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Land grabbing or economic development? A modernisation debate enacted on Bugala Island, Uganda

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ABSTRACT

Globally, the phenomenon of large-scale land leasing, or 'land grabbing', is the subject of increasing concern. At the heart of the criticism of this phenomenon is the debate over the most appropriate methods of achieving economic development within the context of a rapidly globalising world. This paper analyzes the process and outcomes of establishing an oil palm plantation on Bugala Island, Uganda. The author asserts that tensions over land use within Uganda reflect incompatible understandings of the relations between land and society and distrust amongst stakeholders. In this case, in spite of these incompatibilities and distrust, the plantation has resulted in positive results for both local land users and the national economy. Yet at the same time, it demonstrates a traditional approach to land use that ignores past injustice and does not recognise power differentials.

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Introduction: analysing land leases and changes in land use

Utilising the model developed by Mayke Kaag and Annelies Zoomers (2014) to examine specific instances of land grabs, this paper analyzes the interplay between government actors, corporate actors, NGOs and individual land owners and occupants in order to explain the successful completion of a palm oil plantation on Bugala Island, Uganda. It moves beyond the 'hype' of assuming that all land deals are exploitative and demonstrates a nuanced understanding of costs and benefits. The long, and at times contentious, process to get an agreement between the Government of Uganda (GoU), land owners, and Oil Palm Uganda Limited (OPUL) was largely government-driven, and must be understood within the historical framework of property rights in Uganda as well as a global climate in which activists sometimes draw broad conclusions about land development without adequately assessing specific cases.¹ Complimenting Kaag and Zoomers model, Patrick McAuslan (2013) examines land law reform in Eastern Africa from a justice framework that distinguishes between 'traditional' and 'transformative' land reforms. Combining an examination of the political and social justice elements of the land reform process in Uganda with a detailed analysis of the Bugala Island palm oil plantation helps us move beyond the 'hype' to better understand under what conditions different actors benefit

or lose during large-scale land use changes, which offers lessons for future land development projects elsewhere.

Kaag and Zoomers (2014) argue that in order to truly understand the phenomenon of global land grabs, researchers need to move beyond the prioritisation of acreage as the key variable, the hyperbole and rumours, and the intense focus on international investors driving land deals. More precisely, researchers need to analyze ‘the processes by which these land deals are made and what happens afterwards – that is, what they bring in terms of profit and problems, and for whom’ (2014, 2). In examining any specific case, an underlying theory of land use change is necessary to make sense of complex processes and distinct outcomes. McAuslan distinguishes between traditional and transformative approaches to land reform in East Africa. The traditional approach

continues the colonial approach of vesting land in the state, maintains a dual system of land tenure and at the same time adopts an overall policy perspective of moving towards a land market based on registered title to land which implies or as we will see, in some cases expressly, provides for the disappearance of customary tenure and, perhaps most important, makes no or little effort to address the inequalities and injustices of the land tenure system inherited at independence and indeed does equally little to prevent its continuance and worsening thereafter. (2013, 14–15)

The transformative approach, on the other hand,

refers to changes in land law which have as their avowed and deliberate aim the righting of past social and economic injustices and the creation of a system of land law which is designed to ensure that those formerly maltreated or unfairly discriminated against by the land laws are given at the least an equal opportunity and preferably a favourable position in a new land law regime by the redistribution of rights and opportunities to enable them to better their life chances (11).

The process of land reform is highly politicised and the actual aims may not be improving security of tenure, increasing agricultural productivity or creating land markets, but rather internal political realities and pressures (McAuslan 2013, 15). Even with a theoretical distinction between traditional and transformative justice in place, McAuslan cautions that it is ultimately the push and pull of national politics that determines outcomes and decides the winners and losers.

Following McAuslan’s theoretical framework, this case study advances our knowledge of land deals by addressing three essential questions: how did various invested actors utilise economic, social, and political forces to assert their interests during the negotiation process over land use on Bugala Island?; what have been the specific impacts of the oil palm plantation on those affected, and did the process by which this deal emerged explain the benefits and costs to different actors?; how does this particular case inform our understanding of Uganda’s government-driven land reform process in terms of power and justice?

Kaag and Zoomers assert that what is still lacking in the literature on land grabbing is

a more thorough investigation of its dynamics over time, as well as its manifestations on the ground in the various country contexts and localities where land grabbing takes place. (2014, 5)

There are tangible social, economic, and political consequences that result from the Ugandan government’s approach to land reform. These consequences enhance our understanding of the limits and strengths of the Museveni regime’s top-down approach

to land use policy, as well as illuminate the potential obstacles to achieving transformative land reform through state-led negotiations.

Land leasing or land grabbing?

The drivers of global 'land grabbing' have been well defined within the literature (Cotula and Vermeulen 2009; Friis and Reenberg 2010; De Schutter 2011; Borras and Franco 2012). The main underlying drivers of land grabbing identified by Friis and Reenberg are changing demographic conditions, most notably increasing population numbers, global economic conditions, the desire for new markets for investors as well as dietary changes that require greater land areas for grazing, and climate changes that have incentivized states to seek land for biofuels as well as to seek greater food security (2010). The underlying drivers may be global, national or local, and are best understood within a globalised world in which states, corporations, and individuals interact and rely on one another for meeting both economic and political needs. The consequences of land use changes are potentially enormous both in terms of human impact and in terms of state-society relations. Food insecurity, expulsion of peasants, loss of local control over resources and rising conflict are some of the consequences feared by those raising the alarm (Cotula and Vermeulen 2009; von Braun and Meinzen-Dick 2009; De Schutter 2011; Borras and Franco 2012). In the specific case of Bugala Island, land use changes were driven by the government's desire to modernise the agriculture sector, and to produce oil palm for local consumption.

According to Borras, Gomez and Wilkinson, 'land grabbing' consists of

the capturing of control of relatively vast tracts of land and other natural resources through a variety of mechanisms and forms involving large-scale capital that often shifts resource use to that of extraction, whether of international or domestic purposes, as capital's response to the convergence of food, energy and financial crises, climate change mitigation imperatives and demands for resources from newer hubs of global capital (2012, 851).

Additionally, Borras and Franco suggest five key questions for assessing whether land grabbing is occurring (2012, 36): Do all investments in land today constitute land grabbing? Do all changes in land use and property relations today constitute land grabbing? Does all land grabbing result in peasants' expulsion from their land? Does all land grabbing involve foreign land grabbers, and how does it matter? Do all land grabs today result in changes in land use and property relations?

From the definition above, the answer to the first question must effectively always be yes. Large-scale investments in land constitute land grabbing in so far as they are a response to the food or energy needs of domestic or international markets, and land use changes will continue to occur, especially within the poorest countries, because of the environmental fragility and demographic changes occurring. Similarly, the second question posed by Borras and Franco results *a priori* in the affirmative if utilising this definition. Because they believe land grabs are a result of convergent crises that define the global economy today, could any large-scale land lease in today's global economy be anything other than a land grab? The definition also implies that whether the land is used to produce something for international or domestic markets is irrelevant. Yet, domestic consumption is more likely to positively impact food security.

As Carlos Oya (2013) convincingly asserts, the conceptualisation of the problem, and simplification of the issue into 'good' versus 'bad', does not do justice to the complexity

of land use changes. Problematically, the 'rush' to report on land deals has resulted in inaccuracies that can confuse the debate, and lead to poor policy prescriptions or inaccurate assessment of specific consequences of land deals (505). An analytically advantageous approach to understanding the phenomenon is to assess the costs and benefits of the project, with the understanding that the long-term impacts of land deals are likely to change over time and across physical space. In a country like Uganda where land tensions and distrust amongst different actors are high, multiple explanatory narratives emerge that need careful analysis.

Most theoretical frameworks on land use begin with the premise that large-scale land deals are by definition unjust, particularly towards peasants. But as Olivier De Schutter, former UN Special Rapporteur on the Right to Food, states, there are numerous pressures on land that threaten global food security: increasing population numbers results in smaller plots per household, soil degradation, lack of adequate water, inadequate infrastructure, and expansion of urban areas all threaten food security (2011, 257). These pressures are independent of large-scale land investments, but there is rising concern that these only exacerbate the existing land pressures. Yet, the status quo of subsistence agriculture in economically underdeveloped states with limited infrastructure, poor state capacity, and growing population pressures does not seem a viable solution.

In Uganda, the coexistence scenario described by De Schutter (2011) whereby large investors operate alongside small-scale farmers who contribute not only to their own needs but also feed into national production goals is favoured by the National Resistance Movement (NRM) government. This is demonstrated by the *National Development Plan 2010/11-14/15*, whose vision statement is 'A Transformed Uganda Society from a Peasant to a Modern and Prosperous Country within 30 years', and by the attempts to attract foreign and local investment into the agriculture sector (Government of Uganda 2009). What the Museveni government is attempting to achieve is no less than the transformation of the peasantry into a modern, productive force that will drive economic development within Uganda (Santiago 2016). This government-led developmental path represents the traditional approach to land reform: continuation of colonial policies whereby the state maintains control over land decisions, movement towards land markets and phasing out of customary land tenure, and issues of long-standing injustices related to land are not explicitly addressed (McAuslan 2013).

Competing visions for land in Uganda

Within Kampala and along highways are dwellings with bold hand-painted words on them: 'Land Not 4 Sale' or 'Land For Sale'. These signs, as well as the statements and publications of the government and NGOs, represent competing visions regarding the value and meaning of land in Uganda. Even within the government's own policies, there are contradictory visions. For example, the Constitution asserts that land belongs to the people, yet the government is rumoured to have promised plots of land to investors without the agreement of land users, it controls the process, and 'bona fide occupants' of land can only be evicted for nonpayment of ground rent, set by the government, for two consecutive years. To further complicate the situation, there are four land tenure systems in Uganda (*mailo*, freehold, leasehold and communal). Foreigners cannot own land, but they can lease land from landowners, including the government, for up to 99 years.²

The executive branch has also asserted edicts that contradict some of the existing land laws. In February 2013, President Museveni announced that all evictions were being halted while at the same time continuing to invite investors to develop land. So, while on the one hand the government is asserting it wants to attract foreign investment and modernise agriculture, on the other hand, it is assuring, at least in its rhetoric, that peasants' access to land must be prioritised. The lack of certificates of ownership of land for many *'bona fide occupants'* also results in insecurity of tenure, but attempts to issue certificates of occupancy have been resisted by many who fear the demarcation of land will only make it easier for the government to seize it.

A decentralised local governance structure was created shortly after Museveni took power in 1986, allegedly to increase local participation in governance, thereby incentivizing local actors to become stakeholders in rebuilding after decades of instability and warfare, to increase the capacity to provide services, and to reinforce allegiance to the NRM amongst local actors. Within the local governance structure, is a Local Council I area committee for each village, a Local Council II land committee for each parish, a Local Council III land committee for each sub-county, and a District Land Board for each district. The president also has a representative present in each of the 136 districts. The complexity of land governance in Uganda is one factor that limits state capacity to promote a coherent and viable land policy for the entire country. More importantly, Museveni receives political advantages from playing seemingly contradictory roles: defender of the small land-user and promoter of economic development through modernisation. By defending land users, Museveni may receive political support from the largest group of constituents, and from investors and the international community, he receives financial support as well as inputs into the national economy. For those trying to develop the land they nominally own, for people cultivating small plots for their own use, and for lawyers, advocates, and investors, these opaque policies have led to frustration and distrust. As one senior researcher³ at an international NGO noted,

One major problem in Uganda is that people do not know what is going on. It is hard to understand what is actually going on ... Land issues have been very politicized. But the main problem is not that there are too many pressures on land. The main problem is that there is not a well-specified land policy that is consistently implemented.⁴

One result of the competing visions towards land use and land rights is that those most able to take advantage of the turmoil, powerful politicians or businessmen, do so. Those who try to abide by the laws find themselves hampered by the lack of clear adherence to the rule of law. As one land activist put it, 'Uganda had a Land Act before it had a land policy',⁵ implying that laws were put into place before the government had really assessed whether they complimented existing land tenure and land use systems. Laws that clearly state the rules of the game for dealing with land transactions and land disputes exist, but they are overridden for political expediency or denied implementation by a lumbering bureaucracy. As a land lawyer in Kampala noted, 'Why is it hard for the government to standardize land laws and processes? Because of money and corruption. Some politicians have been taking advantage of the chaotic system in order to obtain their own land'.⁶ Similarly, the land activist remarked,

the courts should be handling this [land disputes]. They should not be subject to the whims of the executive branch of government. The president has successfully created a parallel

structure to the existing institutions set up to handle land tenure. So one has to ask why all the parallel structures? They have been set up to protect the interests that have come into being regarding land rights, land use, and development. There are both economic and political interests to protect. What suffers is the rule of law.⁷

Because of the politicisation of land, lack of trust abounds. A local government official in the North expressed what the people of his district believe,

the people do not see their interests being considered when it comes to investment ... What is going to be a challenge is to convince people that they can move to a different land tenure system while still protecting their interests. The way the process has been handled has led to suspicion by the people.⁸

This official demonstrates that there are competing justice claims over land issues that become more muddled through the government's arbitrary application of land laws and the politicisation of land policy, as well as the long-perceived favouritism of some regions over others. When these favoured interests are potentially game changing for the state, for example with the discovery of oil in the North, the clash between land users, investors and government becomes most heated. Factors such as identity, way of life, and cultural values become entangled in the debate over land use and ownership.

Bugala Island palm oil production

Economic activity in Kalangala district predating palm oil production

At approximately 29,600 ha, Bugala is the largest of the Ssesse Islands within the Kalangala District. In 1902, a Tsetse fly infestation devastated the population, estimated at 20,000, resulting in evacuation in 1909. After the evacuation, grasslands and a dense forest arose, and after 1920, the vegetation remained on the island because fewer people returned than were evacuated. Land was divided into plots owned by the government, including protected forest land, and individuals, often absentee Buganda landlords who gained the land under the *mailo* land tenure system established by the British colonial administration in 1900.⁹

The mainstay of the island's economy has been fishing, first subsistence and later commercial, as well as forestry and agriculture. An estimated 1,300 smallholder farms, consisting of a mix of subsistence and landless farm families, were scattered across the island at the time of the plantation's establishment (IFAD 2011). In recent years, overfishing has led to diminishing returns for fishermen within Kalangala District generally (Abonyo et al. 2007). Exacerbating the problem, the population of Bugala Island increased dramatically from approximately 8,575 in 1980–34,766 in 2002 (UBOS) increasing pressure to stabilise food security. Seventy-eight percent of recent migrants, seeking employment in fishing, timber and charcoal production, moved to Bugala Island between 1998 and 2007 (Abonyo et al. 2007). The Kalangala District Local Government observed in its 2005 *State of the Environment Report* that conditions in fishing villages were 'appalling' with sub-standard housing conditions and lack of sanitation (2005). The report further observed that fish handling was very poor in the District resulting in post-harvest losses (Kalangala District Local Government 2005).

In addition, since 1997, total acreage under crop cultivation had been declining resulting in a deterioration of food production and increased food insecurity on all inhabited

Ssesse Islands (Kangala District Local Government 2005). Conditions on the islands have never been particularly favourable to agriculture, and intensive land use for seasonal crop production, including abandoning fallow periods, high livestock density rates, lack of inputs to replenish nutrients in the soil, and natural processes have resulted in soil erosion (Ibid). Hence, both the fishing and agriculture sectors in Kalangala had been declining prior to the establishment of the oil palm plantation. Contrary to the portrayal by some activists who blame the palm oil plantation for deteriorating living conditions of islanders, poor living conditions and food insecurity were the norm for the islanders long before the plantation was established.

Abonyo et al. (2007) demonstrated the changes that have taken place on the Island since 1960. They identify both policy-driven factors (the establishment of the oil palm plantation) and environmental factors (poor soils, pests, diseases, and migration to the island). Interestingly, some of the most significant land use changes that occurred between 1960 and 2001 were due to environmental factors, while those occurring between 2001 and 2006 often had more to do with policy-driven factors. Table 1 summarizes the findings from this study (2007, 6). It gives observers an accurate picture of the actual, versus perceived, impact of establishing the plantation. It resulted in forests declining by approximately 2,300 ha (14%), grasslands by 2,100 ha (29%), and wooded grasslands by 130 ha (65%), while small-scale agriculture declined marginally (by approximately 15 ha, less than 2%). The biggest decline in acreage devoted to small-scale agriculture actually took place between 1960 and 2001. At the same time, swamp forest and swamp wetlands increased in size after the establishment of the plantation, and there was also an increase in the land devoted to human settlement during this time (an additional 837 ha).

Abonyo et al. also held focus groups, with a total of 104 participants, on two sites in order to assess residents' perceptions of land use changes. Residents identified poor soils, pests, and disease as the main hindrances to successful food production on the island (2007). Some (17.5%) expected income and/or employment from the palm oil plantation, while 11.1% expected benefits from construction and infrastructure development and 9.9% expected benefits from harvesting palms as out-growers (Ibid). However, 46.2% said nothing good would result from land use changes, citing declining forest cover, loss of agriculture land, declining rainfall, higher temperatures, and increased encounters with monkeys, all of which they attributed, correctly or not, to the palm oil project (Ibid). It is critical to understand perceptions of islanders, most especially in order to be able to provide them agency in decision-making that directly involves their livelihoods, but also in order to assess how perceptions align with facts about land use changes.

Table 1: Bugala Island land use changes 1960–2006.

Land use/Type	Area in 1960	Area in 2001	Area in 2006
Town/Buildings	NA	2,759 ha (10.34%)	3,596 ha (12.66%)
Oil palm plantation	0	0	5,208 ha (18.34%)
Forests	15,622 ha (57.54%)	15,605 ha (58.5%)	13,382 ha (47.12%)
Small-scale agriculture	913 ha (3.36%)	440.36 ha (1.65%)	425 ha (1.5%)
Grasslands	7,228 ha (26.62%)	4644.74 ha (17.41%)	2,569 ha (9.05%)
Swamp forests	604 ha (2.23%)	591 ha (2.22%)	643 ha (2.26%)
Swamp wetlands	2,583 ha (9.51%)	2,472 ha (9.26%)	2,537 ha (8.92%)
Wooded grasslands	200 ha (0.74%)	165 ha (0.62%)	39.41 (0.14%)
Totals	27, 151 ha	26,677 ha	28,400 ha

Negotiating the palm oil project

Prior to any effort to establish a commercial plantation, locals on the island had been cultivating oil palms for their own use. Understanding that Uganda under-produces palm oil for domestic consumption is an important contextual factor for its commercial development, and cautions against some of the hype that Kaag and Zoomers (2014) warn against. Palm oil trials began on Bugala Island in 1972, but were disrupted by civil war. Palm oil production was resurrected in 1991 when the government acquired 300 hectares for experimentation. In 1993, a pilot research project gave farmers seedlings and training in palm tree husbandry, and after three and a half years, the first harvests occurred. During this initial trial period, the government also conducted research and environmental impact assessments on the island. Finally, in 1997, the government called for investors and secured an additional 3,000 hectares of land from the District Land Board. The Board agreed to lease the land to the Uganda Land Commission for 99 years, and the Commission agreed to lease the land to investors.

The first investor, the Madhvani Group, a controversial and powerful local actor, declined to pursue the project, so another investor, Bidco, based in Nairobi with a subsidiary in Kampala, took up the project. Bidco partnered with Wilmar, a Malaysian company with experience in palm oil production, and established Oil Palm Uganda Ltd (OPUL). OPUL managers decided that in order for its investment to be profitable they needed 10,000 hectares, and an agreement was reached to lease 6,500 hectares from the government while 3,500 hectares would be sought from individual farmers who would become out-growers.¹⁰ Initially, there were plans to degazette public forests, but this was rejected in 2001, and thereafter the government secured 3,000 ha of public land (mainly grasslands) and committed to securing 3,500 ha from private land owners (IFAD 2011). Only a small percentage of this 6,500 ha that became the nucleus estate was farmland at the time of purchase, but the land that out-growers converted to palm oil trees was about 80% bush land that was planted with plantains, coffee and yams.¹¹ One major obstacle to the project was that many absentee landowners controlled the land and they were not interested in developing it until they saw the potential for profit. As a result, land prices began to increase.¹² The government engaged in a two-year sensitisation campaign among landowners and land users because of negative publicity on the project framing it as a land grab on the island (IFAD 2011). It negotiated individual land purchases that included land surveys and valuation assessments that resulted in delays to starting the project and higher than expected costs (IFAD 2011). I obtained records for nine transactions that the government completed in January 2002. Eight of the nine landowners sold land, ranging from 15 to 382 acres, while one landowner wanted to retain ownership but agreed to lease the land for 99 years. At this time, the price paid per acre of land to the sellers ranged from \$57 to \$186. Though one must be cautious in drawing any conclusions from this small sample, the records do indicate that a negotiated process took place, that landowners sometimes refused the first or second offer of the government, and that at least some landowners refused to sell their land altogether. At the same time, it is necessary to recognise that the government had disproportionate power and knowledge compared to the farmers in the negotiating process.

For its part, OPUL invested approximately US\$75 million to clear land, purchase seedlings, and establish its plantation, including facilities to extract oil from palm kernels, a

network of roads, administrative buildings, and housing, infrastructure for water, and a clinic for plantation workers (IFAD 2011). The oil is extracted on Bugala then shipped to Jinga where it is refined. All the oil produced is locally sold, either in the form of cooking oil or soap. There are approximately 1,700 people employed by OPUL, many of them coming from the mainland because the native islanders were reportedly reluctant to work in the field.¹³ In addition, there are approximately 1,600 households that have enrolled as out-growers. These out-growers are members of the Oil Palm Growers Trust, an organisation established to assist them with funding, advance their interests, and provide training and inputs. Funding for the Trust came from IFAD (International Fund for Agriculture Development, a specialised agency of the UN) and the World Bank. Harvesting of palm oil takes 3–4 years, so most farmers needed financing to participate.¹⁴

OPUL's former General Manager reported that it leased land from the government for 99 years for a nominal yearly ground rent. The low lease rate was in exchange for the approximately \$120 million invested to establish the project, and the government believed that jobs and revenue from taxation as well as the farmers' share (10%) in the company are its major benefits. The investors were given an initial tax holiday, fixed at five years by the Uganda Investment Authority, but the company became the third highest corporate tax payer in Uganda.¹⁵ Contentious years of negotiation following the Bugala Island agreement have also led to a second agreement on Buvuma Island whereby a similar arrangement between the government, OPUL, and out-growers is expected to result in another plantation covering 10,000 hectares of land (*Daily Monitor*, 7 August 2017).

Land grabbing or economic development? Process, problems, and profit

Returning to the three key questions that Borrás and Franco utilise to determine whether or not a land grab has occurred helps us determine whether the Bugala Island project constitutes a transformative or traditional justice approach. But a fuller understanding of the justice issues involved must go beyond these three questions to consider the consequences of the project. Borrás and Franco ask whether all land grabs today result in important changes in land use and property relations. The investment by OPUL in palm oil on Bugala Island did result in major land use changes on the island, but it involved years-long consultative processes that included investors, government, land owners and their tenants, and the out-growers. The oil palm plantation has been portrayed both as economically positive for the island and its people, as well as for the country more broadly, and as an instance of exploitation of the peasantry through collusion between government beneficiaries and international investors. Numerous press reports (*New Vision*, 1 April 2015; *The Observer*, 1 May 2012; *The Independent*, 15 June 2012; *Daily Monitor*, 10 July 2013) highlight the benefits to individual farmers while other press reports and environmental and land rights NGOs, emphasize the negative costs of the project (*The Guardian*, 3 March 2015; *Daily Monitor*, 19 October 2013; Friends of the Earth 2012). Those opposed to large-scale land investments have generally not changed their mind regardless of the evidence of the benefits accruing to most farmers involved in the project, while those supporting the project continue to emphasize the aggregate benefits of the project while downplaying specific instances of injustice towards individual land users who have been displaced.

Borras and Franco's second question: does all land grabbing result in peasants' expulsion from their land, is difficult to answer definitively in this case. Friends of the Earth (2012) reported that some evictions took place to make way for the project. A nuanced assessment is needed. How many expelled peasants constitute a land grab, and how should assessments weigh the costs and benefits accrued to different actors? Should a utilitarian approach frame the analysis, or is one peasant removed unwillingly from the land too many? The complexity of land ownership and tenancy in Uganda suggests that the question itself is overly simplified. As Kaag and Zoomers (2014) argue, land use changes can be perfectly legal, yet still result in injustice against land users. In Uganda, *bona fide* occupants have certain legal rights to continue using 'their' land as long as they pay government determined rents. The insecurity of tenure in Uganda results from the lack of certificates of ownership and occupancy, as well as the arbitrary skirting of the laws that occurs when the government or owners, separately or in collaboration, decide the land should be put to more profitable use. So, while *Reuters* reported that 100 former land users on Bugala Island say they were expelled from the land (19 June 2016), it may be that they were *bona fide* users, and the land owners made legitimate, and legal, deals to sell the land to the government. This demonstrates that the government has adopted a traditional rather than transformative approach to justice on land issues. Past injustices regarding land ownership, rooted in colonial governance, are not addressed. The government's recognition of four tenure systems, the rights of land owners as well as *bona fide* occupants, and the lack of evenly applied legal redress all entrench the status quo on land use and ownership. The central government's aggressive push to advance modernisation of the agriculture sector avoids tackling historically unjust land relationships and results in disempowered peasants. Land disputes continue to fester because there are not adequate mechanisms in place to redress long-standing grievances and provide just solutions.

Finally, addressing the question, does all land grabbing involve foreign land grabbers, and how does it matter, is also important. For proponents of land investments, secure property rights are necessary for efficient development of the land which should be in the hands of those who are most productive (Wolford 2009). Hence those advocating this perspective would argue that foreign investors may be the best option in some cases. For opponents of land investments, land tenure regimes have historically been unjust in that land was appropriated by the wealthy, who obtained it through political alliances with colonial or post-colonial rulers and displaced those who had laboured on the land for generations. Thus, land is best secured within local communities and real ownership must be deeply tied to labour rather than title, and foreign investors perpetuate historical injustices (Wolford 2009). On Bugala Island, a long and consultative process took place, so labelling it a land grab, even with the presence of a foreign investor, is overstated. Undoubtedly, some lives have improved with the establishment of the oil palm plantation. The most salient question when it comes to justice is how to weigh the costs and benefits accrued, the numbers impacted, and the changes in costs and benefits over time. To assess the implications of the project in terms of justice for the various stakeholders affected, three specific aspects of the project should be considered: infrastructure and environmental changes on the island, culture and social relationships, and economic costs and benefits.

Physical and environmental changes are the most obvious. There are more road networks, an ongoing road improvement project, better schools with more resources, reliable electricity and improved water sources, and regular transportation to and from the mainland. Tourist resorts have been established, two ferries run daily, and about one-third of the island is now covered in palm trees. Environmentally, forestland and grassland have been cut down (see Table 1), and there are concerns that heavy use of fertilisers has led to pollution of Lake Victoria and to reduced fish stocks. However, staff at the National Environmental Management Authority (NEMA) confirmed that the management team at OPUL has complied with environmental standards, and tests of Lake Victoria show no signs of fertiliser run-off (*The Independent*, 1 July 2012). David Babikwa of NEMA confirmed that OPUL has complied with a 200 km buffer zone to prevent fertiliser run-off, but also emphasized that he does not have enough staff to ensure that all out-growers are also complying.¹⁶ Environmental activists, however, remain concerned that not enough is being done to prevent increased pollution of the lake, or to prevent deforestation on the island, and point to reduced fish stocks resulting from fertiliser run-off (Friends of the Earth 2012). The transformation of Bugala Island to a major palm oil plantation does have environmental impacts, and the justice question is, does the negative outweigh the positive? Accusations that the project is responsible for decreased productivity in the fishing sector and a polluted lake may be exaggerated, but at the same time, native forest and grass lands have been lost and concerns for the longer-term implications of this in terms of sustainability are real. Weighing the costs of environmental change against the benefits to the people of the island is a key justice question that the islanders themselves need to address. In order to do this, they will need to have agency; a place at the table in discussing the impacts of the project and the mitigation of those that are negative. Some of this is being done through environmental organisations, but also through extension services and other outreach programmes, but the government can and should do more. Benefits are accruing to out-growers and others such as construction workers, shop owners, and service workers in the present term, but long-term environmental impacts have not been addressed.

There are also significant negative costs from the project to culture and social relations. Yet, one could say many of these changes to culture and social structures predate the establishment of oil palm production. Fishermen have seen a change in lifestyle because of increased migration to the island by mainlanders looking for work in fishing and forestry especially since 2002. Depletion of fish stocks and forests as people foraged for firewood to turn into charcoal predated the palm oil plantation. Greater integration between natives and migrants has also occurred because of easier access to landing sites around the island since the development of extensive road networks and the increase in ferry service to/from the mainland. There is evidence that sex workers have increased on the island and that HIV/AIDS incidence rates are high, yet, HIV/AIDS prevalence rates were high across all the inhabited Ssesse Islands before the project (*Daily Monitor*, 5 July 2012).

Economic benefits from the project are evident. Interviewees asserted that it is because of the project that investments in infrastructure and health services have been made, and because farmers have more revenue, more children are going to school. These perceptions are also supported by numerous journalistic reports (*The Observer*, May 1, 2012; *Daily Monitor*, 10 July 2013; *The Observer*, May 15, 2012; *The Independent*, 15 June 2012).

Kalangala District went from one of the poorest districts in the country (71 out of 76) in 2000 to one of the richest (7 out of 76) in 2007, largely because of the investments made by the project (*The Independent*, 1 July 2012). Despite concerns of NGOs like Friends of the Earth and the Uganda Land Alliance, there is ample evidence that food security is better now than before the project. Paul Ssemarda, an agriculture extension agent on the island and Co-founder of the Kalangala Organic Farmers Association, said that when he came to the island in 1994 there was very little agricultural activity. Fishing was the staple of the economy, and most food was imported.¹⁷ David Balironda, Production and Marketing Officer for the Kalangala Oil Palm Growers Trust, concurs, stating that when he was assigned to the district in 1989 there were very few farmers, and fishing and harvesting forests dominated the economy.¹⁸ These perceptions are corroborated by the Kalangala District Local Government's 2005 *District State of the Environment* report. Similarly, Innocent Abasa, Headmaster for Ssesse Agriculture and Veterinary Institute, an agricultural training school and farm, asserts that since his arrival in 2005, he has seen many benefits from the establishment of the palm oil plantation. Abasa states,

what palm oil has done is that it has greatly reduced poverty in Kalangala because there was no other industry here. Fishing was the only industry and that was done only by men. Now women come to work in the palm fields. The project has also led to improved infrastructure. It has brought many people from other districts, so the population has grown. There has also been an increase in productivity that has resulted from the project. The palm growers are supplied fertilizer and farmers then use some of the fertilizer for their vegetable crops.¹⁹

Both Balironda and Abasa also acknowledge, however, that there have been problems associated with the project. Abasa said that some out-growers complain that they cannot grow other crops on their land when they must devote 3 hectares to palm trees and, more significantly, they have no bargaining power since there is only a single buyer for their palm fruit.²⁰ The upfront costs to establish palm trees, the learning curve to care for and harvest them, and the several-year wait on profits are all new to farmers, requiring both patience and perseverance that sometimes results in frustration. Balironda asserted that some landlords are also trying to renegotiate with their tenants to obtain a percentage of the profits of the farmer rather than the traditional fixed monthly rent.²¹ Others are concerned that land was undervalued when the government began purchasing it. As the researcher for the land-related NGO in Kampala pointed out, 'There is no standardised formula for compensation. People think that almost any amount of money is large because they are very poor. They do not know the value of the land.'²² Nelson Basaalidde, General Manager of the Oil Palm Growers Trust and a native of Bugala, confirms that there have been disagreements between landowners and tenants. Basaalidde and others stated that there were very few landowners who live on the Island, but many land users. He suggested, however, that land disputes have always existed in Uganda, but perhaps have increased or become more contentious because the value of land has increased so greatly, and there is now more at stake.²³ In terms of justice, the disputes between land owners and their tenants is one that needs to be addressed at the national level, through legal mechanisms, and without interference of political actors. Land justice for tenants remains, in many instances, unresolved and tenuous because of the politicisation of land issues by politicians, local leaders, and even NGOs.

There are additional steps needed to improve the situation for the people of the island. Agricultural training that farmers receive may be adequate, but farmers could benefit from better marketing skills. Training has focused on diversifying crops and livestock as well as on financial literacy, and extension agents have also worked with fishermen to establish plots for food production, an activity in which they had not previously engaged. With the increased population on the island, better service delivery and maintenance of infrastructure are paramount.²⁴ For those who wished to retain their traditional way of life, however, the palm oil plantation has been detrimental. For those who have taken up oil palms as out-growers, or who now work in the growing, locally run, tourist industry, the benefits outweigh the costs of the project. If the locals could have a greater stake in the industry's profits, and in the newly established tourist, service, and infrastructure sectors, then the plantation may be transformational for many more residents.

Conclusion: modernisation, justice and Museveni

Like many African political systems, Museveni's regime maintains its power base through patronage networks. Land policy in Uganda is structured to attempt to placate both the peasants who work the land and who make up the broadest political constituency, and land owners and investors who can develop projects that ultimately benefit the NRM political machine. This contributes to distrust and confusion. The lack of coherent and rationally implemented land policy has led to a contentious environment in which Museveni is attempting to promote modernisation of the agriculture sector, while also placating as many different stakeholders as needed to maintain his own power, while also avoiding the hard work of addressing the problems inherent in Uganda's land policies (Santiago 2016). In terms of McAuslan's distinction between traditional and transformative justice, Uganda sits firmly in the traditional camp. The problems identified by McAuslan (2013), and reinforced by perceptions of those I interviewed in Uganda, are that the land policies and laws are contradictory and that there are not adequate safeguards or records for ownership or demarcation of land, resulting in insecurity of tenure. In addition, because of the disconnect between land laws and land policy, and because the government maintains the greatest power differential in negotiating land deals with investors, many who own the land are at a distinct disadvantage in developing it. The government could take a much more forceful stand with investors in order to gain greater advantages for out-growers, thereby approaching land reform from a transformational rather than traditional approach. The problem of modernising the agriculture sector in Uganda, which by all accounts could be a powerful agricultural producer for the region, is that the government is distrusted because of its history of preferentially advantaging patrons and investors, utilising its power position to enrich its members, and practicing deceit and subterfuge when it comes to deals that are being made, to the point that few land use changes have actually occurred.

Despite these very significant problems, the case of Bugala Island illustrates that cooperation amongst stakeholders in developing a land use project can be beneficial to a cross-section of actors, from farmers, to investors, to service and construction workers alike, but also that this is increasingly difficult in an environment of distrust and deteriorating governance. Political reforms, as well as policies that are designed to preference the needs of local people and give them greater advocacy in advancing their own interests,

are necessary before major economic development and transformative justice on land issues can occur. The likelihood of this occurring in Uganda, however, is slim. It follows that the more likely scenario is that future land decisions will continue to be contentious, with proponents and opponents remaining entrenched in their positions and little will to compromise or admit that questions of justice are not often unequivocal, but that each specific case needs to be considered carefully to assess the potential benefits and costs to all involved, regardless of their bargaining power. The upcoming development of a palm oil plantation on Buvuma Island is likely to see a repeat of the problems that were raised with the OPUL plantation on Bugala Island. In the end, perhaps it is important to keep in mind the words of Nelson Basaalidde,

there is now more at stake. But this [land conflict] is not a new phenomenon. Each sector uses the information from land disagreements for its own purposes. We need to consider all the factors involved. At our level, we try to do our best.²⁵

Notes

1. For example, see the April 2010 Friends of the Earth report *Land, life, and justice: how land grabbing in Uganda is affecting the environment, livelihoods, and food sovereignty of communities*.
2. *The Observer* reported 12 February 2013 that the Cabinet approved the new Land policy and recommended an amendment to the 1998 Land Act to reduce the number of years that land leases can be granted to foreign entities from 99 to 49 years. http://www.observer.ug/index.php?option=com_content&view=article&id=23695:new-land-policy-in-the-offing.
3. All interviews were conducted in Uganda by the author, under the ethical guidelines prepared by the author and approved by the University of Portland's IRB. Original transcripts have been maintained by the author and are available upon request. If interviewee is named, s/he gave written permission for use of their name, whereas if interviewee requested anonymity, their name is withheld, but occupation or organisation is named.
4. Senior researcher for an international peace-building NGO, 26 May 2013.
5. Senior researcher for a Uganda-based NGO devoted to land issues, 26 May 2013.
6. Lawyer who specialises in land law, 26 May 2013.
7. Senior researcher for a Uganda-based NGO devoted to land issues, 26 May 2013.
8. Local Government Official, Gulu District, 5 June 2013.
9. The 1900 Buganda Agreement changed land tenancy in the Buganda Kingdom. Whereas prior to the Agreement the Kabaka (king) held land in trust for his people, after it, land was divided into plots for individual stakeholders, including the British Crown. The 1900 Agreement ushered in a land tenancy system of private ownership that had not existed in Uganda under traditional rulers.
10. Lim Choon Meng, OPUL General Manager, 29 May 2013.
11. David Balironda, District Production and Marketing Officer for Kalangala Oil Palm Growers Trust, 27 May 2013.
12. Retired Makerere University Professor and entrepreneur, 30 May 2013.
13. David Babikwa, National Environment Management Association, 26 May 2013.
14. Nelson Basaalidde, General Manager of the Oil Palm Growers Trust, 28 May 2013.
15. Lim Choon Meng, OPUL General Manager, 29 May 2013.
16. David Babikwa, National Environment Management Association, 26 May 2013.
17. Paul Ssemarda, 28 May 2013.
18. David Balironda, District Production and Marketing Officer for Kalangala Oil Palm Growers Trust, 27 May 2013.
19. Innocent Abasa, Headmaster of Ssesse Agriculture and Veterinary Institute, 27 May 2013.
20. Innocent Abasa, Headmaster of Ssesse Agriculture and Veterinary Institute, 27 May 2013.

21. David Balironda, District Production and Marketing Officer for Kalangala Oil Palm Growers Trust, 27 May 2013.
22. Senior researcher for a Uganda-based NGO devoted to land issues, 26 May 2013.
23. Nelson Basaalidde, General Manager of the Oil Palm Growers Trust, 28 May 2013.
24. Nelson Basaalidde, General Manager of the Oil Palm Growers Trust, 28 May 2013.
25. Nelson Basaalidde, General Manager of the Oil Palm Growers Trust, 28 May 2013.

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