



Central-Local Political Relations and Land Policy Implementation

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Abstract

This study sought to find out central-local political relations and land policy implementation in the Districts of Kasese, Sheema and Bushenyi in Uganda since the Uganda National Land Policy (UNLP) 2013. Using mixed methods design data was collected from 436 participants and respondents was analysed using SPSS 23 for quantitative analysis and general content analysis for qualitative analysis. The study found out that central-local political relations are not entirely satisfactory and are in need of addressing so they can lead to good land policy implementation. The study recommended: harmonizing existing laws and regulations with the UNLP 2013; to further decentralize land rights administration and delivery of secure land rights by engaging and integrating customary land institutions and practices as required by the 2013 to allow for further local participation; divorce politics from administration.

Key words:

Land policy implementation, central-local political relations, land rights, decentralization

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1. Background to the Study

Historically, land policy implementation has been a chronic subject of huge importance in the world. Land policy implementation in Uganda dates back to pre-colonial, colonial and post-colonial times. Specifically, since the advent of decentralisation policy in Uganda, a number of political reforms have taken place. The 1975 the Land Reform Decree vesting land in the state was abolished by the 1995 constitution which vested land in the people. However these reforms have not been able to fully address the issues of secure land rights and land rights administration. This has led to continued land rights insecurity (Obaikol, 2014). The roles of central and local government are not yet streamlined.

The Local Government Act has empowered local governments to exercise within their jurisdiction all political authority and provide services as they think fit. Consequently central-local political relations have moved away from controlled and subordinate to a relationship based in consensus building, policy information and negotiation. In practice the combination of lack of managerial resources, inadequate financing, poor revenue generation has left the concept of independence for the local from the centre only unclear. The centre still dictates the agenda and the front line staff continue to be beholden to line ministries (Golola, 2001). The struggle for power and resources characterizes central-local political relations. A major justification of the UNLP 2013 is a harmonised framework with the ability to stop conflict concerning administrative decisions, regulations and laws that often overlap, leading to serious administrative conflicts and bureaucratic rivalry for responsibility and resources (Odhiambo, 2015). Land disputes and competition over resources creates challenges that could worsen and ignite conflict if not timely addressed (Byamugisha, 2014).

Odhiambo (2015) argues that, there continues to be a gap between policy development and policy implementation. Successive post-independence governments failed to address underlying issues in land governance and efforts in land policy have remained unimplemented to date (MoLHUD, 2015). Political between the central and local governments do not fully support land policy implementation. At this stage in the UNLP 2013 implementation process, it is yet unknown how strong it is to address the loopholes in land matters under current central-local political relations. Hence the need to investigate how relationship between the central and local governments affects the way land policy is implemented. Failure to address these loopholes will lead to continued land insecurity, land disputes and land conflict. This study therefore sought to find out central-local political relations and land policy implementation in the Districts of Kasese, Sheema and Bushenyi in Uganda since the UNLP 2013.

1.2 Statement of the Problem

Land policy implementation in Uganda continues to be problematic despite several policy interventions throughout its land governance history. There continues to be a legal dualism in the land system, a multiplicity of tenure regimes as well as multiple rights and interests overlapping in the same piece of land (MoLHUD, 2011). As a result land disputes and conflicts have become part of the definition of contemporary Uganda (MoLHUD, 2013a). Successive post-independence governments failed to address underlying issues in land governance and efforts in land policy remained unimplemented (MoLHUD, 2015). In 2013 Uganda started implementing the Uganda National Land Policy under a decentralisation framework. However, as already seen in the contextual background of this study, political, between the central and local governments do not fully support land policy implementation. At this stage in the UNLP 2013 implementation process, it is yet unknown how strong it is to address the loopholes in land matters under current central-local political relations. Hence the need to investigate how relationship between the central and local governments affects the way land policy is implemented. Failure to address these loopholes will lead to continued land insecurity, land disputes and land conflict (Byamugisha, 2014b).

1.3 Objective

Analyze political relations between central and local governments in the delivery of secure land rights and land rights administration.

2.0 Methodology

This study adopted a mixed methods design using a concurrent triangulation strategy. From a target population of 2419 a sample size of 436 was obtained. Concurrent sampling which supports mixed methods was used. Stratified sampling, purposive sampling and simple random sampling were used in the study. From the target population 394 respondents were obtained for questionnaire administration. Key informants numbered 48 and were interviewed for detailed explanations. Structured questionnaires and interviews were used and data obtained was analysed using SPSS v.23 for quantitative data and general content analysis for qualitative analysis.

3.0 FINDINGS

Central- Local Political Relations and Land Policy Implementation

The objective of this study was to analyze political relations between central and local governments in the delivery of secure land rights and land rights administration. This has been done by looking at quantitative data and qualitative data alongside. The findings on this objective are hereunder presented in tandem.

3.1 Concurrent quantitative and qualitative analysis of central-local governmental political relations and land policy implementation

Quantitative data was obtained from 394 respondents using SPSS v.23. Using SPSS the researcher analysed the data using descriptive statistics, specifically frequencies. The questionnaire used had a four point scale interval. That is strongly agree, agree, disagree and strongly disagree. The output is hereby presented to address the following statements

1. Delivery of local secure land rights depends on policy guidance by central government.
2. Delivery of local secure land rights suffers from political interference by central government.
3. Central government encourages local participation in delivery of local secure land rights.
4. Local land rights administration follows policy guidelines by central government?
5. Local land rights administration suffers from political interference by central government.
6. Central government has decentralized land rights administration to allow local participation.

3.1.2 Concurrent quantitative and qualitative analysis of the statement: delivery of local secure land rights depends on policy guidance by central government.

Table 1 below reveals results of the following statement employed: Delivery of local secure land rights depends on policy guidance by central government.

Table 1: Delivery of local secure land rights depends on policy guidance by central government

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly Disagree	27	6.9	6.9	6.9
Disagree	72	18.3	18.3	25.1
Agree	182	46.2	46.2	71.3
Strongly Agree	113	28.7	28.7	100.0
Total	394	100.0	100.0	

Source: Primary Data

According to Table 1 above 182 (46.2%) of the respondents agreed that delivery of local secure land rights depends on policy guidance by central government. Another 113 (28.7%) of the respondents strongly agreed that delivery of local secure land rights depends on policy guidance by central government. Therefore 295 respondents representing 74.9% agreed and strongly agreed that delivery of local secure land rights depends on policy guidance by central government. This was collaborated by participants interviewed in this study, who stated that, Policies so far made include the Uganda National Land Policy; the Land Acquisition Resettlement and Rehabilitation Policy and the National Land Use Policy. The researcher was further informed that the Land Compensation Policy is still pending. Other recent ministerial publications include; the Clients Charter; Communal Land Associations and What the Law says about Land Evictions. Still pending are guidelines on Evictions. In addition the researcher was informed that the legal and policy framework Uganda uses to deliver the land rights includes a constitutional framework in Uganda with Article 237 stating that land in Uganda belongs to the people and shall be held under four tenure systems (the prevalent customary tenure being included). This is consistent with literature reviewed in chapter two of this study. Therefore delivery of local secure land rights depends on policy guidance by central government as specified in Part 1 of the second schedule of the Local Government Act which states that formulation of primary policies and setting standards remained functions of the central government (LGA, 1997: Sec 30).

Furthermore participants revealed that the legal framework prescribing the delivery of land services includes laws such as the Land Act; Registration and Titles Act; and Physical Planning Act. Pending laws include: the Land Information Systems Act; the Land Acquisition and Compensation Act; Surveyors Registration Act; Survey and Mapping Act; and Registration of Titles Act. This shows that the legal framework to enable delivery of secure land rights is still not in yet fully in place. It was revealed by MoLHUD officials that this is because the proper order was not followed in Uganda which entails making policy, followed by law and then regulations. In Uganda it has been law first (the 1998 Land Act),

policy second (the 2013 UNLP) then the National Land Policy-Implementation Action Plan in 2015. Therefore in Uganda the National Land Policy-Implementation Action Plan was made first instead of regulations. As for the legal framework, there necessitated an amendment of all Acts to streamline the laws to fit the policy (UNLP, 2013). It is only after the law is in place that delivery mechanisms can follow unencumbered by law. These delivery mechanisms include the: Central Land Office/MoLHUD; District Land Office; District Land Board; and Area Land Committees. It is therefore safe to assume that once the policy, law, regulations and delivery mechanisms are synchronized then there will be greater satisfaction registered with delivery of local secure land rights.

Nevertheless a member of the Sheema District Land Board had this to say, Area Land Committee signatures are checked against specimens. In Bushenyi it was said, the District Land Board does not contest the work of Area Land Committee. District Land Board also ensures that public access to public resources such as water is ensured or else no titling (Member District Land Board, in Bushenyi, interviewed on 12/07/2017). The above verbatim response demonstrates knowledge and a usage of central policy guidelines in the delivery of secure land rights in Bushenyi District.

In Kasese similar sentiments were reported with regard to central government policy guidance. A member of Muhokya Area Land Committee, referring to the piloting of Certificates of Customary Ownership in Kasese said, people's right to land is more secure with Certificates of Customary Ownership because Certificates of Customary Ownership rescue people in times of land dispute and land conflict (Member Area Land Committee, Muhokya in Kasese, interviewed on 23/10/2017). He also expressed happiness in the avenues of credit that have opened up allowing for personal development. He along with other participants claimed that credit up to five million shillings and more can be obtained from banks using Certificates of Customary Ownership. It is therefore clear from this study that more people than not were satisfied with central-local policy guidance in delivery of secure land rights and land rights administration.

.3.1.2 Concurrent quantitative and qualitative analysis of the statement: delivery of local secure land rights suffers from political interference by central government.

Table 2 shows output for the following statement posed: Delivery of local secure land rights suffers from political interference by central government.

Table 2: Delivery of local secure land rights suffers from political interference by central government

	Frequency	Percent	Valid Percent	Cumulative Percent
strongly disagree	37	9.4	9.4	9.4
Disagree	101	25.6	25.6	35.0
Agree	184	46.7	46.7	81.7
strongly agree	72	18.3	18.3	100.0
Total	394	100.0	100.0	

Source: Primary Data

Table 2 reveals that out of 394 respondents 184 (46.7%) agreed and 72 (18.3%) strongly agreed that delivery of local secure land rights suffers from political interference by central government. Together this represents 256 respondents accounting for 65% of total responses. This implies that the majority of respondents agreed and strongly agreed that delivery of local secure land rights suffers from political interference by central government. In Sheema a member of the District Land Board responding to a similar query said verbatim,

“Yes! Sometimes we get people making claim on some land, saying that they are from state house and we can’t do our work.”

(Member District Land Board, in Sheema, interviewed on 12/07/2107). It was further revealed that interference is also experienced from Uganda Land Commission and National Forestry Association. The District land Board may allocate land and later the Uganda Land Commission claims that land is under their jurisdiction. In addition jurisdictional clashes have occurred with the District Land Board facing off with the National Forestry Authority over some forested land in the district. This clearly suggests that local delivery of secure land rights is interfered with by central government individuals and institutions in delivery of secure land rights.

Another concern was raised by a MoLHUD official who observed that central government has allowed people to cross over from other countries to vote during national elections and has gone as far as facilitating them to get National Identity Cards. Accordingly this would mean that foreigners with a lot of money may take advantage of such loopholes to buy off land from poor citizens defrauding them of secure land rights as secured by law. This according to this official constitutes political interference by the centre in delivery of secure land rights and land rights administration.

In Bushenyi a member of the District Land Office interviewed on 10/07/2017 categorically stated that there is political interference from central government. The member cited the Uganda Land Commission conflicts with the District Land Board in giving title as a case in point. He said when one institution refuses to give title the other gives. The member observed that there is over lapping authority over land. When another member of the District Lands Office was asked in an interview on 07/07/2017 if delivery of local secure land rights suffers from political interference by central government, he said,

“No.... but corruption from the centre in title or lease processes happens.”

(Member of the District Lands Office interviewed on 07/07/2017). This means that even after all due diligence at the district, the centre, which retained the right to issue titles, may interfere with a locally approved title application.

Participants interviewed in Kasese while referring to Certificates of Customary Ownership claimed central government had made it harder to acquire them. Initially Certificates of Customary Ownership were issued from the District. Then central government came in and said they should be issued from the centre. This has resulted in delays in applications. It used to take 3 months to get a Certificate of Customary Ownership. Now some people have waited years for certificates since the central government interfered in District issuance in 2014. From Muhokya the pilot area in Kasese for Certificates of Customary Ownership over 1000 applications have been sent so far to the District Land Board and only about 30% have got Certificates of Customary Ownership while 70% are still waiting. However the new

Certificates of Customary Ownership are more detailed. For example the new ones have space for successive buyers to sign. When asked if delivery of local secure land rights suffers from political interference by central government, a member of the District Land Office of Kasese, in an interview on 29/08/2017 replied,

“The Resident District Commissioners act as judges and ignore court orders. He will say, I am working for Central Government who are you!”

Therefore actions by powerful centrally appointed Resident District Commissioners are perceived as actions of central government interference in delivery of secure land rights. Recent media reports are awash with stories of Resident District Commissioners taking sides in land conflicts in several districts including Kasese.

3.1.3 Concurrent quantitative and qualitative analysis of the statement: central government encourages local participation in delivery of local secure land rights.

Table 3 shows data output from the statement: Central government encourages local participation in delivery of local secure land rights.

Table 3: Central governments encourages local participation in delivery of local secure land rights

	Frequency	Percent	Valid Percent	Cumulative Percent
strongly disagree	28	7.1	7.1	7.1
Disagree	100	25.4	25.4	32.5
Agree	193	49.0	49.0	81.5
strongly agree	73	18.5	18.5	100.0
Total	394	100.0	100.0	

Source: Primary Data

Table 3 shows that 193 (49%) respondents agreed while 73 (18.5%) strongly agreed that central government encourages local participation in delivery of local secure land rights. The study hence found out that respondents were generally of the view that central government encourages local participation, as attested by 67.5% of respondents, in delivery of local secure land rights. This finding demonstrates that the central government has upheld one of the purposes for decentralisation as stipulated under Article 176 (2) (e) of the Constitution of Uganda. That is, taking appropriate measures to enable local government units to plan, initiate and execute policies in respect of all matters affecting the people within its area of jurisdiction. This is also in agreement with the participatory and consultative implementation strategy to the Land Act and Land Policy that central government adopted (Rugadya, 1999) as earlier mentioned in this study. Participants interviewed revealed that it was agreed for instance that the centre would fund 65% of the cost of acquiring Certificates of Customary

Ownership whereas the locals benefitting from this service would meet the remaining 35% of the funding. This has resulted in massive certification of land rights and improved land rights security. In Kasese out of 18,900 applications by December 2017 as many as 8000 certificates had been processed. A member of Muhokya Area Land Committee revealed that Certificates of Customary Ownership are applied for and given on the basis of clients willingness. Certificates of Customary Ownership officially cost 20,000/= payable at Sub County offices, however the client must meet the cost of facilitating the Area Land Committee. This cost of facilitation is usually 100,000/= Uganda shillings but can go up to 200,000/= for distant places. This money caters for transport and refreshments for the committee members when they visit an area to inspect and assess it for titling. This solicitation of money is unlawful and has resulted from the centre not adequately financing the local delivery systems as will be discussed later on in this study under financial relations.

Furthermore as observed in the background of this study the main challenge with this participatory implementation strategy is to balance the need for strong coordination at the centre with effective mobilization of district based institutions to use powers devolved them by the Land Act. There was a danger that the centre will take on too much, or that local institutions will not be empowered enough to fulfill their roles effectively (Rugadya, 1999; MoLHUD, 2009). This concern was expressed by a member of the Uganda Land Commission who noted that the Land Fund has not benefitted the landless people of Kasese such as the Basongora and Banyabindi because they have not asked for this intervention from the centre. This he said was because the Lands Fund is demand driven meaning it must be initiated by locals who must therefore be aware and knowledgeable about it. Basongora participants on the other hand claimed the centre had tried to resettle them away from their ancestral grazing lands but this had only complicated relations with existing ethnic groups as shown in an earlier study (AISRGD, 2014). The Basongora elders preferred to be allowed to settle in the presently gazetted Queen Elizabeth National Park where their ancestors coexisted for centuries with the wild animals. They claimed they have for a long time made their desire known in both local and national fora up to the highest office in the land but their concerns have not been addressed.

The Constitution of the Republic of Uganda (1995) Article 242 states that Government may, under laws made by Parliament and policies made from time to time, regulate the use of land. The Land Act (1998) section 44 (6) further states that Parliament or any other authority empowered by Parliament may from time to time review any land held in trust by the Government or a local government whenever the community in the area or district where the reserved land is situated so demands. According to Rugadya's (2009) study, Escalating land conflicts in Uganda: A review of evidence from recent studies and surveys, the residents of Kasese District have been demanding degazetting of their land or compensation from government on the grounds that half of their territory is gazzetted as game parks, forest reserves, prisons, or other government institutions. In the study by Renno et al. (2012) of the respondents asked 81% agreed or strongly agreed that National parks should be degazetted in part to allow for more farm and grazing land. This study finding thus resonate with Rugadya and Renno et al findings that even though locals have made demands for degazetting of land for settlement these demands have been lacking in power to effect any desirable change.

In Bushenyi a participant mentioned that the construction of roads under CAIP (Community Agricultural Infrastructural Improvement Program) is done by obtaining consent from the community as that land used for roads is not compensated. This means that individual and communal rights to land are not compromised even for local road construction but due consent is sought when determining the path of a community road. Unlike other government

roads, road construction under CAIP does not compensate for land used. This means local participation is crucial for success of these programs and due diligence must be done. However reservations were registered concerning local participation with a member of the District Land Office interviewed on 07/07/2017 citing inadequate consultations by the centre with the District land office in drafting policies such as the UNLP 2013. The member also decried the lack of proper information on land issues to warrant meaningful local participation. The member said even when information reaches the land office there is no sufficient dissemination or sensitization of locals to ensure informed participation in delivery of secure land rights.

3.1.4 Concurrent quantitative and qualitative analysis of the statement: local land rights administration follows policy guidelines by central government.

Table 4 reveals results of the following statement posed: Local land rights administration follows policy guidelines by central government.

Table 4: Local land rights administration follows policy guidelines by central government

	Frequency	Percent	Valid Percent	Cumulative Percent
strongly disagree	35	8.9	8.9	8.9
Disagree	95	24.1	24.1	33.0
Agree	182	46.2	46.2	79.2
strongly agree	82	20.8	20.8	100.0
Total	394	100.0	100.0	

Source: Primary Data

From Table 4 above 182 (46.2%) respondents agreed that local land rights administration follows policy guidelines by central government. Also 82 (20.8%) of the respondents strongly agreed that local land rights administration follows policy guidelines by central government. This implies that majority 264 (67%) of the respondents agreed and strongly agreed that local land rights administration follows policy guidelines by central government. Land rights administration was reported as satisfactorily by some participants as well. Participants reiterated the role of MoLHUD in giving policy guidance to the land institutions. A key policy guideline issued in 2010 was the Physical Planning Act that made the whole of Uganda a planning area. Also mentioned was the dissemination of policy guidelines through the Information Education Communication (IEC) where MoLHUD translates policy guidelines into vernacular for local dissemination.

However an interviewee from one of the District Land Office firmly deferred. This official was of the view that, policy guidance is not sufficient. It is ambiguous. The mode of availing information is not standard it is mostly verbal and informal. He suggested that some officials at the centre hold information on policy for financial gain. He also said some land titles are given without due process at the centre defying policy guidelines. This finding is not new since research has shown corruption is a common phenomenon at many levels in the land sector, partly because of the salary levels (DAI, 2016). This difference in opinion may represent a minority view (33%) by respondents who either disagreed or strongly disagreed that local land administration follows policy guidelines by central government.

A participant from the Bushenyi District Land Board was of the view that policy guidelines from the centre are satisfactory but they are not followed with necessary funds for implementation. This lamentation was further elaborated by a member of the MoLHUD interviewed. This participant identified the following challenges to policy guidance in land rights administration in addition to inadequate funding:

- Fraudulent land transactions
- Multiple titles on land
- Surveyors not doing their work
- Titles in eco sensitive areas
- Overlapping surveys
- Corruption in land institutions
- Unethical public that encourages corrupt practices
- No comprehensive training
- Staffing deficits
- Preference of urban life by land professionals
- District administration including Chief Administrative Officers and Town Clerks who do not appreciate land issues
- and Increased land conflicts.

When asked whether land rights administration follows policy guidance from central government, Member of the District Land Board after some thought said,

“Yes....hmmm... for instance wetlands are not titled”

(Member District Land Board, in Bushenyi, interviewed on 12/07/2017). In Bushenyi as in other parts of the country titles in wetlands acquired unlawfully after 1995 were cancelled as per Cabinet Directive of 16th April 2014. The District Land Board does not consider applications for titles in wetlands as required by law.

In Kasese policy guidance in land administration was collaborated by a District Land Office participant interviewed on 22/08/2017 who claimed the District Land Office was consulted in formulating the UNLP 2013. Draft policies were first sent to the District Land Office and

then input was given during a 3 day workshop held at Hotel Africana. In addition to the bottom-up approach in drafting the UNLP 2013, that gave officials a feeling of ownership of policy, the policy of settling of landless people also delivered satisfaction. When asked if central government policy guidance has led to better land rights administration, another District Land Officer concurred that, landless people were allocated land in Butsumbamuro.

3.1.5 Concurrent quantitative and qualitative analysis of the statement: local land rights administration suffers from political interference by central government.

Table 5 below shows responses to the statement posed as follows: local land rights administration suffers from political interference by central government.

Table 5: Local land rights administration suffers from political interference by central government

	Frequency	Percent	Valid Percent	Cumulative Percent
strongly disagree	51	12.9	12.9	12.9
Disagree	99	25.1	25.1	38.1
Agree	173	43.9	43.9	82.0
strongly agree	71	18.0	18.0	100.0
Total	394	100.0	100.0	

Source: Primary Data

More than half the respondents 244 (61.9%) than not 150 (38%) agreed 173 (43.9%) or strongly agreed 71 (18%) that just like delivery of secure land rights, land rights administ

ration suffers from political interference by central government. This was collaborated by some participants as follows, politics continues to resurface in land and land law regimes. Landless people and overlapping rights on the same land are some of the problems that attract political solutions (MoLHUD official interviewed on 18/07/2017). Again, land is political. Land generates so many funds but they are not ploughed back into the land sector but are diverted to other politically expedient activities (MoLHUD official interviewed on 26/06/2017). These responses from ministry officials show that land is indeed a politically sensitive subject that attracts political interventions. As described by Honorable Daudi Migereko the then Minister of Lands, Housing and Urban Development as arguably the most emotive, culturally sensitive, politically volatile and economically central issue in Uganda (MoLHUD, 2013) hence prone to political interference.

On the local scene a participant concurred concerning central political interference in local land administration. He viewed the creation of Ministry Zonal Offices (MZOs) as an extension of central politics. He cited transfers of MZO staff as a means of interfering with local land processes since new staff would hamper continuity and necessitate a fresh start to ongoing land administration.

Kasese respondents revealed unease with political interference by central government in land rights administration. This view point was reiterated by a member of the District Land Office. He lamented that,

“The policy says the secretary to the District Land Board must sign the lease and freehold land offers but in practice the Senior District Lands Officer signs as directed by the Permanent Secretary”

(Member, in Kasese, interviewed on 29/08/2017). This shows that even when the policy is clear the central land ministry staff for one reason or another may over bear on the local district land staff to ignore policy in land rights administration. Another district staff, interviewed on 22/08/2017, on the other hand expressed more concern with local political interference. He lamented that, enforcement in land matters is a challenge because of (local) political interference. “There is even fear for life in cases where illegal buildings need to be demolished,” he said.

In Bushenyi like in Kasese it cannot be said that there is non-political interference in land rights administration. A member of the District Land Board of Bushenyi interviewed on 12/07/2017 said,

“In 2013 Bushenyi District Council leased land in Kyamuhunga Forest Reserve without involving the District Land Board. Also the District Council sold land in Kyabugimbi Sub County without involving the District Land Board. This case is currently in Court. Cabinet has since directed that there should be no sale of public land.”

Cabinet involvement in this case is viewed by locals as political interference. Likewise when a former technical member of the District Land Board was approached to shed more light on this he agreed, saying

“When the IGG (Inspector General of Government) queried this lease (in Kyamuhunga Forest Reserve) the members of the District Land Board were approached by members of District Council on several occasions with bribes and eventually the Chairman District Land Board was compromised and wrote to the IGG saying that the District Land Board had consented to the lease disappointing fellow board members”.

It follows from the above responses that the centre under such circumstances cannot but interfere in land administration. This is in keeping with its mandate of inspecting and supervision of land services as mandated by law.

3.1.6 Concurrent quantitative and qualitative analysis of the statement: central government has decentralized land rights administration to allow local participation.

Table 6 reveals responses for the statement: Central government has decentralized land rights administration to allow local participation.

Table 6: Central governments has decentralized land rights administration to allow local participation

	Frequency	Percent	Valid Percent	Cumulative Percent
strongly disagree	54	13.7	13.7	13.7
Disagree	114	28.9	28.9	42.6
Valid Agree	150	38.1	38.1	80.7
strongly agree	76	19.3	19.3	100.0
Total	394	100.0	100.0	

Source: Primary Data

Findings in Table 6 show that out of 394 respondents 114 (28.9%) disagreed and 150 (38.1%) agreed that central government has decentralized land rights administration to allow local participation. When all four categories of responses are considered 168 (42.6%) of the respondents disagreed or strongly disagreed while 226 (57.4%) agreed or strongly agreed that central government has decentralized land rights administration to allow local participation.

In Kasese the decentralization of land administration through issuance of Certificates of Customary Ownership has reduced conflicts over land since it has encouraged local participation. The participants revealed that this is especially because of Form 23 which shows demarcations of land and an inspection report that caters for community concerns such as roads and water sources. Relatedly a member of the District Land Board seemed to concur thus, in 1000 title applications only two to five are lost cases or go bad (Member District Land Board, of Kasese, interviewed on 29/08/2017). This is in stark contrast to the past centralized system where customary certificates were not issuable and only 20% of Ugandans had land titles (Republic of Uganda, n.d).

A participant from Sheema said, Sheema land conflicts have reduced since it became a District bringing land services nearer to the people (Member District Lands Officer, in Sheema District, interviewed on 12/07/2017). This suggests that respondents in Sheema

could be experiencing improvement in land services and land administration as a result of increased local participation after acquiring a District status. Nonetheless still in Sheema a participant was of the view that central government decentralisation to allow local participation has done more harm than good. A case in point she said is the slow pace of projects as a result of gaps from the lack of a Compensation Policy. The participant said,

“Land is a fixed resource. This affects government service delivery. The removal of the 1975 Land Decree has brought challenges of compensation when public projects such as water and roads are undertaken. For instance in Sheema the Kyangyenye water project is being frustrated by individuals who are asking exorbitant compensation for land needed for the water project to pass.”

(Member Sheema District Land Office, Interviewed on 12/07/2017). The stalling of government projects has been a poignant issue in recent times as discussed in the next chapter of this study.

Furthermore a participant from Bushenyi District Land Board was of the view that decentralized land administration has not been followed with necessary funds for implementation. This short circuits the motive intended. This fault in implementation at the local sub-system means the whole system will not function to achieve organizational objectives as intended. It also means that, as mentioned in chapter two of this study, according to the bottom-up approach emphasis on the autonomy of local implementers is not enough since it is possible for central government to influence the goals and strategies of the local actors by determining resources made available to them (Schofield 2001).

4.0 DISCUSSIONS

The study looked at three constructs under central-local governmental political relations. These were policy guidance, local participation and non-political interference. The findings on these constructs are hereunder discussed.

According to research findings, delivery of local secure land rights depends on policy guidance by central government. It is no wonder that Ugandan policy makers have continued juggling with trying to perfect land policy. The correct order would be to make a policy that sets out what a government aims to do in administering the country's land, followed by a law governing the administration of the land and finally regulations explicitly guiding the administration of land.

However in Uganda the correct order has not been followed due to remedial interventions on policy gone wrong. Framers of the 1995 Constitution wanted to quickly change the land law to give radical title of land to people so as to fit in with the new prescriptions of the constitution and thus replace the 1975 Land Decree that vested radical title of land in the state. As a result the UNLP, pilot work for the various issue papers on the laws were prepared during the project named the Second Private Sector Competitiveness Project (PSCPII) (DAI, 2016). The danger here is duplication (wastage) of resources in the event laws need to be rewritten (The essence of the system theory adopted to underpin this study stresses the fact that the various sub systems in a system must be set in the right order therefore Uganda is fumbling with trying to put policy guidance in the right order.

The findings revealed that central government encourages local participation in delivery of local secure land rights to some extent. The majority funding of Certificates of Customary Ownership in Kasese by central government attests to government's strategy to encourage local participation in delivery of land rights and land rights administration. Furthermore the UNLP was made in 2013 to ensure that the management of the land sector contributes to democratic governance. As a consequence it is carrying out land reforms within the government policies of decentralisation and empowerment of the people (Bwogi, n.d) albeit, the Auditor General decried the lack of District land policies to enable local land implementation of the UNLP (Republic of Uganda, 2013).

In the same vein of democracy it was found out that the Uganda Land Commission claims it cannot assist people with the Land Fund unless the communities ask for the intervention. This may seem to uphold the principle of self-determination as one of the cornerstones of democracy, especially where the government has been accused of wanting to take peoples land. (www.statehouse.go.ug/media/.../president-dismisses-lies-regarding-land-amendment-bill). The problem with this position is that where the government fails to adequately educate and sensitize the population about land services; interventions such as the Land Fund will remain ineffective. The researcher talked to an elder among the Basongora, Mr. Isimbwa Acaali who said that he and others have been engaging government on a lasting solution to right the historical land injustices suffered by the Basongora and that they were now in the Constitutional Court. He denied being sensitized about the possibility of engaging the Land Fund. The land officer at the Uganda Land Commission nonetheless stated categorically that Uganda Land Commission has limited funding for the Land Fund.

Poor land governance systems are identified as triggers of land conflicts (Economic Commission for Africa, 2012). According to the systems theory a strong governmental system is one in which the various sub systems relate in harmonious fashion to achieve governmental objectives. This does not seem to be the case as people empowerment to make decisions is still wanting and even then the funding of institutions and agencies are inadequate. The MoLHUD (2015) disclosed that central government plans:

- ✓ To establish and operationalise a customary land rights registry for recording and certification of land rights
- ✓ Develop and implement a code of conduct and guidelines for land administrators
- ✓ Establish and enforce national professional standards for land administrators
- ✓ Identify, review and amend all standard land transaction documents for smooth operation of land registry
- ✓ Amend the relevant regulations under the different land laws to effectuate the reviews of all standard land documents.

These would provide policy guidance and encourage participatory decision making in the delivery of secure land rights. As a result registration, recording and certification of local land rights would be delivered. These all have not been done yet nonetheless the process of land law reform is on-going.

The findings showed that respondents were dissatisfied with central government non-political interference in delivery of local secure land rights. One of the issues was the states encouragement of cross boarder voting that has compromised NIRA (National Identification

and Registration Authority). This has defeated the guarantee of local secure land rights for locals since a copy of the national identity must be presented on all land transactions yet foreigners have acquired land illegally and are protected by loopholes in NIRA. The official revealed that there are plans for mass registration of land rights and issuing Certificates of Customary Ownership. This will definitely lead to foreigners from countries like Rwanda, Kenya and Democratic Republic of Congo getting certification yet this is against the constitution which does not allow foreigners to own land in Uganda under customary, freehold or mailo. Foreigners are limited to leasehold ownership usually 49 years and 99 years. Therefore central government actions and inactions have left citizens vulnerable to being defrauded of their land by rich foreign individuals.

Other issues included: interference from state house individuals in district land services; overlapping jurisdiction with Uganda Land Commission; conflicting jurisdiction with National Forestry Association; and interference and corruption from the centre in title or lease processes. An Auditor General's report revealed that the land administration system is inadequately resourced and performing poorly below expected standards with tendencies to fraud and corruption (Republic of Uganda, 2013). In the case of the lamentation in Kasese over delays in issuance of Certificates of Customary Ownership as a result of centralizing the process it can be argued that central government was exercising its mandate to ensure quality and provide security features for titles.

In the findings some respondents expressed satisfaction in political relations with regard to local land rights administration agreeing that it follows policy guidelines by central government. Some of these policy guidelines identified by the Principal Policy Analyst at the MoLHUD include: Standards; Legal and technical backstopping; Land regulations 2000; Survey and mapping guidelines; and a training manual (Member MoLHUD, in Kampala, interviewed on 26/06/2017). However an official from Bushenyi deferred deploring the insufficient policy guidance. He said policy was ambiguous and he criticized the lack of guidelines and stressed the lack of consultation in making these guidelines since he is the street level bureaucrat interfacing with the public. His position is supported by Lipsky (1980, as cited in Roh, 2012) who defined 'street level bureaucrats' as public service workers who interact directly with the citizens in the course of their jobs, and have substantial discretion in the execution of their work. He further decried presidential directives in land matters since they are not in consonance with existing policy and are not followed with necessary facilitation to carry them out. This is not helpful according to the systems theory since if any of the sub systems is malfunctioning; this has a negative effect on the operation of the whole system.

Documentary review revealed that there are plans to review current land laws and policies to improve policy guidance. The process is already underway with Uganda Law Reform Commission spearheading this effort. There are also plans to develop, adopt and disseminate procedures for administration of land rights to provide policy guidance (MoLHUD, 2015). Currently operating procedures vary from office to office. As training has been provided by different organisations (including Non-Governmental Organisations), the instructions provided are also different. It has not been possible to find a set of standard operating procedures. The lack of standard operating procedures makes it difficult for both staff and management to know whether the correct procedures are being followed, especially when new problems are encountered (DAI, 2016).

Another finding in Table 5 suggested that there is political interference in land rights administration. An official from MoLHUD interviewed stated unequivocally that land is

political. His colleague also observed that politics continues to resurface in land law regimes. She observed that landless people and overlapping rights on the same land are some of the problems that attract political solutions. The study captured some examples from Bushenyi and Kasese. In Bushenyi the involvement of cabinet and the office of the Inspector General of Government were cited as cases of political interference in land management albeit for the good. In Kasese the Permanent Secretary in the Ministry of lands was accused of disregarding the official policy and encouraging the District Land Officer to sign the lease and freehold land offers instead of the Secretary District Land Board as policy requires.

In her study, *Decentralisation in Uganda: Explaining Successes and Failures in Local Governance*, Lambright compares local government performance of Bushenyi, Lira and Mpigi districts and concludes that Bushenyi which was the best performer among the three owes this to informal political linkages. Informal political linkages have two dimensions: top down political linkages, comprised of central government financial and political support that flows to local areas; and bottom up political linkages comprised of political support provided by an area to the ruling party. Thus despite the formal political interference in land matters the informal political interference in form of patronage offsets the would be negative attitude, explaining in part the less volatile nature of land policy implementation in Bushenyi.

This patronage cannot be said of Kasese where political interference is viewed in a sinister spectrum. As Kasese land problems are hinged on historical and unjust political maneuvers. A case in point is the Central government land distribution and settlement where, the Banyabindi complained of selective government distribution of land resources. The government was said to have distributed land to the Basongora and Bakonjo leaving out the Banyabindi who had been landless for the last 50 years. They appeal to Article 32 (1) of the 1995 Constitution that requires the State to take affirmative action in favour of groups marginalized by reason created by history for the purpose of redressing imbalances which exist against them (AISRGD, 2014). This scenario emanated from an attempt to resettle the Basongora in 2007 which prompted the Bakonzo to claim some share which resulted in the division of land in such a proportion that for every 3 acres to Basongora 1 acre went to the Bakonzo. The Bakonzo interpreted this ratio as favoring the pastoralist Basongora whom government was resettling and needed more land to graze their cattle.

Also the researcher encountered complaints among the people of Kasese, who claim central government has meted out double standards by degazetting parts of Lake Mburo National Park (The New Vision, March, 08, 2013) and failing to do the same with Queen Elizabeth National Park. A visit to Sanga town situated in Lake Mburo National Park and people interviewed revealed that the government had degazetted 5km on both sides of the highway for the pastoralists there. Demarcation and reservation of land for national parks, game reserves and conservation is one of the triggers of land conflict (Economic Commission of Africa, 2012). The systems theory believes a faulty organization or programme is one in which the sub systems are interacting in hostile relationship. This seems to be the case in Kasese. Documentary review revealed that the NLP-IAP proposes to separate land rights administration system and political administration to reduce or eliminate political interference (MoLHUD, 2015).

Table 6 findings show that some respondents affirmed central government decentralization of land rights administration to allow local participation. The Land Act decentralized land management and dispute settlement mechanism. Several institutions were instituted to transfer emphasis of land administration to the local stage and ensure effective community participation in land administration matters (Sebina-Zziwa, 2015). This was clearly heralded

by a local who said Certificates of Customary Ownership have reduced conflicts over land and secured people's right to land in Muhokya, Kasese. This is especially because of Form 23 which shows demarcations of land and an inspection report that caters for community concerns such as roads and water sources. Interestingly a Member District Lands Officer of Sheema revealed that because land is a fixed resource it affects government service delivery. She suggested that the removal of the 1975 Land Decree brought challenges of compensation when public projects such as water and roads are undertaken. For instance in Sheema the Kyangyenye Water Project is being frustrated by individuals who are asking exorbitant compensation for land needed for the water project to pass.

This seems to be retrogressive thinking by the Officer, given that Uganda's 1995 Constitution is celebrated for having precisely abolished the 1975 Land Decree. Her position is poignantly that of her boss the CEO of Uganda. The President was reported by State House Uganda, Media Centre refuting claims government wants to grab land using the proposed Land Amendment Bill. He said in other countries land belongs to the state. In Uganda land belongs to the people because the government of NRM gave it to them. He said the government cannot turn around and take land it gave (www.statehouse.go.ug/media/.../president-dismisses-lies-regarding-land-amendment-bill). The Land Amendment Bill seeks to give central government power to appropriate land for development purposes by depositing in court the value of the land as determined by the Government Valuer if the owner of the land rejects such value in compensation for the appropriated land. This is contrary to the position in documentary evidence that shows government seeks to study how to further decentralize land rights administration functions to local and traditional land governance levels.

Other challenges in local land administration cited by officials of the lands ministry included: fraudulent land transactions; multiple titles on land; surveyors not doing their work; issuing titles in eco sensitive areas; and overlapping surveys. These they said were as a result of: corruption in land institutions; unethical public that encourages corrupt practices; inadequate funding; no comprehensive training; staffing deficits; preference of urban life by land professionals; district administration including CAO and Town Clerks not appreciating land issues; and increased land conflicts. The systems theory contends that if any of the sub-system is malfunctional, this has a negative effect on the operation of the whole system. Malfunction in land rights administration is thus problematic to land policy implementation. This malfunction needs to be addressed through effective decentralisation of land rights administration. Effective decentralisation involves greater devolution of decision making power to locals other than the current deconcentration of central power. Byamugisha observes that, Uganda's decentralisation of land administration is basically a deconcentration of present land administration roles to district land offices with minimal attempts to devolve, with regard to land under custom which makes up the majority of land in Uganda. This essentially robs the local communities of decision making power over customary land. This is worsened by failure to build capacity in customary institutions and the vagueness in the relationship between formal and informal land administration and management institutions (Byamugisha, 2014a).

5.0 CONCLUSIONS

Political relations between central and local governments are not entirely satisfactory in the delivery of secure land rights and land rights administration. The Land Policy is in place to guide land policy implementation. Some complementary policies such as the Land Use Policy are in existence but some policies such as the compensation policy are not yet in place. Complementary laws are also not yet in place such as the LIS law and Survey law which is obsolete. Relatedly regulations are not in place. They include the land use regulations and land records archiving and destruction regulations and very important for local land implementers the District Land Policies. This means the policy, law and regulation matrix is incomplete implying land implementers both at local and central level are working in a maze. This complicates central local political relations.

Political interference is a factor in land policy implementation. Mention was made of issues in citizen registration, central government agencies and institutions as well as state house officials as culprits. There is need to ensure non-political interference in land policy implementation as government committed in the National Land Policy-Implementation Action Plan.

There is satisfaction with decentralisation of land administration as well as satisfaction with local participation in delivery of land rights. However local participation in framing policy, regulations and guidelines was limited or lacking. There has been extensive devolution of decision making power but this has not been backed with funding which makes it toothless. The Land Policy and its implementation adopted decentralisation as a conceptual framework for addressing central-local governmental relations. Yet this may be political posturing without real commitment in terms of facilitation of local decision making and implementation using a bottom up approach. This has instead institutionalized corruption in the land sector with District Land Office, District Land Board and Area Land Committee all confessing to be soliciting or accepting money from the public to facilitate them.

6.0 RECOMMENDATIONS

There is need for harmonizing existing laws with the UNLP 2013. This includes the LIS Law and Survey Law. There is also need to put in place accompanying regulations and guidelines which include the Land Use Regulations and Land Records Archiving and Destruction Laws and Regulations. Concerning the exploitation of low prices of land by foreigners, there is need to verify and rectify NIRA records. Sensitization of land administrators and local councilors needs to be done addressing citizen rights to land and what the law says about land ownership in Uganda. There should be public education and awareness campaigns concerning land rights and land rights administration. There is also need to regulate the land market. An autonomous land agency free from politics needs to be set up to coordinate all land administration. Roles of all land institutions should be streamlined. Interference from state house needs to be investigated and corrective measures taken.

There is need to further decentralize land rights administration and delivery of secure land rights by engaging and integrating customary land institutions and practices as required by the UNLP 2013 to allow for further local participation. Revise the source and amount of funding of District Land Boards and Area Land Committees to keep them from soliciting funds from the public to facilitate them. This will restore public faith in them and allow the poorer population to access these public services. The inclusion of District Land Board and Area Land Committee on government payroll will remove the illegality of soliciting and expecting non receipted money from the public and allow the poorer population to access

land services, improving land rights delivery and administration. This can be followed by ethical guidelines to land policy implementers. The population can be re-oriented by encouraging patriotism lessons across all ages and caliber of citizens as well as promoting faith based organisations that impart moral values.

In the implementation of the UNLP 2013 there is need to divorce politics from administration. This means freeing local land implementers from undue political pressure from central actors in land policy implementation. The lands ministry can enter into an arrangement with the judicial ministry to create a hotline to report any political interference as well as protect whistleblowers. Strengthen and continue public private partnerships (PPP) in line with the land rights delivery function. This includes surveying, registration and documentation. This will reduce the discretion of careless District Land Office staff. There is also need to empower and facilitate civil society organisations to continue in complementing government in land rights delivery and administration including educating, sensitisation and awareness campaigns.

References

- African Institute for Strategic Research Governance and Development (2014). *Kasese conflict analysis progress report*. (AISRGD Research Series 0011) Retrieved from <http://www.africaninstitute.ug>.
- Byamugisha, F.F.K. (2014b). Land reform and investments in agriculture for socio-economic transformation of Uganda. *Paper Prepared for Presentation at the National Development Policy Forum*. Kampala, Uganda: National Planning Authority
- DAI (2016). *Study on capacity assessment of the land sector to support implementation of the National Land Policy*. Herts, UK: DAI Europe.
- Economic Commission for Africa (2012) *Natural resources and conflict management: The case of land*. Kigali, Rwanda: United Nations Office for East Africa.
- Golola, M. (2001). *Decentralization, local bureaucracies and service delivery in Uganda*. WIDER Discussion Paper No. 2001/115. Helsinki: World Institute for Development Economics Research.
- Obaikol, E. (2014). *Draft final report of the implementation of the land governance assessment framework in Uganda*, Uganda Land Alliance
- Odhiambo, M.O. (2015). Land policies and their implications for smallholder agriculture in Africa: A review of policies in six countries. AGRA retrieved from <https://www.google.com/search?q=agra+odhiambo+land+policies+2015&ie=utf-8&oe=utf-8>
- MoLHUD (2011). *The UNLP (Final Draft)*. Kampala: Author.
- MoLHUD (2013a). *The Uganda National Land Policy*. Kampala: Author.
- MoLHUD (2015). *The Uganda National Land Policy Implementation Action Plan 2015/16-2018/2019*. Kampala: Author.
- The Republic of Uganda (2013). A Report by the Auditor General: Value for Money Audit on the Management of the Land Tenure Project by the Ministry of Lands Housing and Urban Development. Kampala: Auditor Generals Office
- Rugadya, M.A. (2009). *Escalating land conflicts in Uganda: A review of evidence from recent studies and surveys*. Retrieved from [http://www.aresearchug.org/reports/commissioned_research/Escalating land Conflicts in Uganda Cause and Implications, 2009.pdf](http://www.aresearchug.org/reports/commissioned_research/Escalating_land_Conflicts_in_Uganda_Cause_and_Implications,2009.pdf)
- Renno, D. C., Twinamatsiko, J. and Mugisa, C.P (2012). *Kasese district poverty profiling and mapping*. Retrieved from <http://www.btcctb.org/files/web/Landation>
- Roh, K.A. (2012). *Challenges to policy implementation: an examination of and integrated health care delivery system demonstration project*. Honors projects. Paper 38. Retrieved from

http://digitalcommons.macalester.edu/poli_honors/38

Rugadya, M.A. (1999). *Land Reform: the Uganda Experience*. Land Use and Villagisation Workshop. Hotel De Mille Collines, Kigali 20th-21st September 1999.

Schofield, J. and Sausman, C (2004). *Symposium on implementing land policy: learning from theory and practice*, Oxford: Blackwell Publishing Ltd.

The Republic of Uganda (n.d). Uganda Vision 2040. Kampala: National Planning Authority.

