro kingdoms contested much of the district. In 1964 through a referendum, the 'lost counties' - present day Kibaale District - were returned to Bunyoro. In 1967 it was renamed Bunyoro District and in 1975 was split between Hoima and Masindi Districts. Kibaale, the southern half of the newly created Hoima District finally split from Hoima in 1992 to form present day Kibaale (FAO; *ibid*).

Today the district is predominantly occupied by Banyoro people but has recently experienced a rising in-migration of people mainly from South Western Uganda. Absentee Baganda landlords hold most of the land under mailo title.

Administratively, Kibaale District is made-up of three counties: Buyanja, Buyaga and Bugangaizi. The district has a total of 18 sub-counties, one town council, 72 parishes and 727 villages. Three years after its formation, Kibaale District was decentralised in July 1995 and now controls its planning, revenue collection and administration (DDSP; 2000).

Like all districts in Uganda the top administrative unit is the District Local Council or LC Five (LCV). The next administrative division is the sub-county council or LCIII (LCIV is the county division but it is a less important administrative unit). Within each sub-county, parishes are governed by LCII and then at village level by LCI. LCIII and LCV have both elected officials and civil servants. The key civil servant of the district administration is the District Chief Administrative Officer (CAO) and the LCV Chairman is the elected official at district level.

Table 4.1 – District Administration

Administrative level of the District	Elected Officials	Main Civil Servant
District Level: LCV	LCV Chairman	Chief Administrative Officer
County Level: LCIV		
Sub-County Level: LCIII	LCIII Chairman	Sub-County Chief
Parish Level: LCII	LCII Chairman	
Village Level: LCI	LCI Chairman	

Kibaale is a predominantly rural district with only 1.1% of the population living in the townships of Kagadi, Muhorro and the district headquarters. The district has a total population of about 300,821 with a growth rate estimated at 3.4% per annum. The overall population density is low at 68 persons per km sq., but the density increases in the west where there are between 99-198 persons per km sq. The density in the east is considerably lower at less than 25 persons per sq. km.

In 1999 the district had a total of 61,392 households with an average of 5 persons per household. Polygamous families in the district are common with the relatively more wealthy men having more than one wife and larger households (DDSP; 2000).

Agriculture is the mainstay of the district economy although only 12 percent of the arable land is currently cultivated. The population is mainly engaged in subsistence production of food crops such as sweet potatoes, cassava, millet, beans and groundnuts. Maize is becoming an increasingly important cash crop though currently prices are very low at 30 to 40 shillings per kg. Coffee is grown throughout the district while tea is grown in a very limited area. Bananas cover an estimated 14,400 ha of which 90% are for brewing. Annual production of *waragi* in the district is estimated at 12 million litres (FAO; *ibid*).

#### 4.3 Ireland Aid Support to Kibaale

Uganda has been a priority country for Ireland Aid since 1994. In the same year, Kibaale became the first Ugandan district to receive assistance through an area-based programme. This year's support to the district is worth IEP1.1million. Activities supported under the programme include:

- Institutional support and training: assisting Kibaale District to improve its capacity to plan and manage local development
- Primary education: developing school infrastructure, provision of furniture, developing management systems, teacher training
- Primary health care: strengthening the capacity of health staff in the District Medical Office, the District Hospital and the Rural Health Units
- Rural road rehabilitation: infrastructure provision and establishing a co-ordinated programme for feeder road maintenance
- Provision of water and sanitation facilities in order to reduce the incidence of water and sanitation related diseases in the district
- Food security initiatives.

#### 4.4 Land Tenure and Ownership

Like most of Uganda and indeed other parts of Sub Saharan Africa, land is not just an economic asset. It has a very high 'existence value' that confers social status and cultural identity to those that inhabit and farm it. This section looks at land use in Kibaale district and also outlines some of the key political tensions surrounding land.

In chapter one, it was noted that many land reform programmes are being implemented in Sub Saharan Africa today, against the backdrop of a mixture of colonial and statutory tenure regimes and customary tenure patterns. The predominant tenure system in Kibaale district (and in much of the rest of Uganda) provides a good example of this. Much of land is surveyed under *mailo* tenure, stemming from colonial times, but the land is cultivated and inhabited by *Bibanja* holders. The terms *mailo* and *kibanja* (plural *bibanja*) are used extensively throughout the remainder of this report.

Kibaale does not have its own Land Office. Information obtained from the regional land office in Fort Portal in neighbouring Kabarole District shows that 965 square miles or 2,470 square km are surveyed under *mailo* tenure. The following table shows land cover breakdown as outlined by the DDSP study, an EDC study and information obtained from the Fort Portal Land Office. Both the EDC and DDSP data are subject to dating but the table gives a general overview of the District's land use and tenure pattern.

Table 4.2 Land Use in Kibaale

Characteristics	Area
1. Total Area of Kibaale District (DDSP; 2000)	4,246 km sq
2. Area under forests - fully stocked and degraded (DDSP; 2000)	1,014 km sq
3. Open waters and swamps (DDSP; 2000)	111 km sq
4. Built-up areas (DDSP; 2000)	2.7 km sq
5. Plantation (DDSP; 2000)	1 km sq
6. Area under cultivation (DDSP; 2000)	1,726 km sq
7. Woodland, bush, grassland (DDSP; 2000)	1,387 km sq
8. Total area under cultivation or under woodland, bush and grassland	3,113 km sq
9. % area of district under cultivation or under woodland, bush/grass	73%
10. Total area surveyed under <i>mailo</i> tenure (FP Land Office)	2,470 km sq
11. % area of district under <i>mailo</i> tenure	58%
12. % area of <i>mailo</i> land as a proportion of cultivable land (useful only if it can be assumed that land surveyed as <i>mailo</i> falls under this category)	79%
13. Average cultivated area per farm family (DDSP; 2000)	2.8 hectares

The land question in Kibaale has been a political issue for some time. As noted earlier this *mailo* land is owned mainly by Buganda landlords – grantees of the protectorate for their assistance in colonising the district. Indigenous Banyoro people are unhappy that their land is titled to absentee landlords, landlords who can use the titles as collateral to finance development outside their district. In the meantime many feel insecure about their future on the land and live in fear of losing their *kibanja* to the absentee title-holder.

While no specific mention has been made of Kibaale, in either the Constitution or 1998 Land Act, it was believed by many that it would be one of the districts that should receive priority attention when it came to using the land fund. Over the last couple of years therefore disillusionment with the Land Act is increasing. Many in the district feel that the Land Act has failed to deliver its promise: returning legal title of their land to them.

Since the Land Act was passed in 1998 the district has established a District Land Board, and several sub-counties have Parish Land Committees, but these are not functioning. The district administration did attempt to recruit land office staff but was unable to do so. One of the first problems therefore was a lack of local capacity and a failure to recruit that capacity from outside the district. There is also an office space shortage at district level and the District Land Board – up to the time of writing this report – was waiting for an office at the District HQ to commence its work.

#### **4.5 Resettlement Schemes in Kibaale**

Another land issue of increasing importance in the district is the large in-migration of people from the South and South West of the country. It is thought that the catalysts for this in-migration were two Government resettlement schemes. The first scheme took place in the mid 1970s. This was a voluntary migration scheme for people in overpopulated parts of Kabaale and Bushenyi. People were given the option of moving to Kibaale district (Buyaga county) where they were given 10 acres of public land. A resettlement commandant, based in Rutete parish in Kagadi sub-county, managed the resettlement.

The second resettlement scheme took place in 1992 and involved the compulsory resettlement of people from Mpokya (near Fort Portal) to *mailo* land in the North East of the district. Each family was given 12 acres. The people belong mainly to the Bakiga ethnic group.

Many others from the Southwest have since moved to Kibaale and bought part of the allotted land from settlers in the resettlement schemes, or have bought from others in the District.

There are widespread concerns amongst the indigenous Banyoro community that this in-migration will continue and that as it does, the balance of political power in the district will shift towards a new majority of Bakiga. The indigenous community feel powerless to monitor or control the in-migration and have fears that the current trend could also lead to a land scarcity problem in the future. Already aggrieved that the historical takeover of land (by Buganda) has yet to be corrected, some Banyoro people fear that they may be overpowered once more. During the struggle to regain control of the land from the Baganda in the early part of this century the Mubende Banyoro Committee was formed to fight for control of the land. In recent months this organisation has reformed to put organisational strength behind their grievances.

On the other hand, many of the resettled community are in a state of limbo. Having left their native districts with the promise of a new plot of land, they too are waiting to gain some documentary proof that their future on their *bibanja* is secure. Recent developments with the concerns voiced by the Mubende Banyoro Committee have added a new dimension to the fears of the settlers.



To summarise therefore, the context within which research was conducted in Kibaale:

- Political disillusionment amongst the Banyoro people over the lack of progress on the Land Fund; i.e. people continue to live and farm land that has been in their families for generations, but which is legally owned by absentee Baganda landlords
- The Land Act largely unimplemented due to lack of resources and capacity and also partly due to the same disillusionment
- Growing tensions in the district over the large and unmonitored in-migration of people from outside the district.

## Chapter Five – Productivity, Sustainability and Equity

### 5.1 Research Overview

The previous section described the struggle for land in Kibaale. The following sections analyse whether or not the current situation is contributing to tenure insecurity. The research then seeks to establish whether this tenure insecurity and poor knowledge of land rights affects productivity, equity and sustainable resource use.

Table 5.1 – Research Overview

<b>District Level (LCV) Focus Group Discussions</b>	Mubende Banyoro Committee, Kibaale District Sub County Chiefs, End of research workshop discussion in Makerere University		
<b>District Level (LCV) Key Informant Interviews</b>	LCV Chairman and Chief Administrative Officer, District Land Board Chairman, Agricultural Officer, LCV deputy chief, Joseph Wasibi, Land Rights Officer, URDT		
<b>Study Areas (LCIV)</b>	<b>Study Area 1: Buyaga County area: NW of District</b>	<b>Study Area 2: Bugangaizi county area: NE of District</b>	<b>Study Area 3: Buyanja county area: Southern part of District</b>
<b>Sub counties involved (LCIII)</b>	Kagadi, Mabaale, Bwikara, Rugashare Mpeefu, Kyanaisoke, Kiryanga	Nalweyo, Nkooko, Kisiita	Bwamiramira, Matale, Bwanswa (actually in Bugangaizi)
<b>Characteristics:</b> 1. Population density 2. Market for farm produce 3. Target sample group	1. Most densely populated (50 – >150 persons / sq km), 2. Relatively well developed markets for farm produce, 3. Mixture of Banyoro and large community of voluntary settlers.	1. Least densely populated (0 – 24 persons / sq km), 2. Reasonably well developed markets, 3. Large community of Bakiga resettled by government.	1. Low population density (25 – 49 persons / sq km), 2. Poorly developed markets, 3. Mostly indigenous Banyoro.
<b>Study Area Focus Group Discussions (LCIII and LCII)</b>	1. Womens NGO group 2. Parish Land Committee Chairmen of Mpeefu 3. Visitors to Land Dispute Clinic of URDT (NGO)	1. Bakiga Women 2. Members of Kisiita Parish Land Committee 3. Bakiga Farmers group, Nokooko	1. Mataale: Village Based Development (NGO) Women's group 2. Bujuni Church, 'Sunday mass'
<b>Key Informant Interviews (LCIII and LCII)</b>	1. Kagadi Sub County Chairman 3. Mpeefu Sub County Chief 4. Mabaale Sub County Chief	1. Kisiita Sub county chief 2. Nkooko Sub county chief	1. Kibaale Town Clark 2. Emesco (NGO) CEO 3. Mataale Sub County Chief
<b>Hhs surveyed</b>	30	30	30

It can be seen from Table 5.1 that the research comprised both qualitative and quantitative methods. The researchers found that, notwithstanding the small sample size for the household survey, findings on the main points were consistent across the methods. The exception to this was the gender analysis where the gender of the researchers influenced how the questions were answered. This is discussed later in this chapter.

### 5.2 Tenure Security and Knowledge of land rights

Focus group discussions and key informant interviews at district level revealed that most small holders in Kibaale feel insecure about their tenure and that there is also a low level of awareness about land rights. Chapter One cited Barrows' definition of property rights and notes that information on the rights of the holder versus the duty of other third parties involved in any transaction on that land must be clear. In Kibaale most people have never met their landlord and have no idea about his rights or their duties with regards to the *kibanja* they occupy and cultivate.

Table 5.2 Household Survey – Tenure Security and knowledge of land rights

Tenure Security Indicator	Study Area One	Study Area Two	Study Area Three
Tenure Regime of Households Surveyed	56% Mailo 44% Public Land	100% Mailo	90% Mailo 10% Public Land
Average Holding Size	1.7 ha	6.1 ha	3.2 ha
Qualify as lawful or bona fide occupants (Land Act 98)	27% lawful* 23% govt settled (bona fide) 27% purchased interest (bonafide) 23% inherited interest (lawful or bonafide)	0% lawful* 83% govt settled (bona fide) 17% purchased from settler (bona fide)	100% lawful*  *occupying land as a result of repealed Busuulu and Envujjo law
Knowledge of landlord	76% of those households with landlords have heard who he is	0% do not know who their land lord is	76% of those households with landlords know who he is
Prevalence of land disputes	30% of households involved in land disputes	6% of households involved in land disputes	20% of households involved in land disputes
Nature of Dispute	60% of those disputes are boundary disputes and 40% are disputes with landlord	100% of which are boundary disputes	100% of disputes are boundary disputes
Expression of fear of eviction	56%	76%	33%
Planting of trees	66%	93%	96%
Presence of permanent	23%	6%	26%

structures			
Whether or not occupants have marked the boundaries of their <i>kibanja</i> with fences, plants or other markings	50%	90%	66%

The Household Survey (see Table 5.2) shows interesting results between the study areas. Study area one is the most densely populated. It is also (according to focus group and key informant discussions) perceived as the most fertile and contains the largest urban centre in the district: Kagadi town. There is a 30% incidence of land disputes amongst households surveyed. This is the highest amongst the three study areas and most of those disputes are boundary disputes. It can also be seen from table 5.2 that average holding size is also markedly smaller and that just half of households surveyed have marked out the boundaries of their holdings with plants, trees or some other marking.

Overall the information available on study area one would indicate that demand for land is higher than in the other areas. This may be attributable to the higher population density. The high incidence of disputes demonstrates amongst other things, tenure insecurity. This was supported by focus group discussions and key informant interviews. Over half the households surveyed in this area expressed a fear of eviction even though – according to the 1998 Land Act – most (if not all) would qualify as lawful or *bona fide* occupants. This demonstrates a poor knowledge of land rights and of the contents of the Land Act.

Study area two represents a very homogenous group. All respondents are Bakiga people who were forcibly resettled from the Fort Portal area. As part of the resettlement programme, the land was surveyed and each family was given 4.86 hectares. It can be seen that this group has the lowest level of land disputes. This is probably because the land was surveyed and demarcated, prior to allotment. Each family therefore is clear as to the boundaries of his or her *kibanja*. On the other hand 76% of those interviewed expressed a fear of eviction. This also emerged as an emotive issue during focus group meetings. Households in this group fear eviction from the district authorities, as they have no documentary proof of their right to be on the land, despite being settled there by the government. Recently increased tensions surrounding the in-migration are the source of new worry for many Bakiga settlers living in this area.

A very low proportion of this group have built permanent structures on their land, which may or may not be an indication of tenure insecurity. The researchers found that most people surveyed did not have permanent structures primarily because they couldn't afford to build them.

On the one hand therefore, relatively low levels of land disputes, in this case, demonstrate the potential benefits of surveying and demarcation. Ninety per cent of this group have marked their own boundaries with fencing, plants or trees.

chapter illustrated that within this tenure system in Kibaale, a significant degree of tenure insecurity exists and that knowledge of land rights is poor.

Eighty per cent of the Ugandan work force works on the farm. Like many other districts however most of this work is subsistence farming. The PEAP outlines as a key condition for success, the transformation of the economy so that a much greater majority of the population can participate in economic growth. One of the key strategies to achieve this is the modernisation of agriculture (PEAP; 2000).

Focus group discussions and household surveys in this research showed that agriculture is predominantly based on subsistence farming in Kibaale district. Maize, beans, bananas (for *matooke*- traditional Ugandan staple) groundnuts, potatoes and cassava are the main crops grown. Coffee, bananas for *waragi* (alcoholic drink distilled from bananas), maize and beans are the most common cash crop.

It can be seen from table 5.3 that a higher proportion of individual holdings are cultivated in study area one. There appears to be a trend in this area, of smaller and more highly cultivated holdings.

Table 5.3 Productivity

Productivity	Study Area One	Study Area Two	Study Area Three
Average farm size	1.7 ha	6.1	3.2
Average number of people who work on farm full time	4	5	3
<i>Average no. of ha cultivated on each kibanja</i>	<i>1.34 ha</i>	<i>2.989 ha</i>	<i>2.27 ha</i>
% of households who grow cash crops	80%	100%	87%
Annual income from cash crops (gross)	Sh 625,300	Sh 828,770	Sh 613,327
Annual income from cash crops / ha	Sh 367,825	Sh 135,864	Sh 191,664
Annual income from cash crops / cultivated ha	<b>Sh 520,874</b>	Sh 277,273	Sh 270,188
% Income derived from <i>waragi</i> sale	<b>63%</b>	6%	38%
% Income derived from farm	89%	92%	88%

Table 5.3 also indicates that farming in study area one is more commercialised despite the tenure insecurity discussed in the last chapter. This was very apparent in both the household surveys and the focus group discussions. The 'inverse relationship between farm size and productivity' is certainly true in this case.

An important point to note about the income per cultivated hectare is that income earned from *waragi* distilling was proportionately much higher in study area one. A jerry can of *waragi* fetches between Ug Sh 15,000 and 20,000 (9 – 13USD)/jerry can, many farms were producing two or three jerry cans per month. By contrast 1kg of maize is currently worth 40 to 60 shillings (2.3 to 3.5 USD). Table 5.3 shows that 63% of income from study area one is derived from the distilled banana juice (*waragi*).

Study area two shows a pattern of larger holdings with smaller proportions of the holdings actually in use. Farming is also quite commercialised in this area. The main cash crops grown in study area two were maize, beans and groundnuts. *Waragi* production is less popular accounting for only 6% of the gross income from cash crops. It also appears to be the highest maize producing area with 31% of gross income derived from maize and 36% derived from beans.

In study area three, seven out of thirty respondents grow tobacco. Fifteen out of thirty grow coffee but the output has decreased because of 'coffee wilt' – a fungal disease that has become widespread in Uganda. Another thirteen households have had their coffee crop completely destroyed. Respondents in study area three appeared to have the keenest interest in coffee as a cash crop but the widespread appearance of coffee wilt over recent years is a major obstacle. Overall study area three showed the lowest output of cash crops per cultivated acre with 38% of gross income derived from *waragi*. However it is difficult to draw conclusions about any correlation between tenure security and agricultural production in this case. If coffee crops were healthy a higher level of cash cropping would be observed.

#### 5.4 Land Markets

Chapter three discussed the empirical evidence on the relationship between land markets and productivity. Many believe that the presence of a land market ensures allocation of land to progressive farmers. There is an opposing school of thought that points out that the most efficient user of land is the small holder. A developed land market however, tends to lead to land concentration thereby removing land from many of the most efficient users.

Table 5.4 gives some indication as to the level of land transactions taking place across the district. Study area one and two show a more active trade in *kibanja* interest than study area three.

Prior to the 1998 Land Act, the Busuulu and Envujjo laws (1927) had outlined *kibanja* rights on mailo land. Under these laws *kibanja* interest could be inherited but could not be traded. The 1975 Land Decree basically repealed the Busuulu and Envujjo Laws but *kibanja* holders had even fewer rights under the Decree in that *Bibanja* certainly were not tradable. The next change in the law came with enactment of the 1995 constitution and the 1998 Land Act. Since this has basically not been implemented there is no legal framework for buying and selling *hibanja*. The observable trade in Kibaale is therefore completely informal.

The household survey and focus group discussions revealed that the highest number of land transactions exist in study areas one and two because of the in-migration to these parts of the district. There are virtually no immigrants in study area three. New arrivals in the other two areas are purchasing *bibanja*.

Table 5.4 Evidence of a Land Market in Kibaale

Land Transactions	Study Area One	Study Area Two	Study Area Three
Average farm size	1.7	6.1	3.2
% Households that have bought or sold all or part of their <i>kibanja</i>	30%	17%	7%

It can be seen from the table that study area one is a more popular destination for immigrants. There is a higher demand for land here; proximity to Kagadi and to the main Fort Portal – Hoima trunk road make this a popular destination.

Therefore there is no clear evidence in this case, to link the higher productivity in study area one with the number of land transactions. It can more directly be linked to a higher demand for land due to the immigration experienced in that part of the district.

### 5.5 Other Constraints on Productivity

Overall productivity in the district, as in most of Uganda (according to the PMA) is likely to be below potential. Both household surveys and focus group discussions reveal that land tenure insecurity and poor knowledge of land rights form only one area of impediment to livelihoods in Kibaale district. All households cited pests and crop disease as their biggest constraint. The Luganda word “*iodura*” whose meaning basically implies: ‘don’t gloat’ (about your good fortune or good crop), emerged during every focus group discussion and household survey. The word is used when referring to crop pests or disease: in Kibaale district the predominant *iodura* are ‘banana weevil’ and ‘coffee wilt’.

Table 5.5 Other constraints on rural livelihoods besides control over and access to land

Livelihood Constraint	Study Area One (n=30)	Study Area Two (n=30)	Study Area Three (n=30)	Total (n=90)
No Credit	20%	10%	33%	21%
Poor Farming Knowledge	6%	16%	16%	13%
Poor Feeder Roads	10%	47%	3%	20%
Low soil fertility	6%	0%	33%	13%
Inadequate Water Supply	18%	16%	0%	11%
Underdeveloped Markets	6%	46%	14%	22%
Pests	100%	100%	100%	100%

Many informants in study area three identified poor soil fertility as their main problem. Focus group discussions confirmed a strong perception that the land around Kibaale district HQ is less fertile than in other parts of the district. An environmental assessment of the Ireland Aid programme conducted in 1996 described the soil in approximately two thirds (including study area three) as loose sandy sediments that are generally more fertile because of their heavier texture (EDC; 1996). Nevertheless the respondents around this part of the district were quite clear that infertility is a key constraint to increasing farm productivity.

While relatively lower numbers of respondents directly identified lack of knowledge as a direct constraint very few households visited had received any extension advice. A district extension

officer had visited just one out of the ninety households surveyed. It appears that there is a strong demand for assistance with fighting crop disease and pests and improving soil fertility.

Another productivity constraint that emerged in study areas one and two was water shortage. The abundant rainfall in Kibaale is not evenly spread throughout the district. The whole of Buyanja County, Bwanswa Sub-County in Bugangaizi, Muhorro, Kagadi and KyanaISOKE sub counties in Buyaga constitute the wetter areas. The northern part of the district, stretching from Bwikara through Kiryanga, to Nkooko is relatively drier. Table 5.5 shows that water shortages were identified in both study areas one and two as a significant constraint. One focus group meeting in Nkooko revealed that in their parish two villages have to share the same borehole.

Poor markets and feeder roads were also identified, particularly in study area two as being an impediment to further agricultural development. The two are connected. One of the causes of the underdeveloped markets is the relatively poor feeder-road network in that part of the district.

Lack of access to credit is a further constraint all over the district. A number of village based NGOs (EMESCO, SIDA and others) engage in micro finance support to just a small number of farmers in the district. Formal credit is inaccessible to most households as minimum loans exceed capital requirements in most cases.

#### 5.6 Sustainable Land Use

Taking measures to sustain soil fertility, improve crop output or to promote good water management is dependent on a number of factors including tenure security and knowledge about conservation practice. For example, if a farmer feels that his tenure is secure, he is likely to be more inclined to take conservation measures. A study in Kenya, cited in the last chapter, noticed that farmers were more likely to make land improvements when their tenure was more secure (Blarel *et al*; *ibid*).

Measures undertaken to sustain agriculture for longer periods can broadly be classified into those that involve soil/crop improvements and measures taken to improve water management and /or reduce run off and soil erosion (see interview with Sustainable Agriculture NGO, EMESCO Annex four). Respondents in both household surveys and focus group discussions spoke of their need for greater knowledge in this area. Study area one had the highest number of households that were *not* taking any conservation measures on their *kibanja*. The highest proportion of households taking conservation measures of some description was in study area two.

Table 5.6 Sustainable Land Use

Conservation Measure	Study Area One	Study Area Two	Study Area Three
Conservation methods for improving soil / crop quality (e.g. Shifting cultivations, mulching, composting etc)	37%	63%	57%
Measures to retain water and prevent	50%	30%	43%



soil erosion e.g. double digging, contours to control run-off and soil erosion ( <i>Lusalosalo</i> in Luganda)			
Source of knowledge	6 from outside district and 6 from URDT	4 from outside district and 2 from BUFA	4 from Vibadeb, 2 from Emesco and 1 from District Extension worker
Attendance at farmers groups or associations to share knowledge	20%	10%	20%
Taking some conservation measures	60%	77%	63%

Sources of knowledge varied from knowledge outside the district and from NGOs such as Ugandan Rural Development Trust (URDT), Bugangaizi United Farmers Association (BUFA), EMESCO and Village Based Development (Vibadeb). As mentioned earlier a district extension worker had visited only one of the ninety households surveyed.

### 5.7 Tenure Security, Productivity, Land Markets and Sustainable Agriculture

**Study area one** at a glance shows the most paradoxical picture, if dominant theories on the relationship between tenure insecurity and productivity are correct. The clear evidence of tenure insecurity and this relatively high production is interesting. When the evidence is examined however in the context of other issues the picture fits with empirical evidence cited in chapter three:

- The proportion of *waragi* production in study area one disproportionately raises the cash crop income figure. If *waragi* production were omitted the highest level of cash cropping would be seen in study area two.
- A higher level of agricultural market activity can be clearly observed in study area one. Close proximity to the larger urban centres and access via the refurbished Fort Portal – Hoima and Mubende – Kagadi trunk roads, are likely to contribute significantly to this trend.
- Land is perceived to be more fertile in this area.

All of these factors serve to make production more profitable in this area and so therefore a more likely livelihood strategy for those living there. When the sustainability factor is considered, however, fewer households make investments for land improvement or water management in this area. The research suggests that productivity is least sustainable in this area, where tenure security is noticeably poor.

Other constraints also need to be addressed in study area one, particularly pest and disease control, water supply, and improving access to credit as outlined in table 5.5.

The higher number of land transactions in this area is most likely due to the increased in-migration in recent years, creating a greater demand for land amongst the newcomers in the area.

**Study area two** shows a pattern of larger holdings with smaller proportions cultivated. Again this is the site of a government resettlement scheme where each family was allotted a twelve-acre patch. Gross annual income from cash crops is lower than in study area one. Again, when measuring this in monetary terms, the relatively high price for *waragi* needs to be considered. Study area two represents a main maize and bean growing area in the district. Focus group discussions identify the need for feeder road improvement as a priority to developing markets in the area, an expressed need of many interviewed during the research. There is also, as in study area one, a shortage of boreholes in many parts of the county.

This area, as mentioned earlier, showed evidence of longer-term tenure security: a higher level of conservation measures, low level of land disputes, tree planting and boundary markings would all support this observation. What appears to be a more sustainable productive pattern in this area could very well be attributable to the tenure security brought about by the allotment of clearly demarcated plots of land. However as noted in a previous section, expressed fears of eviction are highest here and this is likely to be attributable to more recent tensions, expressed by Banyoro against immigrant Bakiga and others from the Southwest.

**Study area three** shows the lowest level of cash cropping in the district. It can be clearly observed that markets are least developed in this area (with the exception of the area around Kakumiro). Apart from Kakumiro and to a lesser extent around Karuguza, market activity is low in comparison to the other two study areas.

Some key informant interviews and focus group discussions suggested a lack of incentive in the area brought about by years of being in a state of limbo with the land question. Most respondents don't have any real fears of eviction but articulated the need for titles for their land in order to access credit. Titles and full ownership of the land were widely perceived to be the only solution.

In this area the relationship between sustainable productivity and tenure security is not as clear. There is ample evidence of uncertainty about land rights: 33% of households surveyed have expressed a fear of eviction. The lower productivity however could be explained as much by the impact of coffee wilt and distance from any main urban centre as it could by tenure insecurity. This study area had the highest number of coffee growers.

Land transactions in this area are least common between the three study areas. This can be best explained by the fact that the area has experienced virtually no in-migration, unlike study areas one and two. Investments in farm conservation measures are higher in this area than in study area one, but lower than study area two.

### **5.8 Equity**

Distribution of land between occupants appears to be fairly equitable in Kibaale. However *ownership* is not. Implementation of the Land Act and use of the Land fund is necessary to correct this inequity (discussed below).

Another aspect of equity that also needs to be considered is access to land services offered in the Land Act. The example of Kenya cited earlier, mentioned that registration and titling were

out of reach to many small holders because of the costs involved. In Uganda demarcation of land rights will need to be accessible to all sections of the community if it is to have the desired effects of reducing poverty.

The LSSP plans to introduce systematic demarcation in an attempt to ensure accessibility of the service to poorer households. This is a technical approach that demarcates all land rights within a given administrative area, if there is local demand for that service.

### 5.9 Gender Equity

The previous chapter described the difficulties with women's land rights in much of Sub Saharan Africa and the efforts of a coalition of lobby groups in Uganda to have these rights improved. Two of the three issues (consent of spouses before sale of family land, greater representation of women in land institutions and co-ownership of family assets), were included in the Land Act. Co-ownership was omitted, and the reason for this is unclear.

A woman can own land in Uganda, it can be willed to her or she can buy it in her own name; however the majority of women, for the cultural reasons discussed earlier, especially in rural Uganda, have access to land only through marriage. Should a woman become divorced or widowed, or should her husband decide to have a second wife, she finds herself in a very vulnerable position and is in danger of being dispossessed. Statutory co-ownership is seen by many as the only solution to ensuring fairer rights for women to the land they cultivate. While the consent clause goes some way, women during focus group discussions pointed out that it is easy for a man to gain his wife's consent to sell all or part of the family land. If co-ownership was adopted as law, not only would she have to consent to any transaction concerning the family land, she would also stand to gain half the sale price should the sale go ahead.

The research in Kibaale revealed a strong lack of awareness of the consent clause. However the degree to which women do not exercise their right in the consent clause was difficult to establish. During the household surveys, the gender of the researcher seemed to become a variable, whereby most of the respondents surveyed by the female researcher spoke of equal roles of men and women in making household decisions on land while the male researcher was told in most cases that land belongs to men and that women do not take part in any decision to sell land. The results in Table 5.7 therefore need to be treated with bias in mind.

Table 5.7 Gender Equity

Women's current role in land based decisions at household level	Study Area One	Study Area Two	Study Area Three
What crops to grow, investments to make, what to sell at market and what to keep for household use	63%both decide 17%men decide 6% women decide	50%both decide 40% men decide 10% N/A	70%both decide 10%men decide 10%women decide 10% NA
Whether or not to sell the land	60%both decide 27%men decide 3% women decide	47%both decide 43% men decide 10% N/A	50%both decide 33%men decide 10%women decide

Where women are not involved, why not	Land is seen as belonging to male member and in some cases he makes the decisions exclusively.
Gender of researcher	Responses tended to favour women's involvement more when female researcher asked the questions
Gender of respondent	Responses also tended to show increased involvement of women when the respondent was a woman

For this reason focus group discussions proved to be a more useful research tool with regard to discussing women's control over, and access to land. Exclusively women attended at least one focus group discussion in each of the three study areas. Women's land rights constituted the main focus topic. These discussions confirmed that in reality women have very few rights. While many women are in happy and stable marriages and act in partnership with their husbands, those that don't, receive little protection from the law for themselves or their children.

It was only in study area two that gender equity seemed to be a lower priority. In this area the women's focus group discussion was dominated by topics such as the need for improved feeder roads and developing agricultural markets.

#### 5.10 Food Security

To assist with analysing the vulnerability context of rural households the researchers also sought to get a snapshot of household food security in the district. Results can be seen in Table 5.8.

Table 5.8 Food Security

	Study Area One	Study Area Two	Study Area Three
Whether or not there is any time when food is scarce	30% No food scarcity 70% Only during certain times of the year	17% No food scarcity 83% only during certain times of the year	27% No food scarcity, 73% only during certain times of the year
When is this time and why	During planting season or dry seasons		
What items are in short supply	All items can be but many HHs mentioned matoke beans and potatoes as being the items likely to be scarce		
What are the coping mechanisms during times of scarcity	Generally people dry cassava and maize and store them for the food-scarce times of the year		
What are the common staples	Cassava, Sweet Potato, Millet		
What vegetables are normally eaten	Most families mentioned Dodo (wild spinach) and a few other indigenous greens		

Generally speaking most households produce enough food to feed their families throughout the year. However the poorer families do experience some scarcity of non-staple items during the planting and dry seasons. Coping mechanisms mainly consist of eating stored food.

Despite the higher proportion of respondents in study area one who said they didn't experience any food scarcity, the researchers observed a number of signs of possible malnutrition (distended abdomens) in children in some parts of Mpeefu and Mabaale.

#### **5.11 Implementation of the Land Act; what difference would it make?**

It was mentioned earlier that according to the Land Act, all those that partook in the Government settlement schemes would qualify as *bona fide* occupants and that most Banyoro tenants are either lawful or *bona fide* occupants. The Land Act also states that both *bona fide* occupants and lawful occupants are considered *tenants by occupancy* according to the Land Act.

According to an information leaflet prepared by the Uganda Land Alliance, all tenants by occupancy have the following rights:

- right of security of occupancy
- right not to make any payments for their occupancy on that land other than ground rent (less than or equal to Ug Sh 1000)
- right to enjoy tenancy without interference from the landlord
- right to sell, grant, assign, pledge, mortgage, create third party rights and give away under a will with the permission or consent of the registered owner
- before the landlord sells his/her interest in the land the tenant occupies, the first priority to buy will be given to the tenant
- right to a certificate of occupancy (ULA; 2001).

Not acquiring a certificate of occupancy does not mean the tenant has less rights. However if acquired the certificate would:

- provide security for getting loans from the bank and financial institutions
- ascertain boundaries of the tenant
- provide proof of interest in the land

On the other hand the titleholder has the following rights:

A title on the other hand offers the following rights:

- right to sell, lease, grant mortgage his/her land
- right to bequeath land under a will
- can create third party rights such as allow tenants to settle on his land
- enter into land occupied by the tenants or lessees (people who are leasing the land)
- collect ground rent from tenants (ULA; 2001).

It can be seen therefore that a title offers greater interest in the land than a certificate, as would be expected. There appears to be however a conflict of interest between the certificate and the title. How much security can a certificate of occupancy offer an occupant seeking credit for example, if the titleholder has already mortgaged the title? The researchers failed to get clarification on this. Perhaps a certificate is seen as an intermediary to a title or perhaps it is only when implementation takes place that issues like this will be addressed.

In Kibaale both settlers and indigenous Banyoro expressed desire for titles rather than certificates but nearly all stated that they would be content with either. Whether or not lawful

occupants in Kibaale get titles for their land depends on how the land fund will be used. Those that don't get titles under the land fund will have to use certificates of occupancy and negotiate with titleholders to buy the title on a 'willing buyer, willing seller' basis.

In attempting to measure the demand for *some* form of documentary proof of land rights for individual *kibanja* the researchers asked respondents the question: "what would you be willing to pay for documentary proof?" Table 5.10 shows an outline of the response. It should be noted that the 'willingness to pay' question was hypothetical.

Table 5.9 Demand for services contained in the Land Act

Measure of Demand for Land Act services	Study Area One	Study Area Two	Study Area Three
Some knowledge of Land Act and its contents	63% never heard of LA	83% never heard of LA	60% never heard of LA
No of households who say that documentary proof of land rights would encourage them to invest in farm improvements	63%	90%	66%
What this investment would be used for	More resistant coffee, Permanent housing	More resistant coffee, agro forestry	More resistant coffee, eucalyptus trees, and cattle
Willingness to pay for documentary proof of land rights*	5 out of 6 willing to pay	14 out of 15 willing to pay	9 out of 11 willing to pay
How much would be paid / Ug shilling	Between 5,000 to 10,000	Between 3,000 to 50,000	Between 2,000 and 10,000

\* This question was introduced at a later stage of the household survey and so the sample size is smaller and is different in each study area.

**Study area one** with the highest rates of land disputes in the district and lowest number of households making long term investments on their land would certainly benefit from the greater tenure security that implementation would offer. Already this district is showing the highest level of cash cropping and over 60% of respondents stated that they would invest in farm improvements if presented with documentary proof of boundaries and land rights.

Expressed demand was highest in **study area two**. The effect of clearer knowledge of land rights and documentary proof of tenure security would put a lot of respondents' minds at rest in this area and would probably serve to increase productivity if other issues like the poor road network and borehole supply were addressed. People seem to be waiting for their resettlement to be finalised by the issuance of documentary proof that they can stay, without fear of eviction.

According to the Land Act, landowners of settlement schemes such as this have to be compensated within five years of the coming into force of the act. This clause is very explicit

and clearly indicates that settlers, like those in Kibaale who have been resettled by the Government, are entitled to acquire registerable interest in their land. This is one of the contentious issues that fuel the tension on the land question in Kibaale. References to how the land question of the Banyoro in Kibaale will be solved are less explicit in the act than references to how the settlers' issue will be solved.

**Study area three** as mentioned before represents indigenous Banyoro all over the district. It is with this group that the land question is most politicised. At the end of this research a workshop organised to present a summary of the research findings focused quite heavily on the political question. It was attended by a number of officials from the Ministry of Lands, including the Minister of Lands, Honourable Bagume Isoke, himself a Munyoro from Kibaale District. Box 5.2 gives an outline summary of the workshop proceedings.

**Box 5.2 Workshop Held In MISR Conference Room**

*On Wednesday 19<sup>th</sup> September a workshop was held in the Makerere Institute of Social Research (MISR) to present key findings of this research. The Minister for Lands, Hon. Bagume Isoke, attended the workshop. Also present were senior researchers from MISR, officials from the Ministry of Lands, Land Act Implementation Unit, Irish Embassy, District chairman and members of the Mubende Banyoro Committee. An abridged version of findings was presented and a discussion followed.*

The Secretary General of the Mubende Banyoro Committee (MBC) Mr Kandole Simon Peter addressed the group. He gave some of the historical background to the MBC and spoke of the failure of successive governments to implement the 1964 referendum which would have given control of the land in Kibaale to Banyoro people. He also spoke of the resettlement schemes and how they have acted as a magnet bringing many more people into the district.

He informed the group that many people in Kibaale feel that the 1998 Land Act does not address the land problem of Kibaale properly. **The land fund** for example has not yet been put to use. He noted that the MBC had therefore reformed to lobby for full implementation of the 1964 referendum. He made the following recommendations:

- (a) Set up a functional land office with appropriate staff in Kibaale District
- (b) People of Kibaale should be given credit to develop the land since they have been sidelined for a long time. This will also help the implementation of the "**Plan for Modernisation of Agriculture.**"
- (c) The government should make sure the land fund is used to favour the people of Kibaale.
- (d) The people should be sensitised about the contents of the Land Act.
- (e) The government should if possible refer to the 1964 referendum and implement the results - it should appoint a referendum administrator to follow up this issue.

Several commented on this, agreeing with many of the points made including Hon. Bagume Isoke, and Mr Matia Kisembo, the appointed chairman of the as yet non-functional District Land Board.

Hon Bagume Isoke noted that full title for land in Kibaale had to be given to Banyoro.

The meeting concluded with information from Mr. D. Kiwanuka, of the Land Act Implementation Unit, on next steps with implementation and use of the Land Fund.

He noted that the government is providing 1.3 billion shillings for the Land Fund this financial year and that Kibaale is top priority.

A view widely expressed at the meeting, was that land titles would have to be given to indigenous Banyoro in Kibaale (lawful occupants), if land tensions were ever to be eased in the District. The meeting concluded with very encouraging news from the Land Act Implementation Unit that the Land Fund was going to be used in the near future and that Kibaale was a priority. The Unit has begun the process of identifying landlords to compensate and that once the Ministry owns the land it will then look at ways to pass this ownership to the people of Kibaale. The Minister stated that 1.3 billion shillings has been earmarked for the Land Fund for this financial year.

The question of a land office for Kibaale was also raised. It is unlikely that Kibaale will be one of the 18 centrally funded zonal offices. However this does not mean that the district cannot proceed with establishing its own office, if resources became available.

There is clear evidence all over the district therefore, that full implementation of the Land Act would increase tenure security and increase the livelihood options on the land.

#### **5.12 Sustainable Rural Livelihoods**

In this section the sustainable livelihoods framework is used as a checklist to broaden the context of the research findings.

The small holder in Kibaale - from a sustainable livelihoods perspective - pursues a range of livelihood strategies that depend on a number of factors including his/her access to and control over capital assets, the transforming structures and processes and the vulnerability context. Table 5.9 categorises research data into the different SL components but it should be noted that the components in this table are in no way meant to represent a comprehensive list of SL issues, rather it represents the key findings and most prevalent issues that emerged during the research. The table also suggests ways that implementation of the Land Act, LSSP, PEAP and PMA might improve livelihoods.

The natural capital endowment of people in study area one is lower than the other study areas. In an area with higher population density there is evidence of higher demand for land. The average size of holdings is smaller, and there are a higher number of land transactions. There is also ambiguity over control of natural capital with clear evidence of tenure insecurity, as indicated by the low level of boundary markings between *bibanja*, the high level of disputes, the slightly lower levels of investment to conserve soil and water and less tree planting. Livelihood strategies that focus on cash cropping, measured in terms of the gross value of cash crops per year, indicate that study area one is the most productive area in the district. However the comparative price of *waragi* needs to be considered as over 60% of income from cash crops is generated from the distilled banana juice.

The research shows lowest levels of longer-term investments to improve soil quality and water management. It is very likely that the tenure insecurity is contributing to this.

Proximity to larger urban centres like Kagadi and proximity to good roads shows how improved physical capital (partly due to support from Ireland Aid) has had a positive impact on



livelihoods in this area. Physical capital still requires some improvement especially in terms of water supply to areas such as Mpeefu.

Natural capital endowments of people in study area two also present an interesting picture. Average holding size is larger. A definite pattern of better tenure security can be seen. Highest levels of farm improvements, significantly higher agricultural output (if *waragi* is excluded from the calculations), higher levels of tree planting and plot boundary markings and the lowest levels of land disputes are evidence of this. As discussed earlier this is probably due to the nature of the resettlement scheme that involved surveying and demarcation. However natural capital endowments need to be enforced now by providing respondents with the promised documentary proof of registerable interest.

Physical capital endowments appear to be poorer here than in the other study areas. The feeder road network and other infrastructure necessary to allow market development need to be tackled, as does the inadequate supply of bore holes. Ireland Aid's continuing support to the district is likely to contribute to improvements here.

Study area three also presents a different picture. Non-use value of natural capital here is stronger and as mentioned earlier is more politicised. Natural capital endowments are also poor. Tenure insecurity amongst *bibanja* landholders is high and the rights/duties relationship with landlords is unclear (this is also the case for the other study areas, but again it seems to be more politicised in this area).

Transforming structures here such as markets, are weakest in the district despite relatively well-developed physical capital. Land transactions are least frequent and agricultural cash cropping is a less popular livelihood strategy. Clear reasons for this include tenure insecurity but also coffee wilt is likely to be a major cause as this area had the highest number of respondents who wanted to pursue coffee production as a livelihood activity.

A transforming structure in all study areas is Ireland Aid. Its presence is apparent in the district, so too is the awareness of the benefits it has brought to livelihoods.

The vulnerability of small holders to recent trends in increased coffee disease and banana pests is highlighted in Kibaale. Food security appears to be good in all areas but signs of malnutrition in the North West of the district surprised the researchers. A nutritional survey would provide more accurate information on this. Human capital endowments are also poor across the district in so far as there is little knowledge or action on tackling issues like *todura* and soil infertility.

Financial capital endowments in all study areas are also low, many people lack the financial assets necessary to make investments on their land and improve output, and credit availability is limited.

Levels of social capital are difficult to gauge from the outside. This study looked for signs of social capital but didn't attempt to quantify it or to draw comparisons between the study areas, as this would have been outside the scope of the study. Table 5.9 gives examples of the types

of social networks observed during the research. The benefits of these networks were evident during research particularly for their role in knowledge sharing.

Implementation of LSSP and PMA is likely to improve the asset endowments and the livelihood outcomes of people in Kibaale district as demonstrated in Table 5.10.

Again it should be emphasised that table 5.10 does not represent the full spectrum of components in the livelihood framework of the Kibaale people. It does however, place key findings in a livelihood context.

Table 5.10 Sustainable Livelihoods in Kibaale

SL Component	Study Area One	Study Area Two	Study Area Three
<b>Human Capital</b>			
<i>Available household / farm labour</i>	Average 4 / household	Average 5 / household	Average 3 / household
<i>Knowledge of land rights</i>	Poor	Poor	Poor
<i>Knowledge of good farming practices</i>	Identified as a need by 6% of HH surveyed	Identified as a need by 16% of HH surveyed	Identified as a need by 16% of HH surveyed
<i>Knowledge of how to tackle pests and diseases (esp on Coffee and Bananas)</i>	100% of households identified this as a priority	100% of households identified this as a priority	100% of households identified this as a priority
<i>Capacity within the district to implement the Land Act</i>	Poor. District Land Board and Parish Land Committees need to be trained and capacity for technical services to be provided by land office might have to be imported to the district.		
<i>The likely impact of Land Act implementation</i>	Land Act implementation that included the staffing of a district land office and the training of District Land Board and Parish Land Committees would improve the Human Capital endowments of the district by improving knowledge of land rights, the Land Act and how surveying and titling should proceed		
<i>Other interventions that might help</i>	Implementation of the NAADS (National Agricultural Advisory Service) to co-ordinate extension services to subsistence farmers is likely to have a positive impact on Human Capital by building on local knowledge to deal with crop disease and pests and also to improve farming practices. The support of Ireland Aid has contributed a great deal to human capital endowments in the district through its support to the education and health sector		

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Natural Capital			
<i>Household access to land</i>	Average holding size 1.7 ha	Average holding size 6.1 ha	Average holding size 3.2 ha
<i>Rights over that land</i>	<i>Kibanja rights</i>	<i>Kibanja rights</i>	<i>Kibanja rights but landlord-tenant relationships unclear</i>
<i>Signs of tenure security</i>	<i>High level of disputes, poor demarcation of plots, lowest level of tree planting</i>	<i>Low level of disputes, clear demarcation, high level of tree planting</i>	<i>Indigenous community, moderate demarcation, some disputes</i>
<i>Fear of eviction</i>	Medium	High	Low
<i>Women's land rights</i>	In practice only through marriage, good access to land use decisions at household level but regarding sale of family land women have little power to influence the decision		
<i>Crop Production (waragi excluded)</i>	Medium	High	Medium
<i>Investments to improve the land</i>	60%	87%	67%
<i>'Non use value' or 'existence value'</i>	Land is not just an economically important resource, it is also associated with cultural identity and status: this is highest in study area three where the indigenous community have expressed a stronger attachment to their land		
<i>Likely impacts of Land Act implementation</i>	Land Act implementation would increase people's knowledge of their rights and would increase tenure security by surveying, demarcation and the provision of documentary proof of boundaries and land rights. If the Land Fund is used to ensure that, where possible people could acquire titles for their land, it is also likely to increase tenure security and finally give people ownership of their land.		
<i>Other interventions</i>	Again PMA through NAADS, a District Agricultural Development Centre, sub county Technology Development Sites etc, if implemented successfully would improve the natural capital endowments of households in the district by disseminating knowledge on how to improve soil and crop quality and output as well as better water management and disease and pest control.		

<b>Physical Capital</b>			
<i>Feeder roads</i>	Recently Improved	Poor	Recently Improved
<i>Electricity</i>	Not available to the vast majority of people in the district		
<i>Water supply</i>	Poor in some parishes	Poor	Good
<i>Communications</i>	Most people in the district do not have access to telephone. Good local radio station, used to convey personal messages. Mobile network coming soon but too expensive for most in the district.		
<i>Ireland Aid Support</i>	The Ireland Aid programme in the district will continue to support the improvement of water supply and feeder roads		
<i>PMA</i>	Again PMA identifies roads, market infrastructure, water and electricity as crucial to achieving the goals of PMA		

<b>Social Capital</b>	
<i>Examples of the networks available to people in Kibaale</i>	Membership of community development organisations like EMESCO and SIDA (sub county, integrated development association), neighbourly support etc.
<i>Land Act Implementation</i>	The Parish Land Committees represent a huge decentralisation of land management. Functioning Parish Land Committees are likely to improve social capital endowments by strengthening Parish Level networks
<i>Other interventions</i>	Again NAADS and other aspects of PMA may increase parish and village networking which would strengthen social capital endowments

<b>Financial Capital</b>			
<i>Access to credit</i>	20% of respondents identified this as a need	10% of respondents identified this as a need	33% of respondents identified this as a need
<i>Land Act Implementation</i>	Many respondents in all parts of the district felt that documentary proof of land rights could be used as collateral to gain access to credit		
<i>PMA</i>	PMA will seek to strengthen Rural Finance Intermediaries (RFIs - like some of the NGOs mentioned in Kibaale). Public funds will be used to build the capacity of RFIs to help them to expand their services to a wider section of the rural community		

<b>Vulnerability context</b>	
<i>Trends</i>	Pests identified by 100% of respondents as a trend that impinges negatively on livelihood strategies
<i>Shocks</i>	None identified
<i>PMA</i>	Research and development centres and the NAADs structure will assist with finding solutions to coffee wilt and other diseases / pests.

<b>Transforming Structures</b>			
<i>Local and District Councils</i>	At district, sub county, parish and village level, involved with local administration on land and agricultural issues		
<i>Government ministries</i>	At a national level, responsible for Land Act implementation and also PMA implementation		
<i>Ireland Aid</i>	Its work is contributing significantly to livelihoods in the district, through support to District management, to the education, health and productive sectors and also through its support for development of physical capital in the district		
<i>Civil Society</i>	Playing a very important role: URDT, EMESCO, SIDA and Vibadeb, amongst others. Provide training to farmers, micro finance and help establish good social capital.		
<i>Commercial enterprises</i>	Small, but increasing numbers of commercial enterprises in the district (key informant interviews and focus group discussions)		
<i>Markets</i>	Higher number of land transactions, relatively well developed markets for agricultural outputs	Land transactions lower, highest level of agricultural output marketing in the district but respondents vocal about the need to improve market infrastructure (roads especially)	Lowest level of land transactions and relatively good levels of cash cropping
<i>Land Act Implementation</i>	Establishment of functioning District Land Board, Parish Land Committee and District Land Tribunals		
<i>PMA</i>	Strengthening of farmers groups and other structures at district, sub county, parish and village level		

And Processes	
<i>Power relations</i>	Landlord-tenant relationship needs to be clarified and improved. Where possible power to control and own land needs to be returned to people who reside on and cultivate the land.
<i>Gender power relations</i>	Unequal relations within households and society compromises women's right of access to land
<i>Land Act</i>	Seeks to address many of the land related problems but is still unimplemented
<i>If Implemented</i>	Decentralises land management to parish and district level, thereby bringing control closer to people and goes a long way to define rights of occupants, landlords and gives legal recognition to customary and tenure patterns in Uganda
<i>LSSP if implemented</i>	Outlines clear policy for land at national and district level, development of land use plans, systematic demarcation, raising public awareness of land rights, undertake systematic adjudication of land rights, create a land information system, build capacity of institutions to implement land act. Also rights of women will receive greater attention through mainstreaming gender issues throughout LSSP. In addition specific measures will be undertaken to improve the right of access to land of vulnerable groups; training to enhance women's level of involvement in the sector and ensuring access through specifically targeted land use planning, land readjustment and systematic demarcation programmes

Visible Livelihood strategies			
<i>Average proportion of household income derived off farm</i>	11%	8%	12%
<i>Examples of off farm income</i>	Brick making, <i>waragi</i> dealing (as opposed to <i>waragi</i> brewing which is counted as an on-farm activity), wage labour on other farms, market trader, charcoal making, animal slaughtering service		
<i>Proportion of households that undertake cash cropping to some extent</i>	80%	100%	87%
<i>Farming for home use</i>	100%	100%	100%

<b>Visible Livelihood outcomes</b>			
<i>Income from Cash crops</i>	Approx 600,000 Sh	Approx 800,000 Sh	Approx 600,000 Sh
<i>Food security</i>	Food security is good in the three study areas. Seasonal shortages are coped with by eating food stocks or selling other commodities to buy food		
<i>Overall impression of livelihoods</i>	Predominantly subsistence farmers, vulnerable to shocks, engaging in some off farm income generating activities and some cash cropping		
<b>Desired Outcomes according to LSSP, PMA and PEAP and Ireland Aid</b>			
LSSP	Improved livelihoods of poor people through a more equitable distribution of land access and ownership, and greater tenure security for vulnerable groups		
PMA	Farmers enabled to shift from subsistence farming to farming for the market thereby reducing their vulnerability to poverty		
PEAP	Increased ability of the poor to raise their incomes. Promote food security and nutrition through better incomes and increasing the availability of credit. Promoting access to productive assets		

## **Chapter Six – Conclusion and Recommendations**

This research offered an opportunity to recognise at least some of the many issues involved in a land reform programme and its impact on sustainable livelihoods. Kibaale District has a very specific set of circumstances that demonstrated the complexity of both land reform and other factors that influence livelihood outcomes.

This increased emphasis on land reform as a development issue in Uganda and other Sub Saharan African countries, has given rise to broad dialogue on the effects of land reform. Empirical evidence from other countries such as Kenya would suggest that objectives of land reform programmes are not always achieved. Studies cited in this report noted that in the case of Kenya no relationship could be found between titling alone and productivity, investment or the use of credit. Such studies also noted that titling did not have the desired effect on the land market and the process of titling was not accessible to poor farmers because of the costs involved. Some studies did however notice a greater tenure security in certain circumstances. This greater tenure security encouraged farmers to make longer-term investments on their land. Generally a land reform programme that avoids broad assumptions and is carefully designed to suit a local context can have a positive impact.

At a time when Land Reform programmes had increased in popularity in much of Sub Saharan Africa, Uganda enacted its constitution in 1995 and passed a Land Act through parliament three years later. The culmination of both measures was the vesting of all land in Uganda to the citizens of Uganda and the decentralisation of land management and administration down to parish level. The main motives behind the Land Act are to promote modernisation of the agricultural sector and reduce poverty.

While the Land Act has been passed into law its effects have yet to be seen, as it remains largely unimplemented in many parts of the country. Recently the Government has developed a land sector strategic plan (LSSP), a sector wide approach towards developing a clear land



policy and tackling the Land Act's implementation difficulties. This promises to move the implementation process forward considerably.

Land is a contentious issue in Kibaale as well as being a very important one to Kibaale and the whole of Uganda. Land in Kibaale district is mainly surveyed under *mailo* tenure and occupied under customary *kibanja* rights. This tenure pattern therefore is basically one of private individualised holdings but with a lot of ambiguity over land rights. The Land Act gives recognition to all existing forms of tenure and goes some way towards clarifying the rights/duties relationship of landlords and tenants on *mailo* land.

Historically the land in Kibaale has been contested between the indigenous Banyoro and Baganda. The latter received *mailo* title for much of the land in Kibaale from the Protectorate in return for their assistance in expanding colonial power into Kibaale and other surrounding districts. To the present day indigenous Banyoro occupy their land as tenants to absentee landlords living in other parts of the country. This is a hugely contentious issue that remains unresolved despite passage of the Land Act into law.

The second land issue in Kibaale relates to unmonitored immigration of people from other districts. Indigenous Banyoro feel that if this immigration continues at the present rates the balance of political power will be shifted in favour of the immigrants. There are also concerns of a land shortage problem developing within the district, especially in the North West. On the other hand many immigrants are aware of this tension and are experiencing considerable tenure insecurity as a result.

The research examined current tenure patterns against the backdrop of current tensions and found that there was clear evidence of tenure insecurity all over the district. The relationships between this tenure insecurity and productivity, sustainability and equity were then explored.

**Study area one**, representing a mixture of indigenous people and in-migrants, showed that livelihood strategies were constrained by a poor endowment of natural capital, particularly in terms of tenure security. This area showed cash cropping and especially the sale of distilled banana juice for *waragi* production, as a popular livelihood strategy. The area also demonstrated the lowest level of long term farm investments to improve soil quality or water management. The vulnerability of this group of people was evident by the negative effects of the recent spread of banana weevil and coffee wilt. Signs of malnutrition were evident in some parts of the district but overall food security seemed adequate. Physical capital and financial capital endowments also need attention with many respondents identifying an inadequate supply of water as a problem. Lack of credit was also identified as a constraint. There is sufficient evidence from the research to suggest that if tenure security was improved in this area, in combination with other constraining factors mentioned, a more sustainable production pattern would emerge.

**Study area two** represented a very homogenous group of respondents, Bakiga people resettled by the Government from the Fort Portal area. Natural capital endowments here were stronger. Each family in the resettlement scheme had received a surveyed plot. This appears to have generated more secure tenure for these people. Livelihood strategies here also favour cash

cropping but *waragi* accounts for a much lower per cent of income; maize and beans are the predominant cash crop. There is evidence of more sustainable production with a higher proportion of respondents undertaking conservation measures on their farm. This is most likely due to the tenure security afforded to this community by the surveying and demarcation that formed part of the resettlement scheme. Physical capital endowments are lowest in this part of the district. The feeder road network and bore hole supply were identified as two constraints to developing agricultural production. Coffee wilt is also a major issue.

This group have the highest rate of expressed fear of eviction; this is a recent development and is due to recent tensions over immigration. This could develop into a situation where tenure security and its benefits are eroded if the tensions aren't addressed. Demand for implementation of the Land Act is highest here with 90% of respondents saying they would make on-farm investments if provided with documentary proof of land rights.

**Study area three** represented the indigenous Banyoro people of the district. Natural capital endowments are poor here also. Tenure insecurity and fears of eviction are evident though not to the same degree as study area one. Poor soil fertility is also a problem.

Markets are less developed in this area and cash cropping as a livelihood strategy is evident but production appears to be lower. Coffee is the most popular cash crop but the coffee wilt problem has reduced its profitability. Financial capital - credit - is identified as a pressing need as is training and knowledge to tackle the crop-disease issue. As with study areas one and two demand for implementation of the Land Act is high here also, as it would at a minimum increase tenure security, and at full implementation, with the land fund, would return ownership of the land to Kibaale people.

With the help of the sustainable livelihoods framework the likely impacts of two forthcoming Government plans were looked at: The Land Sector Strategic Plan (LSSP) and the Plan for Modernisation of Agriculture (PMA).

Overall a number of key constraints to sustainable livelihoods are identified by this research. In addition to implementation of the Land Act, there are many constraints to livelihoods identified by respondents as priorities for assistance. These include pest and disease control, access to credit, improved feeder roads in area two, improved borehole supply in areas one and two, and technical advice on soil fertility and sustainable farming methods. All of these issues are likely to be addressed if PMA and NAADS are successfully implemented. However the coffee wilt issue will probably require a strategic national research and treatment programme, as this problem is Uganda-wide.

Within the Land Sector, full implementation of the Land Act would contribute to improving tenure security for many people whose livelihood depends on access to land. The research showed that clearer information and documentary proof of land rights and access to appropriate institutions to adjudicate on land disputes would make a significant difference to people. The research showed district-wide demand for implementation of the Land Act. This also includes a demand for immediate use of the land fund to redistribute titles for land in Kibaale to the occupants and former owners of land, the Banyoro people.

The following recommendations arise from research findings:

1. The Land Fund should be used to buy land from the Baganda absentee landlords and give title of the land to those occupying and cultivating it. This would go a long way towards easing tensions in the district and would certainly provide more secure tenure to the beneficiaries.
2. External funding should be provided for a Land Office for Kibaale. As part of LSSP it is likely that 18 zonal offices will be established and funded centrally. At the time of writing this report Kibaale was not identified as a site for one of the 18 offices. Kibaale would receive the services of an adjacent zonal office, however many in the district feel that solving the land question requires that the district have its own functioning Land Office to better serve the District Land Board.
3. Areas of Kibaale should be used as pilots for the systematic demarcation proposed in LSSP: the plan for systematic demarcation as outlined in the LSSP is likely to have a positive impact on those areas in Kibaale currently experiencing a high number of *bibanja* boundary disputes.
4. Providing settlers with some form of documentary proof of land rights would allay fears of eviction and allow settlers to continue increasing their productivity in a more sustainable fashion. The preferred option would be if they received titles for the land, given the identified potential for conflict of interest between the certificate of occupancy and a title.
5. Training and dissemination on land rights and the contents of the Land Act for the District Land Board, Parish Land Committees and the general public is needed in Kibaale. Training is identified as an important area in LSSP.
6. The continued support of Ireland Aid should ensure that physical capital constraints of borehole supply in study areas one and two and feeder roads in study area two are addressed.
7. LSSP recognises the need to further review the gender imbalance in land rights even after the Land Act is implemented. From a poverty reduction and equity viewpoint, this is very important.
8. Many respondents felt that registerable interest in land would allow access to credit. However there are likely to be supply side constraints also. Implementation of the PMA to support 'rural finance intermediaries' and increase the supply of credit to small holders would allow farmers to invest in improvements and disease control measures.
9. Implementation of NAADs (National Agricultural Advisory Service) is likely to give much needed assistance to farmers in tackling issues like pests, diseases, soil infertility and improve knowledge about conservation measures.
10. Given the severity of the coffee wilt programme a strategic approach at a national level to researching and developing solutions should be supported.
11. Further investigation in the food security issue, especially in the North West, is recommended given the signs of malnourishment in a number of households there. The possibility of a connection between the male head-of-household's control over income from *waragi* production with this malnourishment observed in some children is worth exploring.

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## Annex One - Research Tools

<u>Focus Group Discussion - Checklist</u>	<u>Organisations – Interview- Checklist</u>
Group Names: Names of respondents: Date of Interview: Location: Profile of Group: Area represented (sub-county, parish etc.) General question: Tell us about land in this area Land Utilisation Tenure Systems Land Distribution - Equity Relationship between land utilisation and land ownership Women's access/rights to land Knowledge of the Land Act Land Act Institutions in Kibaale Can the LA help solve the problem	Name of interviewee: Name of organisation: Date of Interview: Location: Interviewee's function within organisation Organisations function: Main user profile (farmers, women, etc) Nature of service provided Specific Land issues encountered Land Utilisation Tenure Systems Land Distribution - Equity Relationship between land utilisation and land ownership Women's access/rights to land Knowledge of the Land Act Land Act Institutions in Kibaale Can the LA help solve the problem
<u>Key Informant Interview Checklist</u>	
Name: Title: Function: Date of Interview: Location: Nature of Land problem Land Utilisation Tenure Systems Land Distribution - Equity Relationship between land utilisation and land ownership Women's access/rights to land Knowledge of the Land Act Land Act Institutions in Kibaale Can the LA help solve the problem	

## Household Survey

### *Objectives of survey:*

1. To establish whether or not current tenure systems are a factor in:
  - a) the frequency and nature of land disputes
  - b) the choice and quantity of crops/livestock on holdings in the study area (productivity)
  - c) whether or not measures are taken to enable the same piece of land to be used over a long period of time with optimum output (sustainability)
  - d) to gather additional information on household food security
2. To gather information on equity within households with regards to decision making on land utilisation and management.

### **A. Information on holding:**

1. Parish:
2. Village:
3. Acres in Plot:
4. No. of acres cultivated

### **B. Household Information**

5. Name of respondent
6. Relation to household head  Head  
 Wife  
 Son  
 Mother  
 Other
7. How many others in the household, how are they related to the respondent?
8. How many household members work full time on the farm?
9. Does the household have any external source of income (income derived from outside farm)?
10. If the answer to question 12 is yes please specify? What proportion of total household income is derived from the farm?

### **C. Establishing the nature and security of tenure system of the holding**

11. Is the holding:
  - a.  registered under Mailo tenure
  - b.  public land
  - c.  other (please specify)
12. If the answer to 11a is yes: is someone in this household, the title holder?  
If the answer to question 12 is yes please answer questions 13 and 14 and skip 15 otherwise proceed directly to question 15.
13. Are you in possession of the title?
14. How did you acquire this title:
  - a.  through purchase

- b. \_\_\_\_\_ through inheritance
  - c. \_\_\_\_\_ other (please specify)
15. Establishing Lawful and/or *Bona Fide* occupancy:
- a. Have you occupied this plot without being challenged by the registered owner since October 1983 or before?
  - b. Have you been settled on the land by government, government agent or local authority?
  - c. Are you paying *busulu* to a landlord for occupying this land?
  - d. How did you acquire it (if land is occupied for less than twelve years – prior to enactment of the 1995 constitution)?
  - e. Have you purchased, inherited or otherwise acquired the interest of a *bona fide* occupant on this land?
  - f. Does the owner of the land live in this area?
  - g. Do you know who he is?

**D. For all respondents – Terms and Conditions: Restrictions on use, payment of any kind**

16. Has any authority or other person imposed any restrictions in how you utilise the land? If so please specify.

**E. For all respondents – Involvement in land disputes**

17. Are you or any member of your household currently involved, or has recently been involved, in a land dispute?

If the answer to question 17 is yes please answer question 18, 19, 20 and 21.

18. Is the land dispute between you
- a. \_\_\_\_\_ your landlord
  - b. \_\_\_\_\_ your neighbour
  - c. \_\_\_\_\_ local committee
  - d. \_\_\_\_\_ third party with whom you have had a land transaction
19. Is this dispute affecting how you are currently utilising the land? If yes in what way?
20. What was the nature of the dispute
21. Who did you approach to assist with resolving this dispute?
- a. \_\_\_\_\_ parish land committee
  - b. \_\_\_\_\_ LC I chairman
  - c. \_\_\_\_\_ LCII Chairman
  - d. \_\_\_\_\_ LCIII Chairman
  - e. \_\_\_\_\_ elder
  - f. \_\_\_\_\_ other – please specify

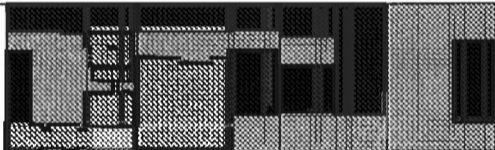
**F. For all respondents - Land Use**

22. Please complete the following table on land use?

<i>Crops</i>	<i>Acres</i>	<i>Kgs /yr</i>	<i>Ndebe /yr</i>	<i>Bunch/ yr</i>	<i>Sacks /yr</i>	<i>Basin /yr</i>	<i>Units for home use</i>	<i>Units for sale</i>	<i>Farm Gate price/unit</i>
Beans									



Bananas									
Bananas									
Ground nuts									
Maize									
Kasava									
Rice									
Sw. Potatoe									
Irish Potatoe									
Millet									
Tree									
Tree									
Tree									
Tree									
Tree									
Sugarcane									
Tobacco									
Coffee									
Onions									
Other									
Other									
Other									

<i>Livestock</i>	<i>Acres</i>	<i>Qty</i>		<i>Units for home use</i>	<i>Units for sale</i>	<i>Farm Gate price/unit</i>
Cows						
Sheep						
Pigs						
Chickens						
Goats						
Rabbits						
Ducks						
Other						
Other						

**G. All respondents – Tenure Security**

- 23. Do you have any fears, thoughts or worries regarding you future on this land?
- 24. Have you planted any trees?
- 25. Have you constructed any permanent structures? (If not why not?)
- 26. Have you demarcated your holding with any kind of fencing or marking?

**H. All respondents - Establishing Household Food Security**

- 27. Is there any time of the year when food is scarce?
- 28. If the answer to Q.27 is no, what items are in short supply?

29. How do you cope?
30. What is your household staple?
31. What other vegetables do you eat?
32. How often do you eat meat?

**H. All Respondents – Demand for Land Act Services**

33. Have you heard of the land act? If so, what have you heard?
34. If your future security on this land was guaranteed, by means of a certificate or title would it make any difference to:
  - a. your farm
  - b. your future
  - c. your family
35. Would you be willing to pay something for a certificate or title?
36. How much would you be willing to pay?

**I. All respondents – Conservation measures**

37. What measures do you take to improve the quality of soil and prevent erosion
38. What measures do you take to manage water on your land (prevent evaporation, run off etc)
39. Where did you learn about these conservation measures?

**K. All respondents – Equity within households on decision making**

40. What household member makes decisions on
  - i. \_\_\_\_\_ what crops to grow
  - ii. \_\_\_\_\_ what livestock to keep
  - iii. \_\_\_\_\_ what to sell in the market
  - iv. \_\_\_\_\_ whether or not to sell the land
  - v. \_\_\_\_\_ what farm investments to make

If the answer to Q41 is a male member, are women involved in any way in this decision, if so how?

41. If female members of the household are excluded from such decisions, is there a reason for this?
42. Are children involved in household decisions on land? If so, in what way?