

LAND RIGHTS IN UGANDA

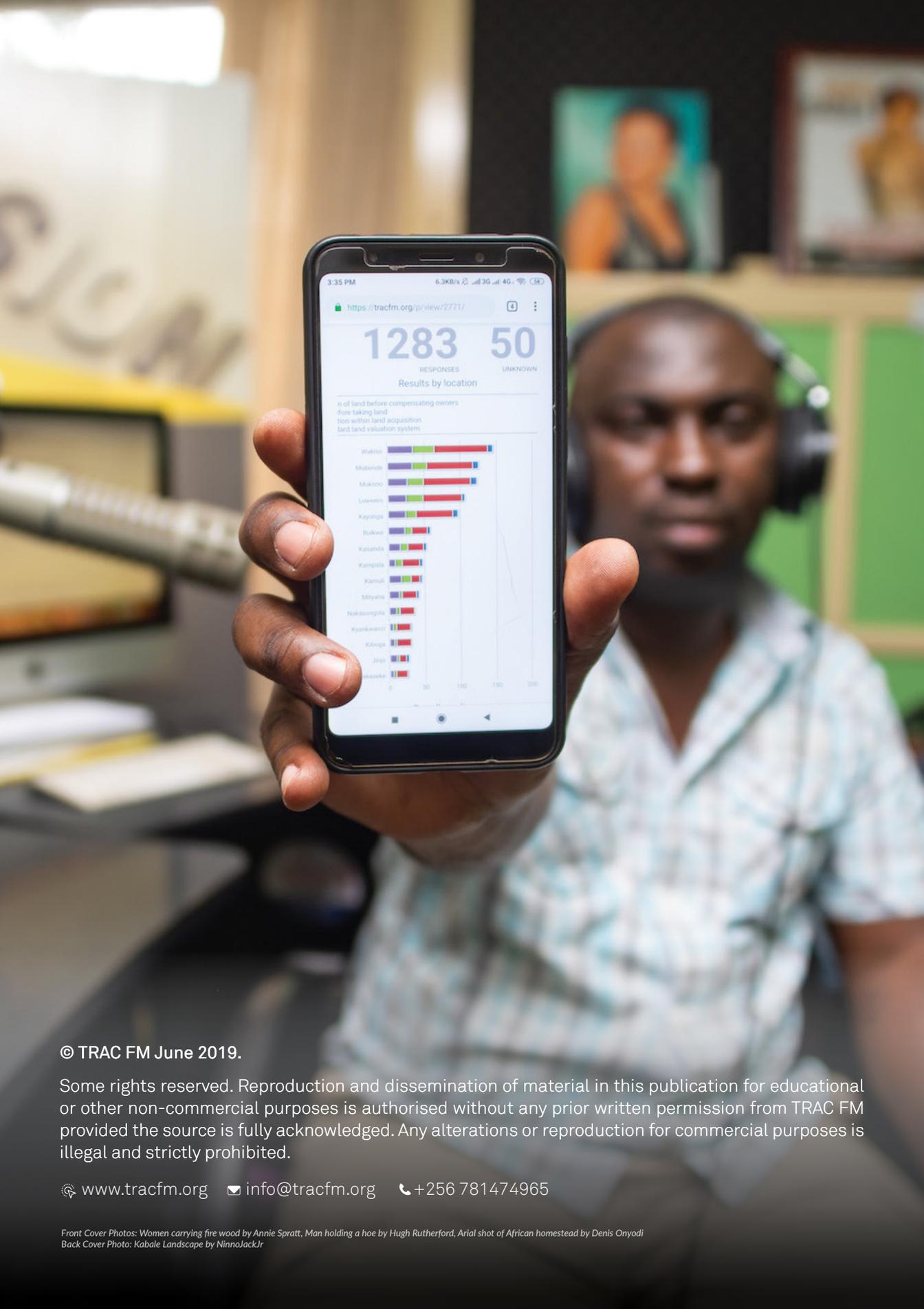
The People's Perspective Through Interactive Radio Polls



JUNE 2019

In Partnership with





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Front Cover Photos: Women carrying fire wood by Annie Spratt, Man holding a hoe by Hugh Rutherford, Aerial shot of African homestead by Denis Onyodi
Back Cover Photo: Kabale Landscape by NinnoJackJr

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List of Acronyms

| | |
|---------|--|
| AFIEGO | Africa Institute For Energy Governance |
| ALC | Area Land Committee |
| CCO | Certificate of Customary Ownership |
| COO | Certificate Of Occupancy |
| CSO | Civil Society Organisation |
| DLB | District Land Board |
| DLT | District Land Tribunal |
| EA | Environmental Alert |
| FAO | Food and Agriculture Organisation |
| HiiL | The Hague Institute for Innovation of Law |
| LASPNET | Legal Aid Service Providers Network |
| LASPs | Legal Aid Service Providers |
| MLHUD | Ministry of Lands, Housing and Urban Development |
| NETPIL | Network of Public Interest Lawyers |
| NPC | National Population Council |
| PELUM | Participatory Ecological Land Use Management |
| TRAC FM | Transparency and Accountability Feedback Mechanism |
| UBOS | Uganda Bureau Of Statistics |
| UDHR | Universal Declaration of Human Rights |

Acknowledgements

TRAC FM would like to thank the tens of thousands of Ugandan citizens who contributed to this report, which captures their perceptions on land rights. We received close to 100,000 responses to our poll questions on various land-related issues, which were broadcast on select radio stations across the country.

TRAC FM extends its appreciation to our project partners Environmental Alert and PELUM Uganda.

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Executive Summary

This report, “Land Rights in Uganda: The People’s Perspective,” is a TRAC FM publication. It was developed in close partnership with various stakeholders in the land-rights sector. It presents the voices of tens of thousands of citizens who responded to poll questions on a number of land-rights issues that were broadcast on 10 radio stations around the country over a period of six months. We received 99,598 responses in total.

We sought to find out what Ugandans think about a wide range of issues on land, including land registration, government acquisition of land, women’s land rights and land evictions. Issues around land are becoming increasingly contentious in Uganda and our findings reveal a public that is not fully aware of its land rights and how to protect them.

The government is in the process of amending existing laws and introducing new laws to streamline the current land management legislation, which is complex and outdated. It is imperative that this process finds a fair balance between the national development agenda and individual property rights.

The data that we present in this report highlights people’s perspectives concerning Uganda’s land question and will be important for government policymakers as they make land reforms and for civil society organisations as they advocate for a pro-citizen agenda.

The Key Findings

The findings are presented within four major topic areas and within each a poll and its results are discussed.

Land Registration



18%

Nearly 2 in every 10 respondents (18%) on average said they have registered their land. Many (72%) said the process is too expensive or complicated.

Many (60%) respondents do not have or even know about Certificates of Occupancy (COO) or Certificates of Customary Ownership (CCO). These certificates protect the interest, ownership and occupancy rights of a person, family or community on land (as indicated in sections 4 and 33 of the Land Act Cap 227 of 1998).

The majority (68%) of the respondents suspect that registering their land would not be in their best interest but instead benefit the economic elites.

Evictions And Land Acquisition By Government



Most (29%) respondents pointed to acquisition of land for development by government as the leading cause of land evictions in their community.

The majority (81%) of the respondents are in favour of prior compensation for their land before it is acquired by government.

Women’s Land Rights



Our data suggests most women respondents are unaware of their land rights. More female respondents than male respondents believe that limited financial means and inadequate enforcement of laws and policies on women’s rights are the major barriers to land ownership for women. Interestingly, more men than women think that cultural beliefs inhibit women from owning land.

Access To Justice



The highest percentage of barriers to accessing land justice come from within the legal system itself, accounting for 67% of all obstacles (that is the cost of legal services represents 23% and dispute resolution institutions being corrupt, unresponsive or inaccessible is 44%).

These findings have shaped our recommendations to government and other stakeholders, all of which point to putting the needs and rights of citizens first.

Photo by Denis Onyodi

1.0. Background

In recent years, an increased demand for land in Uganda has skyrocketed market prices. The effect of this is twofold: the merchantability of land has increased, enticing more people to buy or sell land or plots even as there has been a surge in land fraud and conflicts. Family land wrangles, land grabbing, illegal evictions and many other forms of land fraud and corruption have become commonplace.

According to the 2016/17 National Labour Force Survey (NLFS) by UBOS, 81.3% of the rural population and 29% of the urban population in Uganda are directly employed in agriculture.¹ This makes land the most valuable resource in Uganda. It is also the most important asset for national economic development.

Article 26 of the 1995 Uganda Constitution provides for the right to own property either as an individual or in association with others. This provision is in line with Article 17 of the Universal Declaration of Human Rights (UDHR),² which means property rights are recognised internationally. However, safeguarding the land rights of individuals and groups is a major concern, particularly in the face of Uganda's rapidly growing population, which the National Population Council (NPC) projects to reach 47 million by 2025 and 63 million people by 2030.³

To address the above concerns, the MLHUD formulated the Uganda National Land Policy 2013. Its goal is, "to ensure an efficient, equitable, and optimal utilisation and management of Uganda's land resources for poverty reduction, wealth creation and overall socio-economic development".⁴ To attain this goal, the MLHUD rolled out a four-year Implementation Action Plan⁵ in March 2015. According to government officials, this plan is a deliberate move to address major challenges that have hindered the implementation of land reforms.

In 2017, the Ugandan government introduced the Constitutional Amendment Bill No. 13/ 2017 to amend Article 26(2)(a) of the 1995 Constitution of Uganda, which currently allows the government to compulsorily acquire privately owned land upon prompt payment of fair and adequate compensation, prior to taking possession or acquisition of the property.

¹ National Labour Force Survey 2016/17 https://www.ubos.org/wp-content/uploads/publications/10_2018Report_national_labour_force_survey_2016_17.pdf

² Universal Declaration of Human Rights, 1948 accessible at <http://www.un.org/en/universal-declaration-human-rights/>

³ National Population Council State of Uganda Population Report 2017 <http://npcsec.go.ug/wp-content/uploads/2013/06/SUPRE-REPORT-2017.pdf>

⁴ The Uganda National Land Policy 2013 <http://extwprlegs1.fao.org/docs/pdf/uga163420.pdf>

⁵ The Uganda National Land Policy Implementation Action Plan <http://mlhud.go.ug/wp-content/uploads/2015/10/National-Land-Policy-Implementation-Action-Plan-2015-16-to-2018-19.pdf>

Following pushback from many civil society organisations, legislators and citizens, the bill was withdrawn on 4 September, 2018. The government is now considering amending the Land Acquisition Bill of 1965 to achieve the same goal. Yet, non-state land actors still emphasise the need for legislators to, “recognize the unfair balance of power between ordinary people and government or big investors”⁶ (Oxfam 2019) and protect individual land rights.

Limited government capacity to implement the already existing policies and resolve land disputes, coupled with citizens’ limited awareness of their land rights ultimately benefits the advantaged upper class of society, who have the capacity to access information and legal counsel. This makes ordinary citizens more vulnerable to various forms of land fraud and corruption. At the same time middle and lower-class citizens are grossly underrepresented in the land debate and have limited input in redefining laws and policies that will shape the future of land in Uganda.

It is against this background that TRAC FM designed a six-month land rights campaign through its Common Matters Program to create awareness of land rights in Uganda and advocate for pro-citizen land reforms through radio talk shows and stakeholder dialogues. This campaign was implemented in partnership with PELUM Uganda, Environmental Alert and other land actors.

The findings and recommendations in this report are based on the views of citizens, which were collected through TRAC FM’s radio polls, and the expert views of some of the most prominent thinkers on land rights in Uganda. Together, they offer a data-driven and citizen-centered perspective on some of the most pressing issues on land governance and management in Uganda.

⁶ An Open Letter to Members of Parliament on Constitution (Amendment) Bill No. 13/2017
<https://uganda.oxfam.org/latest/press-release/open-letter-members-parliament-constitution-amendment-bill-no-132017>

2.0. The TRAC FM Methodology

TRAC FM gives citizens a platform to take part in important public debates. It collects their views and opinions through a combination of polls and interactive radio talk shows and leverages them to boost data-driven advocacy campaigns and publications, like this report.

Over a period of six months, from October 2018 to March 2019, TRAC FM partnered with Environmental Alert, Pelum Uganda and other land actors to inform and debate land matters with millions of Ugandan citizens. TRAC FM engaged its network of 10 partner radio stations representing the 10 Ugandan sub-regions of Buganda, Ankole, Tooro, Busoga, Teso, Acholi, Lango, West Nile, Karamoja and Bugisu. The radio stations were intentionally selected based on their wide coverage within the major sub-regions, their use of Uganda's most popular local languages and their performance in past TRAC FM polls.

Together with these partners, TRAC FM developed a series of interactive radio talk shows on land rights. A total of 90 radio debates were conducted in local languages, focused on diverse topics such as land registration, COOs, compulsory land acquisition, evictions, women's land rights and access to justice.

The TRAC FM software visualizes the responses in real time so the talk show host and the guests in the studio can access and discuss live updates of the results.

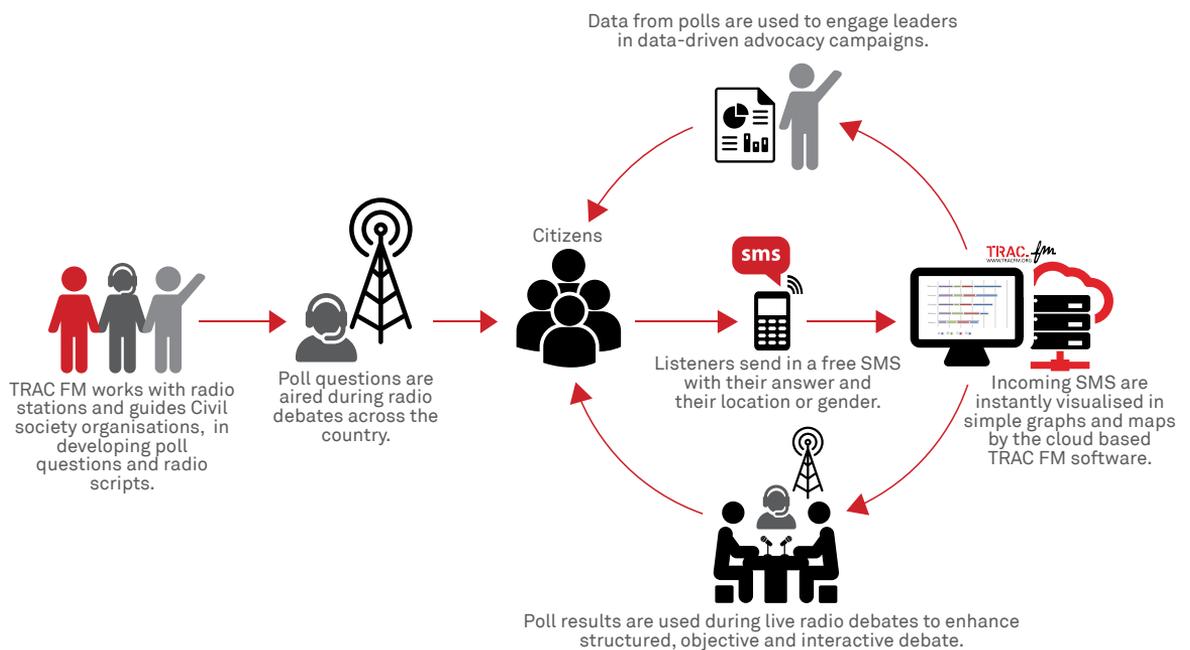
TRAC FM's polling software enforces the 'one phone number one vote' rule to ensure that any given listener can respond only once to a given poll. Respondents to TRAC FM polls are random and vary considerably in age, gender and location.



During the live radio debates, listeners were asked to participate in the poll questions on land issues. TRAC FM received over 10,000 responses per poll question on average, which translated into about 1,000 responses per radio station. Talk show moderators and guests in the studio then discussed the responses. This data was made available to our CSO partners, PELUM Uganda and Environmental Alert, for their use in advocacy engagements with the government and other stakeholders.

Together with land actors from PELUM Uganda, Environmental Alert and ActionAid Uganda, we analysed, synthesised and contextualised data collected through TRAC FM's SMS polls. TRAC FM created infographics presenting the respondents' perspectives and positioned the implications of this data within the broader debate on land matters in Uganda. TRAC FM categorized the data by thematic area and presents a synthesis of citizen's perspectives in this report.

Below is a visual representation of TRAC FM methodology



Quick stats for the Land Rights Campaign





3.0. Poll Findings

3.1. Land Registration

■ Introduction

Land registration, for purposes of this report, will be defined as a system by which the ownership of any interest in real property is established through the issuance of an official certificate indicating the name of the person or group of persons in whom such ownership is vested.

The Uganda Constitution (Article 237) recognises four land tenure systems — freehold, mailo, leasehold and customary tenure — under which someone can register and own land.

- **Freehold tenure** is registered through the issuance of a certificate of title to the land owner. It is owned in perpetuity. There is a challenge, though, over the issuance of multiple titles for the same piece of land. This is the result of a fraudulent system run by land “grabbers” and officials in the land registry. Freehold tenure accounts for 18.6%⁷ of all land in Uganda.
- **Leasehold land** is a system in which land is held based on a contractual agreement between the lessor and the lessee for a specific period of time subject to payment of a premium or annual ground rent by a lessee. However, delays in registering the right offered under the lease can allow for fraud, putting the purchaser at risk of losing it. Leasehold represents 3.6% of all land in Uganda.
- **Mailo land** has its roots in the 1900 Buganda Agreement and the 1928 Busuulu and Envujjo Law. In this system, the registered landowner (landlord) is recognized through the issuance of a certificate of title. However, it is very common to find other occupants with unregistered/equitable interests on Mailo land other than the landowner. These are commonly known as “bibanja holders” or tenants by occupancy and the Land Act 1998 recognises their rights and provides for security of their occupancy on land. Mailo accounts for 9.2% of land in Uganda
- **Customary land** is the least registered. It is governed according to customary laws and it accounts for 68.6% of all land in Uganda, making it the major form of land holding. Customary land holders can apply for CCOs as proof of ownership. However, only 15-20% of customary land is formally registered,⁹ which makes customary land susceptible to grabbing and expropriation.

Registration of customary landowners and bibanja holders has been problematic. In 2015, the MLHUD introduced CCOs and COOs to safeguard the land rights and interests of customary landowners in line with sections 4 and 33 of the Land Act Cap 227 of 1998.

The government of Uganda has also put in place a number of institutions and policies to support land registration processes, including a decentralised registration system through the Area Land Committees (ALCs) and the computerised National Land Information System. However, uptake of land registration services remains very low even with the introduction of such initiatives. Data collected through TRAC FM polls show people’s negative perceptions of land registration and their limited awareness of the procedures. The bureaucracy in the registration process also hinders the uptake of land registration.

⁷ MLHUD Statistical Abstract 2010 <http://mlhud.go.ug/wp-content/uploads/2015/10/2010MLHUDStatAbst.pdf>

⁸ Handbook on Land Ownership, Rights, Interests and Acquisition in Uganda (2018) https://www.iser-uganda.org/images/downloads/Handbook_on_Land-Rights_Interests_and_Acquisition_Processes_in_Uganda.pdf

⁹ Nakayi Rose, ‘Interrogating Large-scale Land Acquisitions and Land Governance in Uganda: Implications for Women’s Land Rights’, Centre for Basic Research, 2016.

3.1.1. Securing Certificates Of Occupancy or Customary Ownership

The government has mandated districts, through the ALCs, to raise awareness of and issue CCOs and COOs. These certificates protect the interest, ownership and occupancy rights of a person, family or community on land. However, as the radio poll below shows, the majority of tenants and customary land owners are not aware of the existence of these important certificates.

NOTE: CCOs are intended to formalise customary land ownership or interest. Customary land is mainly in the northern part of Uganda. COOs on the other hand are issued on Mailo land to tenants by occupancy (persons who are lawful or bona fide occupants of land belonging to the registered owner, but have security of tenure as long as they pay their annual ground rent to the landlord.) Tenants by occupancy are categorised into **lawful occupants**¹⁰ that is predominantly common in Buganda, Ankole and Tooro Sub-regions and **bonafide occupants**¹¹ who may exist anywhere in the country.

The poll question on CCOs was conducted in Northern Uganda where customary land holding is predominant and the one on COOs was conducted in Buganda/ Central Uganda areas where mailo holding is common.

¹⁰ "lawful occupant" means: a person occupying land by virtue of the repealed Busuulu and Envujjo Law of 1928; Toro Landlord and Tenant Law of 1937; and Ankole Landlord and Tenant Law of 1937;

¹¹ Bona fide occupant" means a person who before the coming into force of the 1995 Constitution had occupied and utilized 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 the Government or an agent of the Government, which may include a local authority.

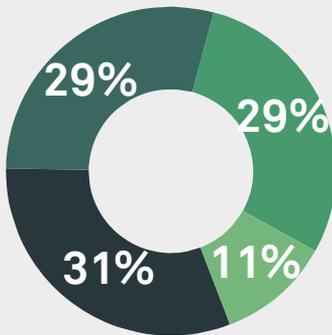
To assess the levels of awareness and circulation of the CCOs and COOs, we asked listeners the poll question illustrated in the following infographic:

Poll Question Five

POLL DURATION: 16 DEC 2018 - 06 JAN 2019

Infographic 5

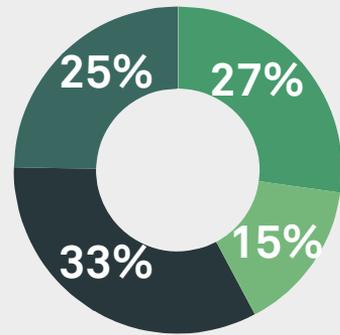
As a customary land owner do you have a Certificate of Customary Ownership?



NUMBER OF RESPONSES 4,599

- I don't know what a CCO/COO is
- No, I don't have one

As a tenant, do you have a Certificate Of Occupancy?

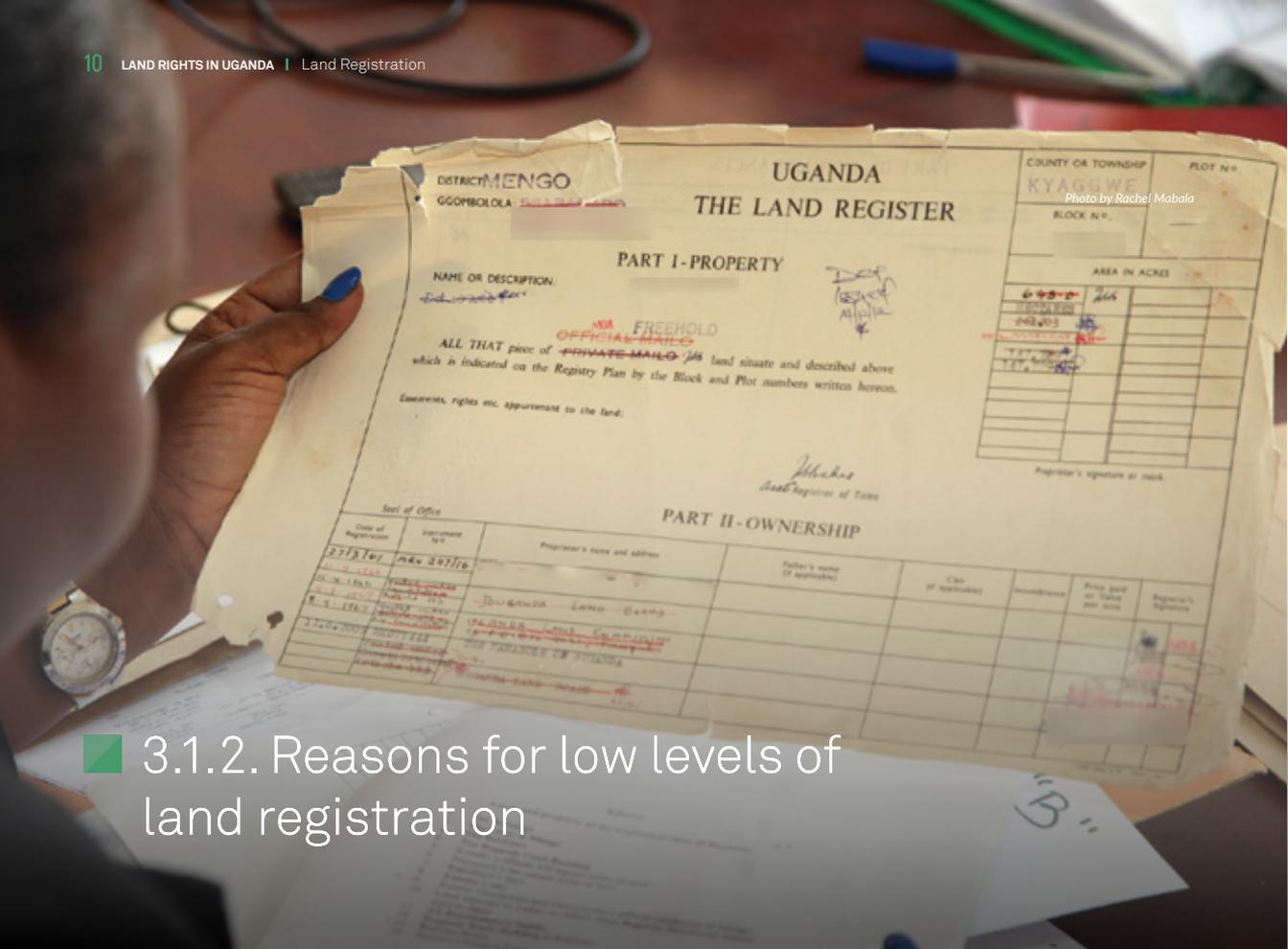


NUMBER OF RESPONSES 6,990

- No, I am unable to get one
- Yes, I have a certificate

Key findings on levels of land registration:

- **Low levels of awareness of the existence of CCOs and COOs:** The customary landowners and tenants by occupancy said that they are not aware of the existence of these certificates (31% for CCOs and 33% for COOs). (See infographic 5 above).



3.1.2. Reasons for low levels of land registration

We were interested to learn why many landowners have not registered their land by obtaining a land title, a CCO or a COO. The infographic below shows the findings of this poll:

Poll Question Two

POLL DURATION: 2 to 15 NOV 2018

Infographic 2

What is the major reason why people in your area do not register their land?



NUMBER OF RESPONSES
15,888

Key findings on reasons for low levels of registration:

- **Registration procedures are too complicated for the common person:** One of the main reasons for low levels of land registration is that the land registration process in Uganda is not well aligned with the capacities of the target population. 24% of respondents said that they do not register their land because the registration process is too complicated (see infographic 2 on page 10).
- **Procedural costs and corruption frustrate registration of customary land:** The majority of the respondents (48%) indicated that land registration is too expensive. Applicants have to financially facilitate the ALCs. They are further discouraged by the lengthy procedure involved in land surveys and the corruption that is often endemic in a bureaucratic process.

NOTE: It is the duty of the tenant by occupancy to apply to the landlord for issuance of the COO. The ALC should resolve any dispute that follows and its resolution may require the landlord to consent to the issuance of the certificate within six months. Failure to consent to the grant of the COO by the landlord entitles the tenant by occupancy a right to appeal to the District Land Tribunal (DLT) or magistrate courts (with the dissolution of DLTs, these powers were transferred to the magistrate courts by implication), which will grant or withhold consent.



3.1.3 The beneficiaries of land registration

Apart from the practical challenges in registering land, including the complicated procedure and related costs, there seems to be limited willpower to go through the process. These results are an indication that respondents have limited trust in government's ability to adhere to centuries-old customary land practices.

Results of this poll indicate that 68% of the 15,992 respondents think land registration will conflict with their own interests and benefit the economic and political elites. Only 32% believe that land registration will bring national development and encourage investment.

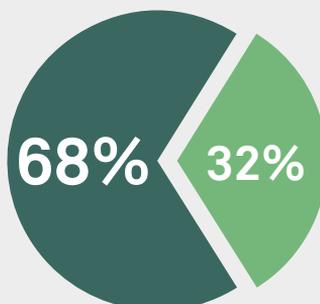
Poll Question One

POLL DURATION: 18 to 30 OCT 2018

Infographic 1

Which of the following statements best describes your view on land registration?

Land registration will favour economic and political elites - not my interests.



Land registration will bring national development as it will encourage investment.

NUMBER OF RESPONSES 15,992

Key findings on who the beneficiaries of land registration are;

- **The majority said that land registration would favour economic and political elites;** Whenever land registration comes up, disputes over boundaries and ownership arise mostly within the categories of customary land and registration of holders of lesser rights, such as tenants on mailo land. This can help explain the suspicion respondents have towards land registration. The statistics indicate that the majority (68%) of respondents see registration as benefitting elites, compared to 32% who believe it will lead to development through investment. (See infographic 1 on page 12.)
- **Fear of merchantability of land** was among the reasons that inspired the opinion that land registration would only favour economic and political elites who possess the capacity to take advantage of and benefit from this trend. Some talk show guests and call-in respondents indicated that when land is registered, it is easier to buy. This would ultimately transfer land ownership to those who have the financial capacity to buy up land, leaving many citizens landless.





3.1.4 Recommendations on land registration

Based on the results of the radio polls and consultations with several land actors, we recommend the following measures:

- I. **The MLHUD should conduct mass sensitisation** of customary land owners and tenants by occupancy about their rights and responsibilities, including their obligation to secure their interests through registration.
- II. The MLHUD should make deliberate efforts to ensure that CCOs and COOs are easily accessible to customary holders, bona fide occupants and tenants by occupancy. Officials can do this through deliberate programmes to issue these certificates en masse.
- III. The MLHUD should increase the institutional capacity of land management units within local governments by equipping them with the necessary knowledge, skills, tools and monetary resources to exercise their mandate. The government should pay members of the ALCs fairly to ease their work and to reduce their solicitation of funds from applicants.
- IV. The MLHUD should fight corruption in the land registry to prevent cases of issuance of multiple titles or issuance of titles to the wrong person and lengthy procedures.
- V. The government of Uganda should reinstate the District Land Tribunals and reinforce them to efficiently do their work. Their dysfunctional nature disadvantages citizens.
- VI. Government should sensitise landlords about their responsibility and duty to consent to the issuance of COOs to tenants and lawful and bona fide occupants living on their land.
- VII. The Parliament of Uganda should amend the Land Act and assign a duty or obligation for landlords to consent to the issuance of COOs if the tenant has no outstanding obligations that are due to the landlord, like unpaid ground rent.

3.2. Women's Land Rights

■ Introduction

Land rights are claims people have on land and what they can do with it.¹² The Uganda Constitution (Article 33) guarantees equality between men and women and accords them equal property rights before, during and after marriage. While women's land rights are protected under the Ugandan Constitution, traditional norms and practices are still the major determinants of how women access, own and control land.

Ownership of land in Uganda does not reflect the equality guaranteed under the law. While a higher proportion of women (73.4%) than men (63.1%) work in the agricultural sector (NLFS),¹³ fewer women (26.7%) individually own land than men (33.5%).¹⁴

These statistics portray inequality between land use and ownership rights among women and men in Uganda. If the issue of women's land rights is not addressed, women's livelihoods will remain at stake.

Photo by Ason Houston

■ 3.2.1. Barriers to women's land ownership

Many women have been denied access to or inheritance of land in cases of divorce, death of husbands or fathers. Communities often blame this on patriarchal historical tendencies that the current legal reforms should help correct.

The following poll was conducted to find out why there are still low levels of land ownership among women and to assess the weight that is attached to the various social, political and economic factors.

¹² Property rights and gender in Uganda. <https://www.icrw.org/files/images/Property-Rights-and-Gender-A-Training-Toolkit-Rights-and-Gender-in-Uganda>.

¹³ National Labour Force Survey 2016/17 https://www.ubos.org/wp-content/uploads/publications/10_2018Report_national_labour_force_survey_2016_17.pdf

¹⁴ Uganda National Household Survey 2016/17 https://www.ubos.org/onlinefiles/uploads/ubos/pdf%20documents/UNHS_VI_2017_Version_L_%2027th_September_2017.pdf

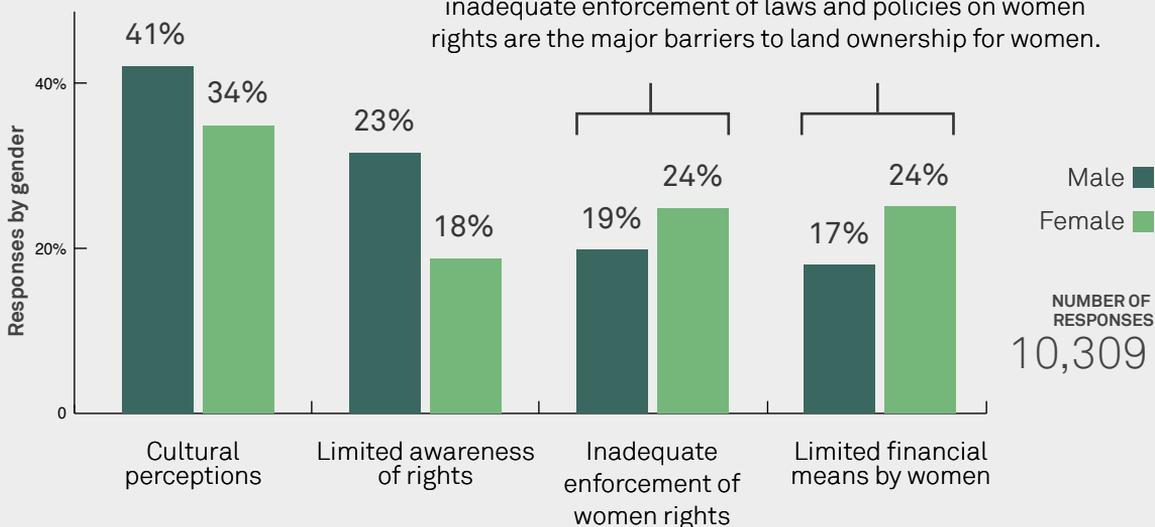
Poll Question Six

POLL DURATION: 13 to 27 JAN 2019

Infographic 6

What is the major barrier for women to own land in your area?

More women than men say limited financial means and inadequate enforcement of laws and policies on women rights are the major barriers to land ownership for women.



Key findings on women's land rights;

- More women than men believe that limited financial means and inadequate enforcement of laws and policies pertaining to women's rights are the major barriers to land ownership for women.
- The majority of the respondents believe that cultural beliefs and practices that prohibit women from inheriting land, for instance, are still a major barrier to women's land ownership.
- Significantly, more men than women think that cultural beliefs inhibit women from owning land.
- Women in this poll support a more practical line of thought: According to female respondents, women have limited financial means.

Ownership of land in Uganda

UDHS 2016/2017

26.6%
WOMEN

37.1%
MEN

36.3%
TOGETHER



Ownership of agricultural land in Uganda

UDHS 2016/2017

26.7%
WOMEN

33.5%
MEN

39.8%
TOGETHER

3.2.2. Recommendations on women's land rights

- I. The MLHUD should create intentional awareness about women's land rights not only among women, but also men and especially cultural and religious leaders who are responsible for setting community perceptions on matters of land ownership.
- II. Cultural and religious leaders should promote gender equality for property rights and discourage practices that violate women's right to property.
- III. The government and CSO stakeholders should boost efforts to promote girl child education, especially in villages. Researchers believe that increasing literacy among women and girls empowers them to challenge the patriarchal traditions and significantly increases ownership of land among women.¹⁵ Increased levels of education among women will also increase their role in political decision-making related to land issues.
- IV. The government should ensure that laws that promote the property rights of women and girls are widely enforced, especially in the area of succession where most women are still denied the chance to inherit land.
- V. The Parliament of Uganda should fast track the passage of the Marriage Bill as well as the Amendment of the Succession Act, so that women can equally benefit from inheritance of property.
- VI. The government should increase investments in initiatives that seek to increase the economic empowerment of women and girls to increase their ability to buy, own and control land.



¹⁵ Why is gender an issue in access to land <http://www.fao.org/3/Y4308E/y4308e05.htm>

3.3. Land Acquisitions and Evictions

■ Introduction

According to Uganda National Roads Authority (UNRA), land acquisition is conceptualised as, “the process by which the government or government institutions acquire private land for the purpose of industrialization, development of infrastructural facilities or urbanisation of the private land, and provides compensation to the affected landowners and their rehabilitation and resettlement.”¹⁶

The government of Uganda is currently increasing investment in infrastructure development projects as part of its strategy to achieve middle-income status by the year 2020 (see Infographic 4). A number of big infrastructure projects are underway nationwide, ranging from road and railway works to hydro-electric dams and an oil pipeline.

Foreign private investors continue to solicit government for land for factories, mines and farmland. These projects often require the government to acquire privately owned land, which impacts the lives of local landowners and occupants.

Article 26(2)(a) of the Constitution of Uganda allows the government to acquire privately owned land in order to implement projects for, “public use or in the interest of defence, public safety, public order, public morality or public health”. However, **Article 26 requires the government to make a “prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property” to persons affected by government infrastructure projects. The Constitution also makes provision for, “a right of access to a court of law by any person who has an interest or right over the property”.** The government argues that these constitutional provisions limit its delivery of services in so far as project implementation is concerned.

In 2016, the MLHUD argued that a constitutional amendment would ease the task of land acquisition for the government. Subsequently, Constitutional Amendment Bill No. 13 of 2017 was tabled before Parliament to allow government to compulsorily acquire land before compensating owners.

This bill was widely criticized by nonstate land actors because it would do away with the principle of prior compensation, which is the backbone of Article 26. That would make citizens, especially those who have a limited capacity to engage government in costly legal battles, liable to lose their land or to be intimidated into taking a lesser compensation amount than their land is worth.

This posed a threat to more than 80% of Ugandans who derive their livelihood from land (see Infographic 8), as their fate would be unpredictable in cases where the government exercises its power of eminent domain. Amid this criticism, policymakers withdrew the Constitutional Amendment Bill in September 2018 to allow for further consultation.

It should be noted, however, that during land acquisition by government or private entities, ‘illegal’ land eviction is among the possible results that needs to be avoided. Evictions are sometimes backed by legal authorisations, such as court orders, but the procedures that are used in securing such orders and the manner in which they are executed are often in conflict with the land rights of individuals and the rule of law.

We asked radio listeners what they think the main cause of land evictions is in their community and the results are presented in infographic 4a on page 19.

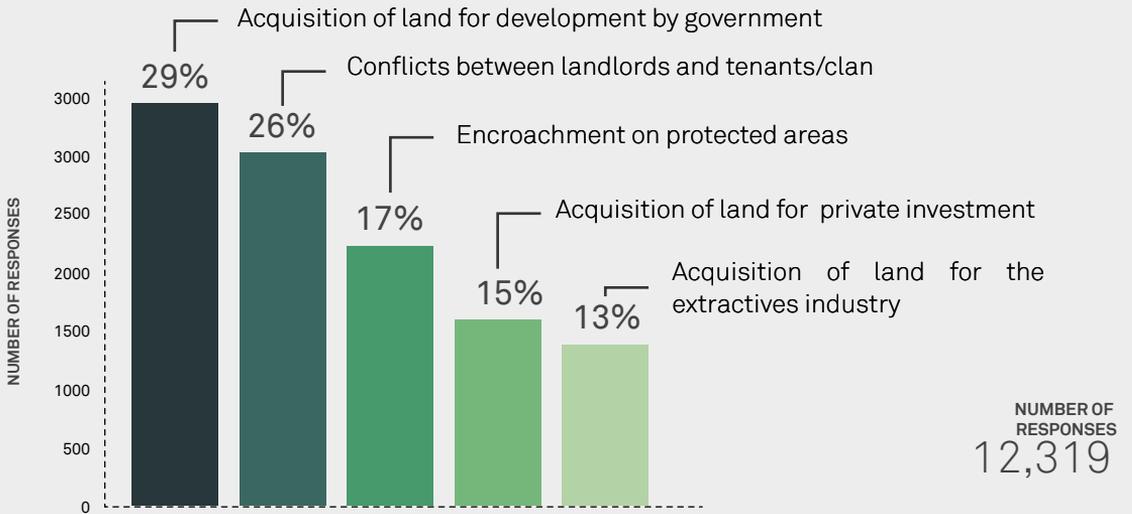
¹⁶ Norah Njangali and William Matovu, ‘Presentation on Challenges Affecting Land Acquisition for Infrastructure Projects in Uganda’, 2016. Accessible at: <http://www.surveyorsofuganda.org/downloads/CHALLENGES%20of%20LAND%20ACQUISITION%20FOR%20INFRASTRUCTURE%20PROJECTS%20IN%20UGANDA%20xx.pdf>

Poll Question Four

POLL DURATION: 3 to 10 NOV 2018

Infographic 4a

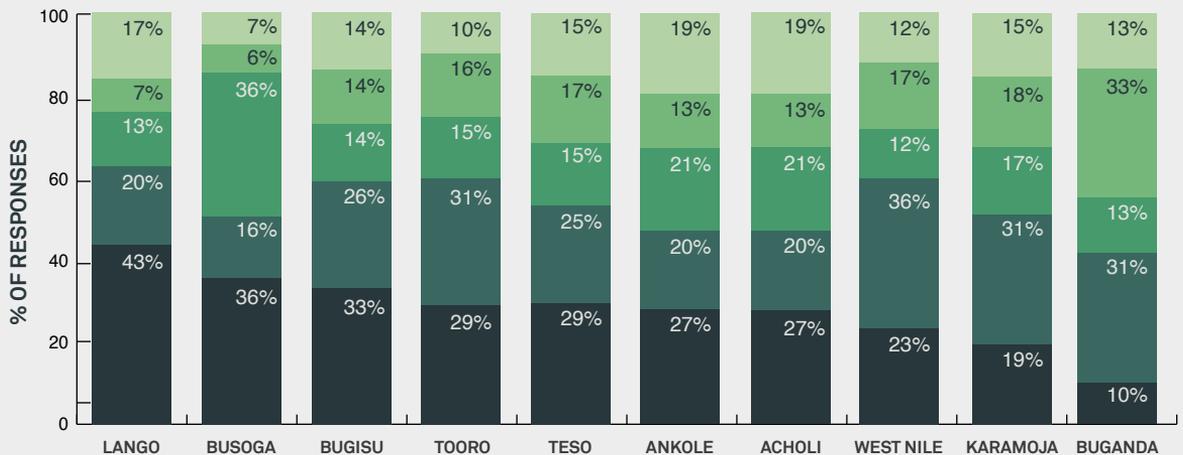
What is the most common reason for land evictions in your community?



In a bid to narrow down the responses on the reasons for land eviction, it was important to know which sub-region identifies most with which factor.

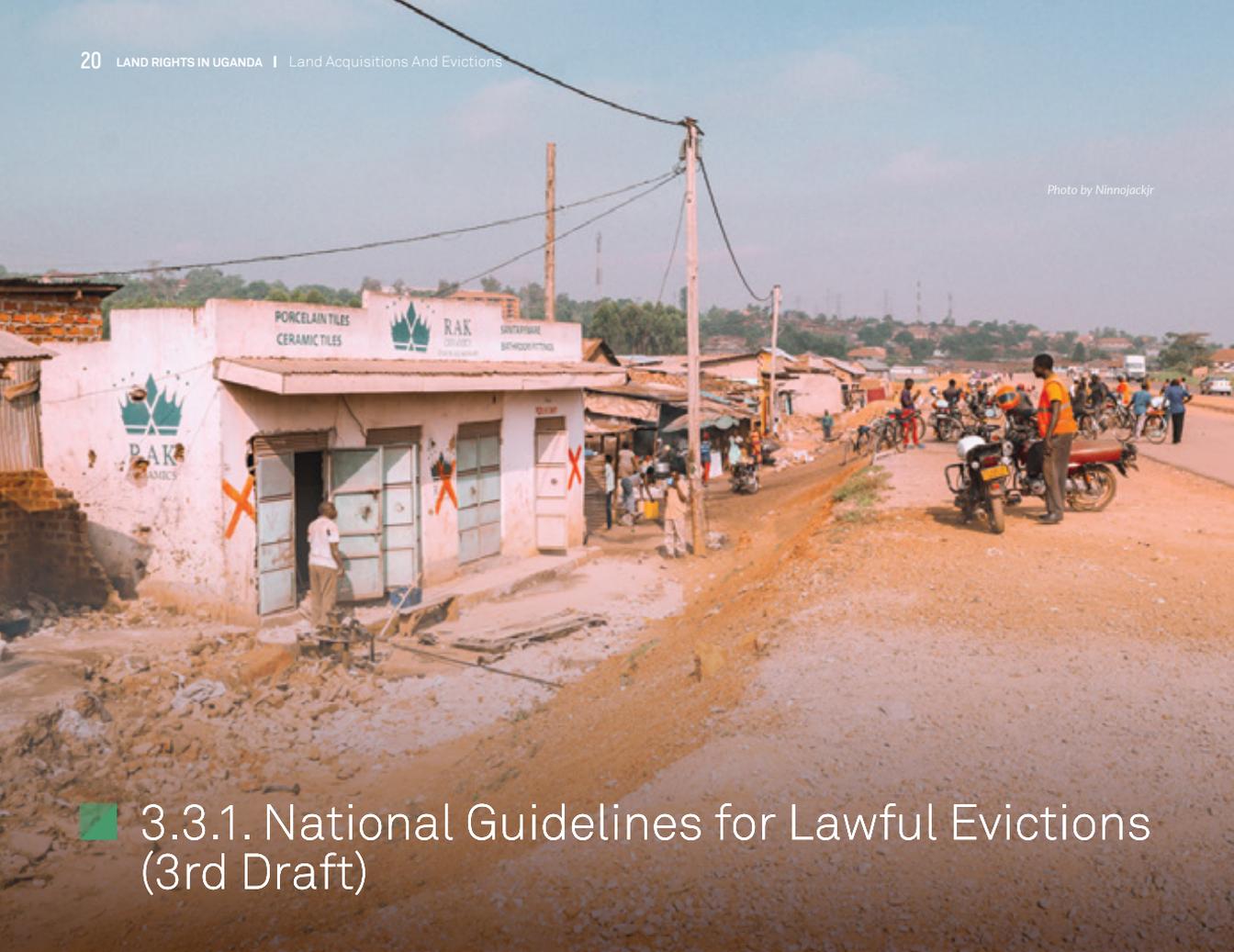
The data on responses based on each sub-region is presented in the infographic below;

Infographic 4b



These results are especially important to note:

- More respondents in Lango (43%) than any other sub-region say acquisition of land for government development projects is the major cause of land evictions. This may be attributed to, among other factors, the multiplicity of interests on customary land, which is the major form of holding in Lango. Often interests on customary land are not registered and this makes it difficult to prove ownership, especially during processes of land acquisition.
- Evictions relating to acquisition of land for private investment are significantly more prevalent in Buganda sub-region at 33%.



3.3.1. National Guidelines for Lawful Evictions (3rd Draft)

Introduction

Uganda, like many other African countries, is faced with the problem of human rights being violated in the course of implementing legal evictions. These evictions are normally carried out by court bailiffs and sometimes security agents, who have been reported to execute their role inhumanely. Human rights agencies have condemned the violation of human rights during evictions (see The Uganda Human Rights Commission 21st Annual Report¹⁷) and court petitions have been filed (see *Muhindo & Ors v. Attorney General* (2016)).

In January 2019, the Civil Division of the High Court of Uganda in Kampala pronounced itself in the case of *Muhindo James and others Vs Attorney General*¹⁸, which sought enforcement and a declaration on the absence of adequate procedures governing evictions. The applicants argued that absence of eviction procedures is a violation of the right to life, dignity and property, which are recognized under Articles 22, 24 and 26 of the Ugandan Constitution. The High Court ruled in favour of the applicants and ordered the government to develop comprehensive national evictions guidelines.

MLHUD embarked on drafting the proposed National Guidelines for Lawful Evictions in response to this ruling. The draft was shared with land actors as part of the consultation process, with the aim of getting views and input from stakeholders and institutions.

¹⁷ The Uganda Human Rights Commission 21st Annual Report <http://uhrc.ug/reports>

¹⁸ *Muhindo & 3 Ors Vs Attorney General* (MISCELLANEOUS CAUSE No.127 OF 2016) [2019] UGHCCD 3 (25 January 2019); <https://ulii.org/ug/judgment/hc-civil-division-uganda/2019/3-0>



Photo by Ninnojackir

Civil society's recommendations on National Guidelines for Lawful Evictions

Below is a list of suggestions land actors submitted to MLHUD;

- I. The MLHUD should harmonise these guidelines with other policies and legislation to guide eviction in protected areas, including forests, national parks and wetlands.¹⁹
- II. The guidelines should emphasise that compensation of properties on the land in question should be done in accordance with the principles in Article 26 of the 1995 Uganda Constitution, which protects citizens from deprivation of property and provides for fair, adequate and prior compensation before taking possession.
- III. The guidelines should clearly define key terms, such as what amounts to an illegal/unlawful eviction and what the penalty for it is.
- IV. The six-months eviction notice should be effective from the date the notice is duly served to the tenant and not the date of court order.
- V. The eviction notice required by the guidelines should be in a language understood by the affected parties, including persons with disabilities (for instance braille).
- VI. The eviction notice should include details of the registered owner of the land and waive the obligation of verifying the said ownership by the tenant.
- VII. The guidelines should clearly define the roles of enforcement agencies in evictions, such as the police, the army and the bailiffs.
- VIII. Guidelines should prohibit evictions in bad weather in line with the case ruling in *Muhindo & Ors v. Attorney General* (2016).
- IX. The guidelines should give tenants an option to acquire the land when faced with an eviction.
- X. Officials should consider equitable or unregistered interests of land before any evictions can take place and the guidelines should emphasise this.
- XI. The guidelines should also apply to unlawful tenants to ensure that their human rights and dignity are observed.
- XII. The guidelines should make conducting an impact assessment a mandatory procedure prior to any eviction.
- XIII. The guidelines should avoid restricting the right to appeal.

¹⁹ These could include: Forest and tree plant act, 2003; Wildlife Act, National Environment management act, 2018 among others



Photo by Rachel Munn

3.3.2. Does land acquisition urgency warrant taking possession before compensation?

Land compensation issues have plagued many infrastructure projects leading to delays that have cost the government billions of shillings. According to the MLHUD, land owners ask for exorbitant amounts of money in compensation,²⁰ which results in legal battles that delay projects intended for national development.

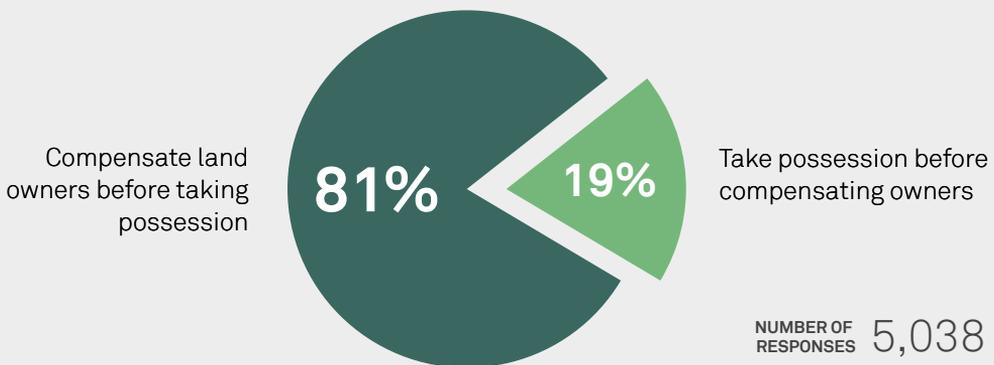
That is why the state is making an argument that allowing the government to take possession of privately owned land before the compensation of its owners/occupants would ease land acquisition and speed up the development of infrastructure projects, like roads, dams and factories.

Poll Question Eight

POLL DURATION: 12 to 25 FEB 2019

Infographic 8

To speed up infrastructure projects, should government be able to compensate people after taking possession of their land?



²⁰ Daily Monitor story, July 19 2017: 50 government projects stall over land disputes <https://www.monitor.co.ug/News/National/50-government-projects-stall-over-land-disputes/688334-4021990-xnqakyz/index.html>

Key findings from the poll of prior- or post-acquisition compensation;

- Even if such measure would speed up infrastructure projects, the majority of the respondents want compensation PRIOR to acquisition of property. The TRAC FM radio poll findings clearly show that 81% of respondents feel that acquisition should only happen upon prompt payment of fair and adequate compensation PRIOR to taking possession of their land. The main reason for this, according to poll 7, is that most respondents (44%) feel that dispute resolution institutions are corrupt, unresponsive or inaccessible (see Infographic 7 on page 27).

3.3.3. Apart from prior compensation, what other challenges are faced during compulsory acquisition?

A situational analysis on compulsory land acquisition and management in Uganda by our partner LASPNET²¹ indicates that the major reasons for the slow implementation of government infrastructure projects are the delayed compensation of Project Affected Persons (PAPs) and inefficiencies in the office of the Chief Government Valuer among others.

This contradicts the government's claim that people who reject government compensation awards and demand excessive value delay government infrastructure projects.

TRAC FM conducted a poll question to further investigate the delays and challenges in processes of land acquisition.

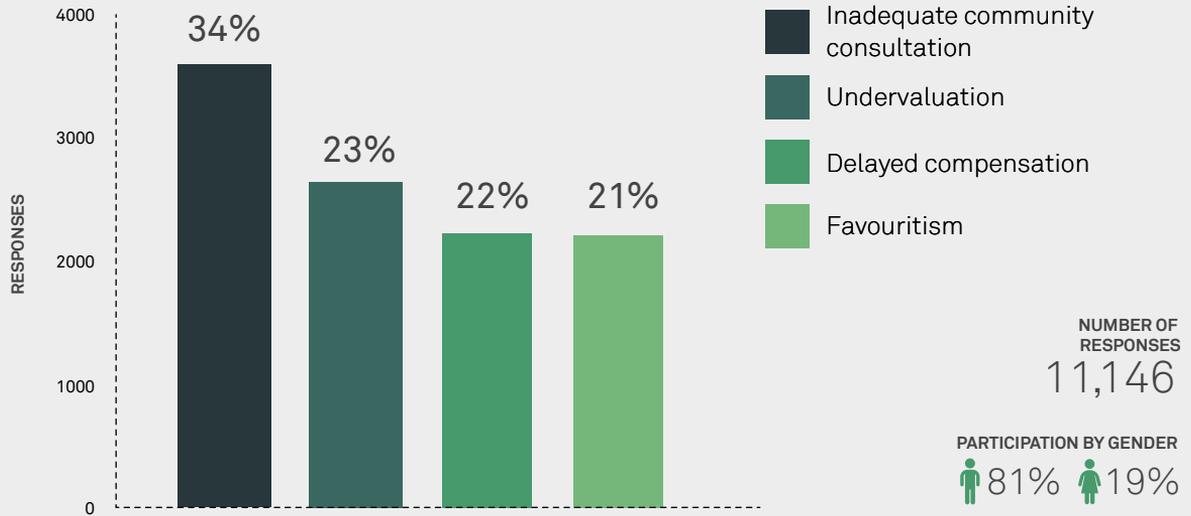


Poll Question Three

POLL DURATION: 17 to 27 NOV 2018

Infographic 3

What is the biggest challenge faced during the process of land acquisition for development purposes by government?



Key findings on land acquisition and evictions

- **Inadequate consultation is a big challenge in acquisition:** 34% of respondents feel that the biggest problem in land acquisition procedures is inadequate community consultation (see Infographic 3 above). Many people feel the government leaves them in the dark when it comes to decisions on land acquisition. As a result, it is often difficult for citizens to understand the specific purpose for which land is being acquired. They are not informed how it will benefit the general public, the total area of land that is required and when the land will actually be used.
- **More respondents from the central region indicated that undervaluation was a challenge in acquisition.** This may be partially explained by the fact that land in the central region is highly commercialised and more densely populated compared to the rest of the country.

Quick Facts



The government failed to compile and update compensation rates in consultation with communities. (AFIEGO 2017)



Compensation for 2000 people affected by the Standard Gauge Railway in Tororo was delayed by 3 years. (Daily Monitor 2018)



In Hoima district 7000 people were evicted to make way for the oil refinery but their land was valued at wrong rates. (AFIEGO 2014)

3.4. Land Disputes and Access to Land Justice

■ Introduction

The HiiL Justice Needs in Uganda Report 2016²² ranked land justice problems as the second-biggest group of justice problems in Uganda at 36%, behind family conflicts at 37%. It is clear that land wrangles have become the order of the day, with an increase in cases of illegal evictions, land grabbing and the violent clashes that result in deaths and other criminal acts. The most notorious cases include the Apaa land conflict²³ in Northern Uganda, instances of land grabbing in the Albertine regions²⁴ that originated from oil extraction and land grabbing in Mubende District.²⁵

It was important to get to know what the victims of this problem think of the situation.



²² HiiL Justice Needs in Uganda (2016) https://www.hiil.org/wp-content/uploads/2018/07/Uganda-Mini-Folder_2016-1.pdf

²³ Daily Monitor story, December 9 2019: Apaa land: Acholi, Adjumani fail to agree on Museveni deal <https://www.monitor.co.ug/News/National/Apaa-land-Acholi-Adjumani-fail-agree-Museveni-deal/688334-4887524-14fwyxez/index.html>

²⁴ Daily Monitor story, February 1 2017: Government cancels several land titles in Albertine region <https://www.monitor.co.ug/News/National/Government--land-titles-Albertine-region-oil-Bunyoro-/688334-3795468-g2b8wjz/index.html>

²⁵ The Observer story, May 23, 2016: Chinese firm accused of land grabbing <https://observer.ug/news-headlines/44369-chinese-firm-accused-of-land-grabbing-2>

3.4.1 Access to land justice

The Justice Law and Order Sector (JLOS) Annual Report for 2017/2018 reveals that land disputes comprise a large proportion of the civil case backlog and also contribute to several criminal cases like murder, arson, assaults and trespass. Of the 31,580 backlogged cases as of June 2018, at least 16,819 were related to land.²⁶

Most land conflicts in Uganda include at least one of the following: boundary disputes; conflicting inheritance claims; multiple claims over the same land; fraudulent transactions; encroachment on conserved land; illegal evictions; or valuation and compensation disputes arising out of (compulsory) land acquisitions. In many cases affected persons are not able to access a quick, effective and fair response to resolve these land disputes. Access to land justice thus becomes a requisite means to combat many human rights violations and abuse.

Land injustices disproportionately affect vulnerable groups, especially women, youth, orphans, persons with disabilities and the elderly. These vulnerable groups find it difficult to access justice through state institutions because of the associated technical, financial and bureaucratic hurdles.

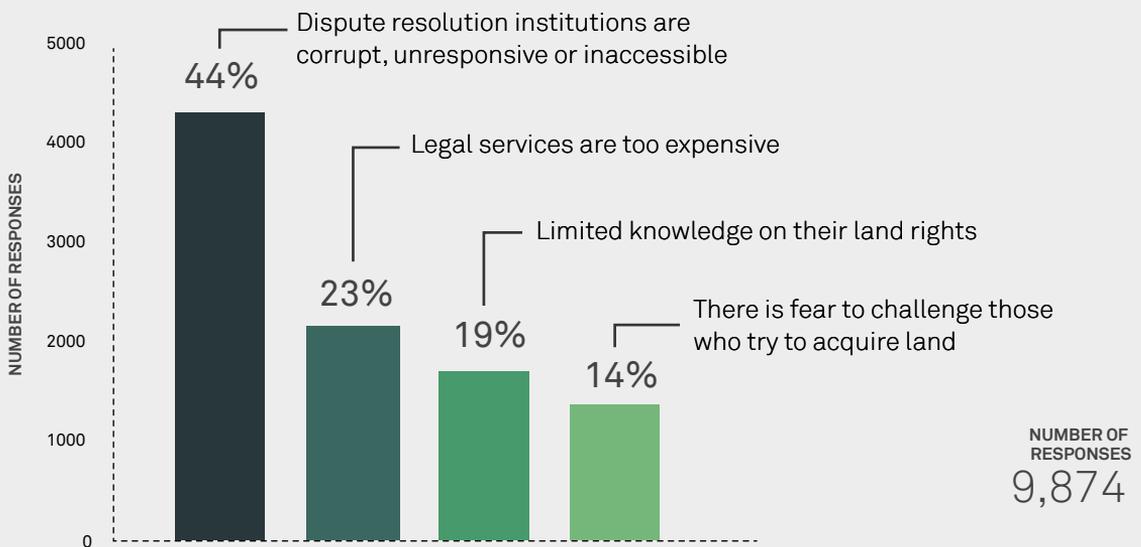
This background warranted the need for further exploration of the biggest barriers to accessing justice on land matters in Uganda. The findings are represented in the infographic below:

Poll Question Seven

POLL DURATION: 27 JAN to 9 FEB 2019

Infographic 7

What is the biggest barrier to accessing justice on land matters in your community?



26 JLOS Annual Performance Report 2017/2018 <https://www.jlos.go.ug/index.php/...reports/418-annual-performance-report-2017-2018> (on Page 7)

Quick Facts

1 out of **4**

 of all backlogged court cases are related to land disputes.

JLOS 2015

It takes High Court

26.7
 Months

to dispose of a land matter

JLOS 2013

It takes the Magistrates' Court

21.5
 Months

to dispose of a land matter

Key findings on land disputes and access to land justice

- **Most of the barriers to accessing land justice come from within the legal system itself:** 67% of the respondents said that the major barriers to accessing land justice are the cost of legal services, corruption and unresponsiveness or inaccessibility of dispute resolution mechanisms.
- **District land tribunals not operational:** It should be noted that the government suspended the work of the DLTs in November 2006 due to lack of funds. The Land Act refers all disputes that are not satisfactorily resolved by the ALCs to these tribunals. Their non-existence means that such disputes are referred to the magistrate courts that are already grappling with a case backlog. This partly contributes to the delays in dispute resolution.

**THIS PLOT
 IS NOT FOR SALE**

“

A lot of disputes that come to courts are a result of fraudulent and irregular land dealings which are reportedly facilitated by the land registries

The cost of running a dispute in court is so high particularly the cost of hiring legal services.

Access to justice is further limited by ignorance of the law and legal rights on the part of majority population.

**Hon. Justice Dr
 Andrew Bashaija**

Head of the Land Division of
 the High Court.

3.4.2. Recommendations on land disputes and access to land justice

- I. The Parliament of Uganda should fast track the passage of the National Legal Aid Bill that will provide free legal services to indigent persons in order to guarantee access to land justice for everyone.
- II. The Parliament should also fast track the passage of the Administration of the Judiciary Bill to increase the capacity of the judiciary to deal with case backlogs and expedite the case hearing processes.
- III. The judiciary should also strengthen internal mechanisms to deal with any form of corruption that may manifest.
- IV. The public should be at the forefront of securing their land rights by seeking legal redress in case of any violations of land rights and make use of Legal Aid Service Providers (LASPs) if they cannot afford paid legal services.



3.5. The Land Rights Call Centre

Land Justice Areas of Intervention

Alongside the radio talk shows, TRAC FM and partners set up a call centre to offer help and expert advice on land to Ugandans across the country. The call centre featured a toll-free helpline (0800 100600) manned by six extensively trained call agents. The agents were proficient in 10 major languages spoken in Uganda, including Luo, Luganda, Lugbara, English, Ateso, Lugishu, Lusoga, 4Rs (Runyan-kole-Rukiga, Runyoro-Rutooro) and Akarimajong. The agents responded to calls from respondents with concerns, questions and inquiries on land-related issues between January 14, 2019, and April 15, 2019.

Land rights experts from LASPNET, LANDNET, NETPIL, PELUM Uganda, Environmental Alert and the International Accountability Project offered advice to and supported the call center agents and the callers throughout the three months.

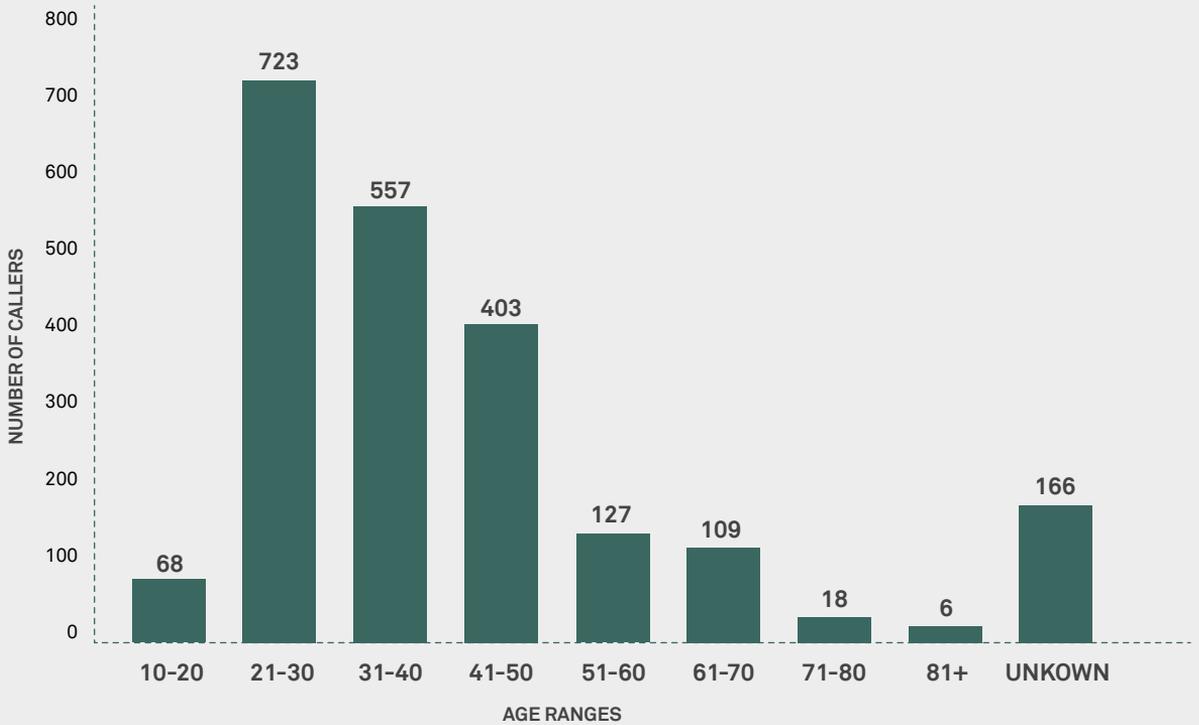
During that period, the call centre agents handled 2,177 calls initiated by hundreds of callers inquiring about family land disputes, boundary disputes, conflicting inheritance claims, multiple claims over the same land, fraudulent transactions, encroachment on conserved land, illegal evictions and many other issues.

The majority of callers were men (1896, compared to 281 women). This low number of female callers can be attributed to the fact that fewer women than men own land, as well as cultural and technological determinants that deter women's participation.



The callers were also categorised based on occupation and age groups;

Infographic 9



The graph above shows that the majority (33.2%) of callers were between 21 - 30 years, followed by 31-40 years (25.6%) and 41-50 (18.5%). Many of these callers (47.3%) were farmers followed by business people (22.3%). The livelihood of farmers depends entirely on land, which explains the high numbers.

Table 1. Main occupation of the callers

| OCCUPATION | NUMBER OF CALLERS | PERCENTAGE |
|-----------------------------|-------------------|------------|
| Farmer | 1029 | 47.3 |
| Business | 484 | 22.2 |
| Construction Work / Builder | 94 | 4.2 |
| Student | 94 | 4.3 |
| Teacher | 82 | 3.8 |
| Other | 395 | 18.1 |
| Grand Total | 2177 | 100 |

3.5.1. The major land justice intervention areas:

The data collected through TRAC FM's call centre was categorised under different themes to identify land justice gaps that require proper interventions as represented in the table below;

Table 2.

| THEME / CATEGORIES | CALLERS |
|---|--------------|
| Public awareness and land management | 1,296 |
| Customary and Mailo - commercialisation of land | 331 |
| Access to justice | 284 |
| Evictions, resettlements and rehabilitations | 108 |
| Women and land rights | 88 |
| Land value and fair and adequate compensation | 39 |
| Corruption and insider knowledge | 20 |
| Compulsory acquisition and implementaion of existing land | 11 |
| Grand Total | 2,177 |

Key findings from the call centre:

- Most of the inquiries to the call centre were about family and community land disputes. For example, women called in asking how they could claim land left to them by their fathers and many men asked how they could stop relatives from taking land left to them by their fathers. There are issues of landlords refusing to receive Busuulu, landlords selling land without notifying existing tenants, squatters, and the inability to locate landlords, among many other issues.
- There are many information gaps at the district level. Many callers didn't know where to register their land, pay Busuulu and find information about who owns the land, for example.
- There is also a significant amount of the population that cannot afford legal services. According to the statistics from the call centre, 13% of the callers reported issues of inaccessibility to justice.



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4.0. Conclusion

Land will remain the main source of livelihood for the majority of Uganda's population and a major engine for economic development. Questions about land in Uganda must therefore balance the ambitious goal of propelling the country toward middle-income status and guaranteeing the constitutional and international rights of individuals to use or own land.

National development goals are driven by projects like the development of the standard gauge railway that can facilitate trade and transport, the advancement of the power grid that can electrify villages and the installation of an oil pipeline that can significantly boost Uganda's economy. However, these projects can only be realised against a backdrop of functional laws and policies regarding land registration, prompt payment of fair and adequate compensation, access to justice and public awareness of laws and policies.

Because of the complex nature of the land laws, limited public awareness and often underperforming public institutions, the system of land laws and policies is prone to fail or be easily abused or misinterpreted by a wide variety of stakeholders, including the private sector, public offices and even family members.

Millions of Ugandan citizens know little about their land rights, have limited access to legal aid and lack documentation to prove their ownership and interest on land. This group is not only extremely vulnerable to fraud and intimidation, they also lack a voice in shaping the institutions that develop the national land policies.

In dealing with the land question, a level playing field is required where the positions of citizens, the government and the private sector are all considered equally. This campaign opened up the space for individual citizens, who are often unheard, to debate and offer input into the land question. This report presents their views and experiences based on 90 radio debates and nearly 100,000 submissions in national SMS polls. The citizens' perspective should be considered by those who eventually make laws and implement policies.

Land policies should not be used as a means to achieve one stakeholder's agenda at the expense of others. Therefore, striking a balance between advancing the national development agenda and observing individual property rights is key to answering the land question in Uganda.

Thank you for reading,
The TRAC FM Team
& Partners

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About TRAC FM

TRAC FM is an NGO that enables citizens in Uganda and other East African countries to take part in meaningful public debate on public policy and governance. TRAC FM reaches out to even the most remote and excluded citizens through the use of basic mobile phones, free SMS and interactive FM radio talk-shows broadcast in local languages.

Through this interaction, TRAC FM collects valuable real-time data from citizens throughout Uganda which helps to identify socio-economic and political trends. The collected data assists policymakers and practitioners on the ground to respond in more flexible ways to emerging opportunities and risks.

Poll data from the various sub-regions is combined with existing statistics and used in infographics to amplify the voice of people during data-driven advocacy campaigns targeting relevant ministries and local government.

TRAC FM's mission is to stimulate responsive governance by leveraging public opinion in interactive radio debates and data-driven advocacy campaigns.

TRAC FM's established methodology has shown unprecedented results with over 1,500,000 individual users in Uganda alone.

TRAC FM is sharing its knowledge, experience and software platform with NGOs and media organisations around the world to boost their research, M&E campaigns and as an early warning system in humanitarian relief efforts.

Do you want to get in touch with people at the grassroots? Get in touch with us to find out more about partnerships: info@tracfm.org





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