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# Ethnicity and the Politics of Land Tenure Reform in Central Uganda

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## 1. Introduction

Land tenure reform is certainly one of the most divisive yet important topics in Sub-Saharan Africa today. For countries with high rural populations and high population growth rates, an efficient and fair land tenure system is commonly seen as necessary in order to alleviate poverty and reduce conflict.<sup>2</sup> Yet in the central Uganda region of Buganda land tenure has been a heated issue ever since the British created a grossly unequal land tenure system in 1900 that gave large tracts of land to the political elite while turning most Baganda into tenant farmers. While there has been limited success over the past century in limiting the powers of landlords, the system itself has remained. Indeed, Bugandan landlords have been one of the strongest forces in opposition to current attempts at land reform by the ruling National Resistance Movement (NRM), led by President Yoweri Museveni.

Recent analyses of land tenure reform in Africa often stop here, limiting discussions to landlords and rural elites on one hand vs. the central government and donors on the other. Yet there is another factor in the politics of land tenure reform in

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<sup>2</sup> Sub-Saharan Africa is home to the only five countries in the world – Burkina Faso, Burundi, Eritrea, Niger and Uganda – which have more than 75% of their populations living in rural areas as well as an annual population growth rate of 3.0% or more (United Nations Development Program 2004, 154-155).

Africa that is all too often neglected, namely ethnicity.<sup>3</sup> Here I show how both ethnic attachment to land in Buganda and an ethnic bias towards western Ugandans at the central state level have had serious political repercussions in recent years. More specifically, longstanding worries among Baganda that their land would be taken away by poor migrants from Rwanda and elsewhere have become supplemented with fears that President Museveni and fellow western Ugandans would take away their land. The failures of the NRM government to address these concerns have contributed to the increasing popularity of federalism, or *federo*, whereby the NRM has been increasingly pressured to grant some form of control over land to a regional Bugandan government.

This paper is organised as follows: in the first section I briefly examine how recent literature on land in Africa has failed to incorporate ethnicity as a factor in the success and/or failure of land tenure reform. I then sketch a history of land tenure in Buganda, showing how ethnicity has been intertwined with land in the region since pre-colonial times. I then investigate Museveni's attempts at land reform, with a special focus on the 1998 Land Act. I show how, due to Museveni's failure both to concede some nominal role to the *Kabaka* (king) of Buganda as well as his failure to combat worries that his government is biased towards western Ugandans, many Baganda remain wary of any attempts at land tenure reform by the current government. Finally, I conclude by examining the prospects of the NRM government alleviating these two ethnic concerns in the future.

## **2. Ethnicity in Recent Literature on Land Reform in Africa**

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<sup>3</sup> I deliberately leave out the racial politics of land tenure reform in southern Africa for obvious reasons.

In her discussion of conflicts over land in contemporary Africa, Peters (2004) argues that ethnicity has been over-emphasized in discussions about conflict in Africa, a claim that is indeed true in regards to the literature on war and violence and the inability of many scholars to use the term 'ethnic conflict' appropriately (Gilley 2004, Green 2004). However, the opposite claim could be made about the recent literature on land tenure reform in Africa, where ethnicity is largely absent from discussions about land ownership and reform, and when it is mentioned, it is often cited in inverted commas, indicating the authors' wariness of the concept (cf. Bernstein and Woodhouse 2001, Delville 2000, Peters 2004).<sup>4</sup> More generally, recent literature on land reform in Africa has suffered from two omissions as regards ethnicity, namely a failure to take into account ethnic attachment to land as well as an implicit assumption that states are ethnically neutral as regards land policies.

Most of recent literature sadly suffers from both faults, in that authors either completely neglect ethnicity as a factor or only mention it in passing.<sup>5</sup> Even in these cases where ethnicity is mentioned it is usually done so in the context of traditional leaders,<sup>6</sup> who are almost always seen in negative terms. Berry (2002, 660), for instance, writes of the way traditional chiefs exploit 'the value of history for the pursuit of property and power in the present' in Ghana.<sup>7</sup> In other words, ethnicity is really just a means to an end, namely personal enrichment, rather than an end in itself. There is no acknowledgement that ethnic groups may feel a form of cultural and/or emotional attachment to their traditional territory, or homeland, that must be factored into discussions of land tenure reform for it to remain legitimate at the local level.

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<sup>4</sup> The same applies to 'custom,' 'tradition,' 'tribe' and other such troublesome terms; cf. Cotula et al. (2004).

<sup>5</sup> Among others, see Manji (2001), McAusland (1998), Moore (1998), Smith (2003) and Wily (2003).

<sup>6</sup> In the case of Uganda see, among others, Bosworth (2002) and Hunt (2004).

<sup>7</sup> For similar analyses see Cousins (2000), Toulmin (2000) and Williams (1996).

At least three recent works have attempted to incorporate this ethnic attachment to land as a major factor in land conflict and/or land tenure reform in Ghana, Tanzania and Niger (Fred-Mensah 1999, Odgaard 2002, Terraciano 1998). These cultural/emotional bonds to land have led indigenous peoples to reject migrant rights to land, even when the migrants are fellow citizens as in the case of the Masaai and Gogo in Tanzania. More specifically in the case of Niger, the way land was traditionally seen among the Songhai as 'part of common inheritance, which could not be bought or sold without severing the relationship between the present cultivators and their ancestors,' has had a direct effect both in local resistance to President Seyni Kountché's 1974 'land to the tiller' pronouncement as well as more recent efforts to codify customary law (Terraciano 1998, 732). Thus understanding ethnic attachment to land is necessary in understanding current attempts at land tenure reform.

However, among those scholars who do discuss broader issues of ethnicity in the context of land reform there is an implicit assumption that ethnic conflict over land only takes place at the local level. Scholars like Terraciano (1998, 760) incorrectly assume purely *bona fide* intentions on behalf of the central government, writing for example that 'the state's commitment to promoting a body of law grounded in history and rural tradition is well-intended.' This naïve assessment of state policies neglects the insights of various scholars that the postcolonial African state can almost never be described as ethnically neutral (Berman et al. 2004). While most if not all African leaders claim to be above 'tribalism,' few Africans trust their leaders today to be ethnically neutral in the way they may have in the immediate post-independence period, when pan-Africanism and African nationalism were seen as a

way to rid Africa of its ethnic problems.<sup>8</sup> As I shall show below in the case of Buganda, without such trust the chances of any Ugandan government pushing through and implementing major land reform is very unlikely.

### **3. A Brief History of Land Ownership in Buganda**

#### 3.1. The Pre-Colonial Era

In pre-colonial Buganda most land was nominally controlled by the *Kabaka* while individual plots were conferred upon peasants by local chiefs. The *Kabaka* could also assign land in each county, yet, like chiefs, he could neither mortgage nor sell land (Mair 1934, Roscoe 1923). However, his symbolic power was much greater than his overt political or legal rights: the *Kabaka* was a ‘symbol of order and meaning’ for the Baganda Ray (1991, 8). Richards (1964, 278-279) writes that

[The *Kabaka*] was the source of the whole system of authority on which the political structure of Buganda rested. He was the ultimate sanction for the legal rights of every section of the community and preserved the balance between them. The prosperity and general well being of the country, as well as its prestige in the eyes of neighbouring peoples, was thought to be due to him.

The only parts of Buganda not controlled by the *Kabaka* were the lands owned by the 52 clans of Buganda, each of which ‘claimed as its own the hill on which its original ancestor was believed to have settled; this was the residence of the head of the clan (*Mutaka*; plural *Bataka*) and its members could claim the right of burial there’ (Mair 1934, 154). Indeed, the Luganda word for land is *ttaka* while the traditional second name for the *Kabaka* is *Ssabataka* (leader of the clans), indicating the antiquity of the

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<sup>8</sup> See for instance the famous quote of the late President of Guinea Sékou Touré, who claimed in 1959 that ‘in three or four years, no one will remember the tribal, ethnic or religious rivalries which, in the recent past, caused so much damage to our country and its population’ (quoted in Young 1996, 42).

link between clans, the *Kabaka* and land ownership and – inasmuch as clan identity is the most important social means of ethnic identification for the Baganda – between ethnic identity and land as well.

### 3.2. The Colonial Period (1900-1962)

In 1900 the British signed an agreement, thereafter known as the 1900 Agreement, in which they gave 8958 sq. miles to the *Kabaka*, the royal family and several thousand top Baganda chiefs as freehold – known in Buganda as *mailo* (from the word ‘mile’) – and allocated the rest, or 9000 sq. miles of ‘waste and uncultivated land,’ to the Protectorate as Crown land.<sup>9</sup> The size of the *mailo* land grants were ‘unequal and reflected the relative status of the allottees’ (Marcus 1978, 513): the *Kabaka* received 350 square miles of land while ‘some twenty chiefs were granted twelve square miles or over, and another 150 persons became entitled to between eight and twelve square miles. The great majority of allottees, however, received one or two square miles each’ (Thomas 1928, 240).

As all this newly allocated land became legally inheritable as well, the 1900 Agreement thereby created a ‘hereditary ruling class’ in Buganda (Richards 1963, 273). However, over the next two decades these chiefs increased *busullo* (land rents) and *envujjo* (commodity rents) on their rural tenants to unreasonable levels. The British therefore forced the *Lukiiko* (Buganda Parliament) to pass the *Busullo* and *Envujjo* reform law of 1927, which, by establishing a *busullo* of 10 Shillings or one month’s labour plus a merely nominal *envujjo* of 4 Shillings per acre of coffee or

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<sup>9</sup> When the land was properly surveyed it was found that there was considerably less than was originally estimated, thereby leaving the Crown with only 8307 sq. miles (West 1972, 59). Bizarrely, Mamdani (1996, 141) writes that the Agreement gave 18,034 square miles to the royal family and chiefs, a claim wholly unsupported by documentation.

cotton, 'virtually eliminated' the peasants' grievances against the landlords (Apter 1967, 186-187). Yet the law did not grant tenants outright ownership: landlords remained landlords, and tenants tenants, regardless of how little rent they paid.

Indeed, as the Ugandan economy grew after World War II, however, a growing middle class in Buganda grew increasingly dissatisfied with the power wielded by this new aristocracy, which became the focus of 'increasing and overtly expressed resentment' from all parts of Buganda (Marcus 1978, 523-524). Many were especially angry at landlords who rented land to non-Buganda, especially Alur, Banyarwanda and Barundi tenants (Edel 1965, Gutkind 1963). While much of this anger can be explained by the fact that landlords preferred to rent land non-Buganda as they were easier to exploit, Richards (1954, 173) argues that much of the xenophobia in Buganda at the time was due to a strong ethnic attachment to land. Despite the changes in land tenure wrought since 1900

The fiction that land is the gift of the *Kabaka* still remains. Heirs to estates must be formally presented to him in open court and make obeisance to him. Disputes over land inheritance are heard by a special *Kabaka's* court. All these factors account for the emotional attitude of the Ganda towards the very idea of an outsider buying land. The small number of foreigners who have succeeded in doing so shows the strength of this sentiment.

#### 3.4. Land Policy under Obote and Amin (1962-1986)

The first nine years after independence in Uganda saw little change in the actual structure of land ownership in Buganda. The period began, however, with the transfer upon independence of all Crown land in Buganda to the control of the new Buganda Land Board (BLB), located in the kingdom capital of Mengo. After the 1966 coup, when *Kabaka* Mutesa was forced into exile while Obote took over the position of President and officially abolished all kingdoms in Uganda, the government disbanded



the BLB and took all of its land (Fortt 1973). Yet the government did not forcibly acquire private land in Buganda, leaving ‘the land tenure system in Buganda basically unaltered,’ in West (1972, viii)’s words, through the end of the decade.

While Idi Amin’s initial land policy did not differ from Obote, his Land Reform Decree (LRD) of 1975 turned all private land in Uganda into leasehold property, supposedly to spur the capitalist use of land. However, in reality its intentions were as obscure as its advantages were small. While some have argued that the LRD allowed beneficiaries of the Amin regime the opportunity to grab land (Mamdani 1983, Nabudere 1980), there is scant evidence that any of this actually happened, as several case studies from the 1980s onwards show that the local landlords did not acquire their land under Amin (Bikaako 1994, Muhereza 1998, Ssenkumba 1993). Similarly little activity took place in the seven years between the fall of Amin and Museveni’s accession to power, mostly due to the civil war in Buganda and continued economic collapse.

#### **4. Land Policy under Museveni (1986 – present)**

##### 4.1. Early Efforts at Reform (1986-1995)

Despite the abolition of the kingdom in 1966 and the LRD in 1975, landlords continued to maintain their place in Bugandan society by educating their children while also leasing land out to poorer tenants for specified periods of time in an informal manner (Karlström 1999, 151-155). As Ssenkumba (1993, 19) notes, this system of ‘borrowing’ constituted ‘the main source of income for the landlord since the abolition of rent in the LRD.’ Thus, to earn a profit on their land, many landlords

would evict long-standing tenants in favour of those who borrow land and therefore pay for it – reminiscent, of course, of the similar conflicts in the 1950s described above. Naturally, this system led to ‘a lot of tension’ and made the ‘land question very sensitive,’ according to the then Professor (and current Prime Minister) Apolo Nsibambi.<sup>10</sup> Ironically, the end of the civil war in 1986 meant that absentee landlords were now able to go back to property they had not seen in two decades and attempt to collect rent. For instance, in one village in Mpigi district, ‘the first time the landlords introduced themselves and declared their interest in their land was when they issued 30 households with an eviction notice on 10 August 1988’ (Bikaako 1994, 40).

Thus it was inevitable that, upon taking power in 1986, Yoweri Museveni and his National Resistance Movement (NRM) government had a good amount of dissention within its ranks about what land policy the government should adopt. For the first decade of its existence the NRM was quite broad-based, with Marxists like Chango Machyo (Minister of Rehabilitation) and Mahmood Mamdani (Chair of the 1986/87 Commission of Inquiry into the Local Government System) occupying key positions alongside Buganda monarchists. Machyo and others argued against the continuation of the *mailo* land system, advocating communal ownership of land and claiming that those Baganda tenants who were against abolishing *mailo* land were misled by their landlords. Thus, according to President Museveni, ‘the peasants in Buganda, as elsewhere in Uganda, may not have discovered their own interests.’<sup>11</sup> In other words, Museveni claimed that the struggle over land is a class struggle hidden by ethnic identity, writing that ‘Baganda peasants have suffered as much injustice at the hands of their Baganda elite as at the hands of elements of the elite from other areas.’ He claimed to be committed to the elimination of the *mailo* land system,

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<sup>10</sup> *New Vision* (Kampala), 1 July 1988.

<sup>11</sup> *New Vision* (Kampala), 12 July 1994.

which ‘robbed the Baganda and non-Baganda of the ‘lands of their birth... I will not rest until this injustice is resolved.’<sup>12</sup> It is therefore no surprise in this context that ‘landlords were jittery about the NRM and assumed that the NRM was “communist”’ (Nyangabyaki 1997, 197).

However, as the NRM cabinet also included such stalwart monarchists and landlords as former and future Buganda *Katikkiro* (Prime Minister) J. Mayanja-Nkangi (Minister of Education) while Apolo Nsibambi, a Bugandan landlord and future Prime Minister, was appointed a member of the Commission on Local Government chaired by Mamdani. This diversity of appointments plus the already extant tension between landlords and tenants was enough to scare off the government from enacting comprehensive reforms before it began deliberations over a new constitution in the mid-1990s. However, delegates to the Constituent Assembly assigned to discuss the constitution were also unable to agree on a land policy for the country and therefore agreed to delay debate for a new land law to be tabled within two years of the enactment of the 1995 constitution.

#### 4.2. The Land Act (1996-1998)

If the government’s motive in putting off the debate on land was a hope that the issue would somehow resolve itself in the mean time, it was a complete failure: the debate over the Land Act turned out to be one of the most difficult political struggles of the NRM’s first fifteen years in government. Not only was there serious opposition to the Act in the Parliament and within the NRM, but the Buganda government, restored in 1993 but purely as a cultural institution, was able to mobilize large

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<sup>12</sup> *The Monitor* (Kampala), 12 July 1994.

numbers of people against the perceived faults of the Act. While the government was nonetheless able to pass the Land Act after a brief debate in June 1998, the Act's unpopularity has led both to repeated calls for its amendment as well as an increase in the popularity of reviving the federal state of Buganda that existed between 1962 and 1966.

The Land Act was designed, above all, to provide security of tenure for those whom the government called 'bona fide' occupants who had been living on a plot of land for at least 12 years without paying rent. It proposed to require both illegal occupants and legal renters to pay landlords 1000 Ush (\$0.58) per year as a nominal fee in order to obtain a certificate of occupancy. Public land (formerly Crown land) would be controlled by District Land Boards at the district level of local government, rather than in Kampala by the Uganda Land Commission as they had been in the past. It was hoped that the Land Act would thus help to further spur a market in land throughout the country, reduce poverty and, through newly created Land Tribunals at the sub-county and district levels, alleviate conflict over land.

Much has already been written on the failures of the government to achieve these objectives,<sup>13</sup> most notably due to the lack of funds: as Bosworth (2002, 21) writes, 'the Land Act was enacted essentially without forethought concerning the funding and human resource requirements for executing the wide-ranging tenure and institutional reforms that it proposed.' However, it is doubtful that the Act would have been successful had it received adequate funding for the simple fact that it was, and continues to be, unpopular in Buganda. Despite the fact that the Act was partially designed to support Bugandan tenants against their landlords, the NRM government has nonetheless failed both to acknowledge ethnic attachment to land in Buganda and

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<sup>13</sup> Among others, see Deininger and Castagnini (2004), Hunt (2004), Nsamba-Gayiiya (1999) and Rugadya (1999, 2003).

negate the perception that the central government is ethnically biased towards western Ugandans. I examine each of these problems in turn.

#### 4.2.1. Ethnic Attachment to Land in Buganda

To the casual observer any claim that the *mailo* land system is part of Bugandan culture should be contradictory, since, as noted above, its creation completely uprooted the pre-colonial land structure. Indeed, Museveni himself has argued that ‘the *mailo* land system was not “traditional;” ... it was the anti-thesis of tradition.’<sup>14</sup> Nonetheless *mailo* has become intertwined with culture in Buganda since 1900 for the very simple reason that many Baganda continue to associate *mailo* land with the *Kabaka*, whom they want to hold some sort of nominal control over land.

Many Baganda actually made this point to the members of the Uganda Constitutional Commission (UCC), who collected views on what should be put in the new constitution in the early 1990s. What is indeed notable about the UCC memoranda is the large number of amendments to the *mailo* system proposed by the Baganda – including limiting individual landownership to 500 hectares, allowing squatters to get certificates of occupancy through paying tax to their landlords, redistributing and/or taxing unused land and forcing landlords to pay a land fee to the central government, among others – which were coupled with the simultaneous acknowledgement that, as part of Bugandan culture, the *mailo* land system itself should nonetheless be retained. Most striking was one contradictory memorandum from a parish council in Mpigi district (located south of Kampala), which argued that the *Kabaka* ‘should be the sole arbitrator over land disputes’ but the state should be

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<sup>14</sup> *New Vision* (Kampala), 2 June 1998.

the ultimate landlord. 'Land is the only consolation and reward to the people of Buganda in their struggle for independence and the atrocities committed,' it claimed.<sup>15</sup> Similarly, the overwhelming popularity in Buganda for a return to a federal system of government rests partially on the desire for to return authority over public land to a Bugandan, rather than a Ugandan government. For instance, one resident of Kiboga town commented that today, 'if someone comes from another country with money and negotiates with the government, the local people are being chased away as if they are not citizens, which was not used when we had the *Kabaka*.'<sup>16</sup>

Many MPs also made the link between the *Kabaka*, Bugandan culture and land explicit during the debate on the Land Act. For instance, Ruth Nankabirwa (Women, Kiboga) claimed that,

On the 9000 square miles [of public land in Buganda]: Mr. Speaker, this was not so controversial in Kiboga because the majority of the people I consulted agreed that they want the District Land Boards to administer this land. But they want the land to be held in trust by the traditional leader, there was no controversy there.<sup>17</sup>

Similarly, Janat Mukwaya (Mukono South, Mukono) noted that

What we want to get at is that our peasants in the rural areas want their ownership, but they also feel that way because they grew up feeling that the *Kabaka* is their trustee... We do not want the *Kabaka* to own the land, I want my land, but I also want to feel that as a group, that is what I want.<sup>18</sup>

Most interesting, however, is a speech given by Byekwaso Lubega (Women, Masaka), which deserves to be quoted at length:

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<sup>15</sup> Bweyogerere RC2 Memoranda, Mpigi district (1992), Pp. 12, 33.

<sup>16</sup> Interview with John Kayuki, Kiboga, 15 Nov. 2001.

<sup>17</sup> Parliament of Uganda Hansard, 23 June 1998, 4106-7.

<sup>18</sup> Parliament of Uganda Hansard, 28 June 1998, 4331.

I come from a place where we strongly believe that historically our land had a cultural leader who looked after it on behalf of the people... We know where land in Buganda originally belonged; whether it belonged to a non-Muganda or a Muganda, it had somewhere – the institution. The institution which this Constitution re-established has a cultural leader who is the *Kabaka*, and the people in Buganda strongly believe that this is the right man to look after our land on our behalf. Let the Constitution go ahead with the powers of administration, but we want to recognise and not forget that historical symbol of ownership of the *Kabaka*. We strongly believe in our customs, we strongly believe in our culture; every tribe has its own beliefs, in culture, in customs, in traditions, and this is one of them.

It does not mean that when the land belonging to Buganda is under the umbrella of the *Kabakaship* people are going to lose land, no, we are going to have this land in accordance with the law. We are trying to respect and bring out the norm of the name *Ssabataka*, because historically *Ssabataka* meant that cultural leader who is in charge of all the land of the people of Buganda... Historically and culturally, in Buganda, we believe that all land belongs to the *Kabaka*. He holds our land on our behalf, and we feel it does not hurt anybody because we believe that he is the person who is supposed to hold it. We give him trust to hold our land, because customs, as I said, vary... So, if this cultural leader, the *Kabaka*, is going to hold land allow him please, give him that, symbolic trust the people of Buganda have given him.<sup>19</sup>

In other words, the *Kabaka* should have nominal control over land in Buganda because the link between the *Kabaka* and land is part of Bugandan culture, as Audrey Richards had already noted back in the 1950s. Thus it is apparent how any attempt to take land away from the *Kabaka* and/or the kingdom could be considered an assault on Bugandan culture.

#### 4.2.2. Ethnic Bias and Xenophobia towards 'Foreigners'

Far from being a fringe concern among paranoid xenophobes or even merely among kingdom officials, there was and continues to be widespread mistrust that the central government and 'foreigners' are conspiring to take Bugandan land away from the Baganda. At first glance this would appear to be entirely incorrect, since, as seen

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<sup>19</sup> Parliament of Uganda Hansard, 28 June 1998, 4327.

above, Museveni's government was initially split between Marxists and Bugandan landlords. Yet in recent years the formerly broad base of the NRM government has given way to an increasingly obvious bias towards western Ugandans, evident both militarily, politically and economically. As a result the Baganda and Ugandans in general are less likely to view government attempts at land tenure reform as ethnically neutral as they would have in the past.

The NRM bias towards western Ugandans had been a long-standing problem ever since Museveni took power in 1986 with an army overly populated by Banyankole and their ethnic brethren, the Banyarwanda.<sup>20</sup> While Museveni did make efforts to include a variety of Ugandans in his government, he appointed his brother, Salim Saleh, as Army Commander in 1986, only to have him followed by yet another Munyankole, Mugishu Muntu, in 1989.<sup>21</sup> Museveni did attempt to combat this perceived bias in his choice of Jeje Odongo, a native of eastern Uganda, as Commander in 1998; however, Odongo's successor in 2001 was none other than the President's nephew, James Kazini, who was then succeeded in 2003 by another Muhima, General Aronda Nyakairima. These appointments, plus the continued presence in the upper army echelon of the Bahima Generals David Tinnyefuza and Elly Tumwine along with Museveni's son, Major Muhoozi Kainerugaba, led the International Crisis Group (2004, 13) to note that

Banyankole/Bahima domination of the top ranks undermines any attempt to project the army as a national institution with a national outlook. The absence of a national outlook in turn reduces the army to an arm of NRM ideology that serves the relatively narrow political interests of its founder and a few kinsmen.

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<sup>20</sup> Banyarwanda, including the current President of Rwanda Paul Kagame, comprised some 20-30% of the army in the 1980s. The Banyankole are split among the cattle-herding Bahima and the farming Bairu, much like the Tutsis and Hutus in Rwanda. Museveni has thus often been accused of being, like Kagame, a Tutsi. The rumours rest on the fact that one of his grandparents was a Tutsi; however, the rest were Bahima/Banyankole.

<sup>21</sup> Muntu held the post until 1995.



Similarly, Museveni's May 2003 cabinet reshuffle came under criticism for resulting in 'one of the most unrepresentative [cabinets] since the Movement came to power 18 years ago,'<sup>22</sup> with 11 of 19 senior ministers from western Uganda and only one from eastern Uganda. Indeed, while northern districts like Kaberamaido, Katakwi and Pader that have been affected by the LRA war have no representation in the cabinet, Mbarara district is represented in government not only by President Museveni but also three cabinet ministers (Peter Kasenene, Mary Mugenyi and John Nasasira) and the current Ugandan Ambassador to the UN, Francis Butagira.

Western Ugandans have also been seen as benefiting economically from Museveni's rule more recently. Between 1994 and 2000, for instance, the poverty rate in urban western Uganda dropped from 25.2% to 5.6%, overtaking the urban poverty rate in Buganda (which declined from 11.9% to 7.0% over the same period of time; Bigsten and Kayizzi-Mugerwa 2001, 28; Bird and Shinyekwa 2003, 4). More specifically, the President's relatives were accused of overly benefiting from the privatization of parastatals in the 1990s, especially the President's brother Salim Saleh and Museveni's wife's brother-in-law Sam Kutesa, who were both heavily implicated in the scandals surrounding the divestitures of various companies. Saleh and the aforementioned General Kazini were also heavily implicated by the UN in 2001 and 2002 for plundering eastern Congo for their personal financial benefit, while both men plus Kazini's brother-in-law Emmanuel Katto and Museveni's foster child Kwame Ruyondo were involved in a highly-publicized scandal over defunct Belarusian helicopter gunships in 1996/97 (Tangri and Mwenda 2001, 2003).

As a result of this perceived state bias towards western Ugandans, many Baganda remain wary of central government attempts at land tenure reform, often

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<sup>22</sup> *The Monitor* (Kampala), 31 Aug. 2004.

couching their worries in coded language. Indeed, already in the early 1990s participants in UCC seminars in the region expressed concern about ‘foreigners’ gaining access to land.<sup>23</sup> One district councilor in Kiboga district was similarly careful in his criticism, noting that conflict over land in the district was due to the fact that ‘the President [had] allowed his people’ to come settle on land in western Kiboga.<sup>24</sup> More explicitly, one typical letter to the editor in *The Monitor* claimed that Museveni is ‘encouraging his people to buy land in Buganda and he has continued to cut Buganda into smaller districts, may be [sic], with the aim of annexing some of them to [his home area of] Ankole.’<sup>25</sup> MPs from Buganda have even expressed similar concerns: Wasswa Lule (Lubaga North, Kampala) noted that, ‘if we allow government to acquire land for investors, only the investors from Mbarara [the largest city in Ankole] will get it,’<sup>26</sup> while Sauda Mugerwa (Women, Masaka) was again more circumspect in claiming that ‘most squatters in Buganda are non-Buganda’ and that ‘strangers’ want to come and ‘share’ land in Buganda.<sup>27</sup>

Much of this distrust of the government’s bias towards Banyankole has also rubbed off on local Banyarwanda who may have nothing to do with Museveni and the NRM but who are nonetheless lumped together with the Banyankole due to their ethnic similarity and history of association with the NRM (see footnote 20). Similarly, in a 1998 seminar on land in Luwero district a local resident asked ‘these Rwandese, how can they own land in Buganda’ while another suggested that ‘foreigners owning land in Buganda surrender it to Mengo government,’ citing the example of Rwandan President Paul Kagame’s land in Kiboga district, which has a

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<sup>23</sup> While there has been concern in recent years about actual foreigners leasing land – see for instance the controversy over a German company mistreating local farmers on its land in the Bukaleba Forest Preserve in 2002 – foreign ownership of land has long been prohibited in Uganda.

<sup>24</sup> Interview with FXD Kabanda, Kiboga, 15 Nov. 2001.

<sup>25</sup> *The Monitor* (Kampala), 28 Sept. 1994.

<sup>26</sup> *New Vision* (Kampala), 10 Nov. 1997.

<sup>27</sup> Interview with Sauda Mugerwa, Kampala, 29 Nov. 2001.

large Banyarwanda population.<sup>28</sup> Indeed, several local government councillors in Kiboga expressed strong anti-Rwandan sentiments to the author: one town councillor in Kiboga town said that the problem with the current land laws in Uganda was that ‘Rwandans can buy it,’ while another argued that Banyarwanda were taking away land from Baganda because they could afford to pay more for it.<sup>29</sup>

#### 4.3. 1998 – Present: The Failed Implementation of the Land Act

The reluctance of the government to acknowledge these two ethnic factors in the Land Act has had serious political consequences since the Act was passed in 1998. First of all, the Act led to a new low point for relations between Museveni and the Buganda kingdom government, who had formerly enjoyed good relations after Museveni restored the kingdom in 1993. However, the kingdom government was so angered by the Land Act that it declared the fifth anniversary of the *Kabaka*’s coronation as a day of mourning, whereupon *Kabaka* Mutebi himself publicly noted that there were ‘shortcomings in the land law.’<sup>30</sup> The government responded with a public relations campaign, going so far as to take out half-page advertisements in the largest national newspaper, the *New Vision*, the first time it had ever done so in between elections. One such ad noted that ‘Baganda now have their own land’ and that, ‘for the first time in 31 years the new law puts the land of the Baganda back in the hands of the Baganda.’<sup>31</sup> However, the advertisements noticeably did not mention the words ‘*Kabaka*,’ ‘*Katikiro*’ or ‘*Mengo*,’ nor did it attempt to dissuade readers

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<sup>28</sup> *New Vision* (Kampala), 22 June 1998.

<sup>29</sup> Interview with Martin Kabuye, Kiboga, 15 Nov. 2001; Interview with Eugene Musoke, Kiboga, 16 Nov. 2001.

<sup>30</sup> *New Vision* (Kampala), 4 Aug. 1998.

<sup>31</sup> *New Vision* (Kampala), 8 Sept. 1998.

that the Banyarwanda and Banyankole were attempting to take away land from the Baganda.

The Act remained unpopular to the point where *Kabaka* Mutebi claimed in October 1999 that ‘I have been approached by so many people in Buganda who are not happy with the Land Act.’<sup>32</sup> It is therefore hardly unexpected that the Land Act came up during the 2001 election campaign, when the very popular ex-Mayor of Kampala Hajji Nasser Sebagala announced that he and presidential candidate Kizza Besigye had agreed upon a need to revisit the Land Act. Furthermore, the Constitutional Review Commission (CRC), appointed one month before the election, had land among the issues it was supposed to discuss: indeed, the CRC’s creation was widely credited as one of the most important reasons behind Museveni’s subsequent victory, not the least because the then Minister of Justice who appointed its members was none other than former *Katikkiro* of the Buganda Kingdom back in the 1960s, J. Mayanja-Nkangi, who thereby added legitimacy to the idea that Museveni might accede to Bugandan interests.

Yet perhaps the most profound effect the Act has had in national politics is in increasing popularity for a restoration of the federal state of Buganda (nicknamed *federo* in Luganda). As noted above, many Baganda continue to see a link between the *Kabaka*, land and ethnic identity, and see *federo* as a means to return to the golden days of the 1960s when Mengo both had authority over land legislation and controlled public land through the BLB. In order to demonstrate this support for *federo*, *Katikkiro* Joseph Ssemogerere led a march of tens of thousands of Baganda, chanting ‘we want *federo* back at Mengo,’ through the streets of Kampala in January 2003 to submit the kingdom’s memorandum of recommendations to the CRC. In their

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<sup>32</sup> *New Vision* (Kampala), 19 Oct. 1999.

attempts to win support in Buganda all opposition political parties in Uganda have now come out in favour of *federo*, while both the government cabinet proposals to the CRC and the CRC final report itself proposed various types of powers that could be devolved to a Mengo government.

Yet the NRM, in its 2004 White Paper response to the CRC final report, gave significantly less power to the potential regional tiers than the cabinet proposals. It specifically rejected a CRC recommendation that ‘districts should consider the option of forming joint or regional Land Boards and Tribunals’ – tantamount to allowing the formation of a Buganda regional Land Board in Mengo – arguing instead that such a move would ‘revive historical conflicts and rivalries in respect of land.’ Similarly, it also disagreed with CRC conclusions that ‘traditional and clan institutions, having a bearing on land, should be adopted in and/or closely consulted by the institutions of land management and adjudication.’ Furthermore, the government suggested that, ‘to promote development it should be possible to acquire land compulsorily for investment purposes... by Government’ (Government of Uganda 2004, 79-80). In other words, the government’s reaction to the CRC report was to merely confirm the worst fears of the Baganda and others that the NRM was neither interested in recognizing ethnic attachment to land in Buganda nor in attempting to allay fears that it wanted to acquire land for itself and hence for western Ugandans.

## **5. Conclusion**

Bringing ethnicity into an analysis of land tenure reform in Uganda thus allows for a much more nuanced understanding of the politics of land reform. There is no question that the Ugandan government would be highly likely to enjoy more support

in its efforts at land reform if it were to recognize the ethnic attachment to land in Buganda, for example by allowing the *Kabaka* to merely hold public land in Buganda in trust. The likelihood of the government agreeing to such a proposal is unlikely but by no means impossible, especially since, as noted above, the CRC as well as prominent MPs like Minister of State for Defence Ruth Nankabirwa and Minister of Agriculture Janat Mukwaya have all come out in favour of it. Indeed, there is some recent evidence that the government is caving into pressure and may allow the creation of regional land boards after all, with an equal number of seats given to district land board chairpersons and members appointed by a regional government.<sup>33</sup>

However, such a proposal does not address the continued perception of the Ugandan government as ethnically biased, a belief which will not change until Museveni and the NRM make a more conscious effort to reduce the overpopulation of Banyankole and Bahima in top military and political posts while also focussing more on reducing regional economic disparities. Until this happens the Buganda kingdom government, supported by a large number of Baganda, will most likely continue to oppose Museveni's attempts at land reform. Therefore, at least for the time being, land reform will sadly remain at an impasse in Buganda, with the government's lack of empathy for Bugandan ethnic demands and perceived bias towards Westerners and foreign investors the major stopping point.

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<sup>33</sup> *The Monitor* (Kampala), 13 Feb. 2005.

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