The Common Pool Resource (CPR) Regimes in Uganda: The Four Scenarios

Ronald Asiimwe Businge[1]

Abstract

This paper dwells on land (including forests, water bodies, national parks, forests, rangelands, wetlands, leisure parks and green belts); one that is considered the most important common in Uganda. In the pre-colonial era land in Uganda was governed differently. The Kabaka of Buganda owned land and held it in trust for the people of Buganda. In other parts of the country, land was owned communally, with chiefs as the main controllers. However, the 1900 Agreement with the British created mailo land, freehold and crown land tenure in the country. Uganda has not had a proper land policy since independence. After the failure to fully implement the 1998 Land Act in 2000, a decision was taken to set up the National Land Policy. Earlier attempts to solve the problems in the tenure system, like the 1975 Land Decree, the 1995 Constitution and Land Act 1998 failed. As such the Ideal Scenario presents what obtained and what ought to be done in policy development, the Moribund Scenario presents weaknesses in policy development, the Slumber Scenario presents actions that have been neglected in policy development and the Bleak Scenario presents challenges and constraints militating against policy development.

Key words: *Land Tenure, Common Pool Resources, Customary tenure, Mailo land, Ideal Scenario, Moribund Scenario, Slumber Scenario and Bleak Scenario.*

1.0 Introduction

Land tenure is defined as the manner and conditions under which land is held and used. It refers to the nature and range of rights individuals or groups have to access land resources in relation to rights exercised by other individuals and groups (Kisamba-Mugerwa, et al 1989). Accordingly, a resource tenure derives its meaning from the structure of rights that characterizes the relationship of individuals to one another while the nature and number of rights contained in an individual bundle indicate the individuals freedom of use of the resource and thus reflects the management style of the resource. The basic issues addressed are

[1] Author is the Executive Director of Earthsavers Movement Uganda Chapter and Managing Director of Earthsavers Research and Consultancy Bureau Ltd,
P. O. Box 40048,
Kampala. UGANDA
Tel: + 256 41 4378819, + 256 75 2629183
Email: ronald.busiinge@earthsavers.ws
Website: www.earthsavers.ws

the rights to land access, the security of tenure and equity in the distribution of the rights of access. This is true regardless of what use land is put to or who the users are, whether crop producers, livestock producers or any other users such as estate developers. In Uganda land can be held under one of the four land tenure systems and their characteristic regimes. Each tenure system has its own impact on the management of the resource and has social and economic implications. Since CPR are managed under all four land property regimes it is important to highlight these social and economic implications. Suffice to note that land is a very important common is Uganda on one part as it is property on the other hand. It is on land that all other commons hinge. Policy changes overtime have seen land evolve from being a common pool resource to a private property with far reaching consequences. As such, in order to understand the CPR regimes in Uganda, there is need to dwell on land policy overtime. This following discourse will attempt to unveil the mystery over land policy development overtime in Uganda, showcase other commons and present the four scenarios. It will be emphasised that events at the wider social order have serious implications in shaping policy and whichever property regime that is adopted, it will have far reaching implications with the management of common pool resources in Uganda.

2.0 Land Management Regimes overtime

2.1 Before Colonialism - Until 1900

The prevalent mode of land tenure in Uganda was customary tenure. This meant that customary rules of about 140 major ethnic groupings governed access to, utilization of and parting with land in a given ethnic area. Land relations in pre-colonial Uganda were such that land was controlled by an oligarchy in which political power in society was exclusively vested. Security of tenure for land users was based on continuous loyalty to that oligarchy. The payment of tribute in the form of produce and gifts was norm and a requirement as evidence of that loyalty, mainly in the kingdoms of Buganda, Bunyoro, Busoga and Toro (Rugadya, 2003). A complex network of reciprocal bonds within families, lineages and larger social units to protect governed territorial control in which access to land resources and guarantee individual and community rights as prescribed by custom. As long as such bonds remained, any individual or group of individuals could secure access to the resources of that community. This system of land relations continues in operation in all of the arid and semi-arid regions of Uganda. Land relations were defined not only by the network of social relations prevalent in each community, but also by the specific uses to which parcels of land occupied by individual families, clans or lineages were put, this was common in the non-feudal sedentary communities. In this system, there was recognition of individual rights as well as community obligation by virtue of access to such rights.

2.1 Period: 1900 – 1975

The modern history of Uganda starts with the Uganda Agreement of 1900, an agreement equally about land and about governance, made between the British government and the Kingdom of Buganda, one component of the modern state of Uganda. It defined the judicial and administrative functions of the *kabaka* (king) and *lukiiko* (government) of Buganda vis-à-vis the British colonial authorities and in Articles 15–17 made provision for a general land settlement. In the words of Henry West, the foremost authority on land relations in Buganda: This land settlement was fundamental to the whole Agreement and should be viewed only as an integral part of it. Briefly, the total area of land in Buganda was assumed to be 19,600 square miles which was to be divided between the Kabaka and other notables on the one hand and the Uganda Administration on the other. Thus the Kabaka, certain members of the royal family, the Regents, county chiefs and certain other leaders were to receive either private or official estates totaling 958 square miles and "one thousand chiefs and private landowners" were to receive "the estates of which they are already in possession." These were computed at an average of 8 square miles per individual making a total of 8,000 square miles…. The remaining area, amounting to an estimated 9,000 square miles was to be vested in Her Majesty's Government. It was this land which came to be called Crown Land; its designation being changed to Public Land by the Public Lands Ordinance of 1962.

The land thus granted to the kabaka and the chiefs was not vacant land; peasants occupied it. Relations between the peasant occupiers and the chiefs were, up to the time of the Uganda Agreement, governed by an intricate system of law and custom, like many pre-market societies, mingled public (government) and private (access to use and occupancy of land) law. The land granted to the chiefs became known as *mailo* land, referring to the square miles of land, and was granted as English freehold tenure. Relations between landlord and tenant within Buganda have always been fraught with tension. Landlords have been reluctant to accept that the restrictions of customary relationships should limit their absolute ownership of land, and tenants have refused to accept that they have no rights in land that they regard as being theirs by virtue of customary law. Freehold tenure then was taken to be something very different in Uganda, compared with English custom. In Uganda, it was taken to denote absolute ownership free of obligations to others, while in England a freehold estate was a fundamental part of the system of divided rights of ownership, which permits more than one party to have rights in the same plot of land and so involves both rights and obligations.
The 1900 agreement also gave rise to another problem: the "lost counties." In the run-up to the Uganda Agreement 1900 and the British acquisition of Uganda, there was fighting between the British and various
states and political groupings in the geographical area of modern Uganda. One such state was Buganda; another was Bunyoro. At the crucial time, Buganda threw in its lot with the British; Bunyoro did not. The
1900 agreement rewarded Buganda by taking a portion of Bunyoro and transferring it to Buganda, subjecting it (and those living in that area) to the new

regime of mailo land. This created a situation with Ganda chiefs owning land in Bunyoro occupied by Bunyoro people with a burning sense of grievance over their lost counties.

The agreement had another unforeseen, but in retrospect, inevitable effect. It had divided land in Buganda into two categories, freehold (mailo) land and crown land. Customary land tenure was not recognized as giving any secure rights to those occupying mailo land. In addition, the Crown Land Ordinance of 1903 made it clear that persons occupying land under customary tenure were never regarded as owning the land;
they were no more than tenants at will of the crown. The colonial government could and often did grant both freehold and leasehold titles to persons who applied for such land, with the customary occupiers thereafter being required to move off the land or remaining specifically as tenants at will of the new owner. This system of land tenure remained in place until certain changes were made, prior to independence in 1962.

First, it was agreed between the British government and the Ugandan authorities that a referendum would be held in the lost counties to determine whether they should be returned to Bunyoro or remain as part of Buganda; no mention was made of the ownership of land in the area. The referendum took place in 1964 and the lost counties voted to become part of Bunyoro again, forming the district of Kibaale. The problem of Baganda landlords and Banyoro tenants remained.2 Second, it was agreed that crown land should be transferred to the state of Uganda and vested in and managed by a Land Commission, but that in Buganda, crown land should be vested in and managed by the Buganda Land Board. For the Baganda, this was the return of their 9,000 square miles taken by the Uganda Agreement of 1900. The changes were provided for in the Public Lands Ordinance (1962), passed before independence.

The arrangements agreed to in 1962 lasted less than four years. When the Independence Constitution was overthrown in February 1966 and replaced, first by the Constitution of Uganda (1966) and then by the Constitution of Uganda (1967), the kingdoms in Uganda were abolished. As a consequence the Buganda Land Board was terminated, and all public land in Uganda was vested in the Land Commission. The Public Lands Act (1969) gave legislative backing to this new arrangement, but it left untouched the position of customary tenure. Land occupied under customary tenure was public land and could still be alienated in freehold or leasehold, but only with the consent of those occupying the land under customary tenure. No change was made to tenure in Kibaale District.

During that period, reforms were limited to land administration and regularization of landholdings to increase tenure security. Four major tenure systems of Mailo, Freehold, Leasehold and Customary came into existence. A number of private estates called Mailo in Buganda and native freeholds in Toro and Ankole that were broadly equivalent to the English freehold were granted to traditional rulers

and their functionaries, through agreements by the British authorities. This legitimizes the feudal system of land tenure in existence, and firmly conferred upon landlords' absolute control of land, which they never had under customary law. For the rest of Uganda, all land was expressly declared to be crown land and all land users became, at the stroke of the pen, tenants of the British crown. The colonial government proceeded to grant a limited number of freehold estates to selected individuals and corporations.

2.3 Period: 1975 – 1995

A major land reform in Uganda was attempted in 1975, when the Government of President Idi Amin issued a decree called 'The Land Reform Decree' which declared all land to be public land and vested the same in the State to be held in trust for the people of Uganda and to be administered by the Uganda Land Commission. The decree abolished all freehold interests in land except where these were vested in the State in which case these were transferred to the Land Commission. It also abolished the Mailo system of land tenure and converted them into leasehold of 99 years where these were vested in public bodies, and to 999 years where individuals held these. All laws that had been passed to regulate the relationships between landlords and tenants in Buganda, Ankole and Toro were also abolished. Elsewhere, customary land users became tenants at sufferance of the state. The Decree, though not fully implemented on the ground, persisted until 1995 when a new Constitution was enacted and impacted on: Tenure systems and Tenure Security: the reform reduced the tenure systems from four major ones to two namely; leasehold and customary tenures; and caused land tenure insecurity to land owners, bibanja holders and customary tenants alike in the sense that: mailo and freehold estates were reduced to leasehold and no compensation was paid for the reduction, customary tenants on public land were declared to be tenants at sufferance and the land they occupied could be allocated to other people. Tenants became liable to eviction by lessees on conversion after a notice of not less than six months. Contrary to the intended objective of facilitating use of land for economic and social development, the Decree aggravated the previous landlord and tenant impasse. There was social tension caused by actual or threatened land grabbing and evictions from land. This state of affairs did not encourage or facilitate economic activities. It should be noted, however, that in relative terms few cases of actual land grabbing and evictions from land were recorded. Cases of grabbing were few but the threat of losing the land caused enormous tension.

As before, however, customary tenure was untouched, although the position of customary landholders was significantly worsened; land that they occupied could be alienated without the need to obtain their consent.

This remained the position, in theory at least (for the Land Reform Decree was never fully applied) until the enactment of the Constitution of Uganda (1995). During this 20-year period, two parallel strands of land management manifested themselves. On the ground, there was a confused and chaotic operation of land

tenure systems. This led to a multiplicity of land disputes, lack of security of tenure for those occupying land under customary tenure, the exclusion of women from land utilization decisions, widespread degradation of land due to unsustainable methods of resource use and encroachment into protected areas.

In 1983, Government recognized the need for having a sound agricultural policy to rehabilitate and develop the agricultural sector. The study on land tenure led to discovering that Government lacked sufficient information on the implications and impact of the 1975 Land Reform Decree on agricultural development in the Country. Makerere Institute of Social Research (MISR) and the Land Tenure Centre (LTC) of the University of Wisconsin –Madison, USA, undertook studies. Consequently in 1993, a draft land bill was produced but it was overtaken by events as the Constitutional making processes was on going, at the time, therefore government felt it was prudent to delay legislating on land matters.

2.4 1995 – To-Date

The current land tenure reforms were essentially introduced by the 1995 Constitution and operationalised by the Land Act, 1998. That Constitution abolished the Land Reform Decree and restored the systems of land tenure that was in existence at independence. These were re-stated as customary land tenure, freehold tenure, leasehold tenure and Mailo tenure. It made new and radical changes in the relationships between the State and the land in Uganda. It declared that land in Uganda would henceforth belong to the citizens of Uganda and vest in them in accordance with the land tenure systems outlined above. It set up a new system of land administration consisting of Land Boards in every district. Although the Uganda Land Commission was re-established, the Constitution made it clear that District Land Boards were to operate independently of that Commission and was not subject to the direction or control of any person or authority. They were, however, expected to take account of national and district council policy on land. The Constitution further provided that Parliament would provide for the establishment of land tribunals, the jurisdiction of which would be to determine disputes relating to the grant, lease, repossession, transfer or acquisition of land by individuals, the Uganda Land Commission or other authority with responsibility relating to land, and the determination of any disputes relating to the amount of compensation to be paid for land acquired. In fact these were constituted, worked for sometime and were abolished. Finally, the Constitution reaffirmed the authority of the State to make laws regulating the use of land. It should be clear from what has been stated above that at least until 1995, the characteristics of the land question in Uganda were no different from what they were during the colonial period. First, the feudal system of land tenure remained a feature of land relations; secondly, customary land tenure systems remained unregulated and completely outside the statutory framework of land law of the country and, thirdly, the system of land administration was in no way integrated into the land tenure framework of the country. The 1995 Constitution and a new law passed in 1998 did not entirely deal with the fundamental issues underlying these characteristics. The primary

reason for this was not simply that the Constitution had set the parameters for the new land laws; it was also because no clear policy principles existed to inform legislators in the enactment of that law.

3.0 Status of other Common Pool Resources in Uganda

3.1 Wetlands

Wetlands cover 30,105km of Uganda's total land area of 241,500km. With the coverage of 13% of the total land area, they represent one of the most vital ecological and economic resources the country is endowed with. Unfortunately their importance is associated only with the direct consumptive use value like crop cultivation, human settlement, and extraction of useful materials (Apunyo, 2005). The essential life support processes for example stabilization of hydrological cycle and microclimates, protection of riverbanks, nutrient and toxin retention and, sewage treatment are the least recognized. Destruction of these ecosystems is a serious environmental problem the country is currently faced with. The problem has reached alarming levels in Eastern Uganda where about 20% of wetlands have been destroyed. The underlying cause of this destruction is the insatiable desire of the poverty stricken population to derive livelihood from the wetlands. Some evident impacts of wetland destruction include adverse local climate modification, which has contributed to 2-meter drop in River Nile and Lake Victoria water levels. The other impacts are seasonal flooding and destruction of biodiversity and associated ecological processes. In attempt to address the problem, fairly comprehensive wetland legislation comprising the National Wetlands Policy 1995, the National Environment Statute 1995, the National Guidelines for Wetland Resource Developers 1995, and the National Environment Regulations 2000 (wetlands, River Banks and lake Shore Management) have been put in place. The government has also established a national wetland inspection division to specifically deal with wetland management. Internationally, Uganda ratified the Ramsar Convention and has designated two internationally recognized wetlands as Ramsar Sites and in November 2005 Uganda hosted the 9th Ramsar Conference on wetlands. However, implementation of these measures is still at infant stages and is faced with many challenges like inadequate funding, political interference and limited awareness of the population on the existing wetland legislation and multivariate value of wetlands especially the ecological ones. The sustainable management of wetlands requires strengthening approaches that are current champion direct community involvement in planning and implementation of required actions. Such community participation is already being achieved through formation of Community Based Wetlands Management Plans (CBWMP).

3.2 Water bodies (Lakes and Rivers)

Uganda is blessed with vast water bodies including river and lakes. It is the source of the River Nile; the longest in the world and home of Lake Victoria; the second largest frosh water lake in the World after Lake Superior. Suffice to note

that the management and use of the water bodies covers a contested terrain of enforcing Transboundary regulations since most of the water bodies are shared with riparian states. Most of these regulations are continually pushing out the locals from the use of the water bodies for fishing; one that packages their livelihoods. A sanctuary has been created on Lake Victoria in Commemoration of the Commonwealth Heads of Government Meeting (CHOGM) that was held in Kampala. In this sanctuary, all fishing activities have been prohibited. On Lake Albert, foreign investors have leased sections of the waters and only their vessels can fish in the leased waters, further pushing away the local people.

3.3 Rangelands

In Uganda the term rangelands is used in a broad sense to cover natural grassland, bush land and wood land. These lands form what has been called the "cattle corridor". Geographically, the cattle corridor forms an unbroken stretch of land that divides the other two areas of the country where the main agricultural activity is crop production. The "cattle corridor" runs in from the South-west to the North-east direction, from the Rwanda border to the Sudan/Somalia/Kenya borders. Uganda's rangelands cover an estimated area of 84,000 sq.km, or 43% of the country's total land area, and contain a population of 6.6 millions . This areas are spread over several districts whose proportional coverage varies from complete coverage (100%) as is the case in Moroto, Kotido, Soroti, to over 60% in Kiboga, Mubende, Nakasongola, Sembabule, Mbarara and Ntungamo to the very low levels in Kabarole and Mbale. The Uganda rangelands exhibit most of the characteristics of rangelands; low and erratic rainfall regimes leading to frequent and severe droughts, and fragile soils with weak structures which render them easily eroded. Pastoralism is the main economic activity and rangelands are traditionally mainly used as a common pool resource. These areas receive rainfall ranging between 500-1000 mm annually. Some of these areas already exhibit desert-like conditions (Kisamba- Mugerwa, 2001).

Since colonial times a number of changes have taken place in the management of rangeland resources in Uganda. The process took the form of sedenterization of some pastoralists who hold the land under communal land tenure system, the creation of privately owned ranches such as the Ankole/Masaka Ranching Scheme, in which the land is held under a titled leasehold land tenure, and the creation of various national parks and game reserves located within the cattle corridor. The impact of these development policies varies according to the aridity of the rangeland. These changes reduced the rangeland area available to traditional pastoralists, and became a source of conflict, both within the cattle corridor and also with neighboring districts. Rangeland management degenerated into "open access" leading to overgrazing, pasture degradation and soil erosion. Ugandan rangelands display a high degree of pasture and soil degradation and some parts have traces of desertification. Most crucially these rangeland management practices fail short of recognizing pastoralism (livestock farming) as an economic activity that needs business, skills and quick decision making mechanisms by the `farmer'. For a long time the government has

neglected policies that would promote investment in the management of rangelands.
This is the most common tenure system throughout the pastoral and non-pastoral areas of Uganda. Under this tenure system land is held, used and disposed of following customary regulations of the concerned community. The system has in-built capability of excluding non-members and adequate rules for allocating the resource among the members, managing conflict resolution and to guarantee the security of tenure to its members. Its main advantage is its equitable distribution of rights and there is no landless class. In its pure form it offers limited incentives to the land user to invest in land improvement technologies due to the weak security it offers. Lack of titles to land limits the land user's ability to invest in farming since the formal sources of credit require titles to land as collateral.

There has been a high level of individualization of the communal pastoral land throughout the entire corridor. The areas most effected are Ntungamo, Mbarara, Rakai, Kiboga, Luwero and even Karamoja. This move has been spearheaded by multiple land users who have settled on previous pastoral land and practice crop production alone or in conjunction with livestock keeping. There has been a reduction in the available grazing land on communal land in the areas (Kisamba-Mugerwa, 1995).

Land managed as state property comprises delineated parcels of land which are gazetted and set aside for special purposes. The administration of these lands is entrusted to special agencies. In Uganda these areas include national forest reserves, national parks, game reserves, wild life sanctuaries and community wild life areas. Forest reserves cover about 1,137,000ha of which 720,000ha are under savanna and the rest are high forest. State land includes national parks, wildlife reserves, wildlife sanctuaries and community wildlife areas total up to 30,011 sq.km. Besides these, the corridor is sprinkled with several small lots of protected forests. The existence of these closed areas within the cattle corridor has created management problems for the pastoralists, the forestry and wildlife authorities. The great pressure on land has led to a lot of encroachment by pastoralists in the gazetted land. This is most serious around Lake Mburo, Kibaale, and Katonga areas and Karamoja.

There are areas in Uganda where "open access" is practiced on a large scale where pastoralists move their livestock with impunity and respect no boundaries or local authority. Such is the situation in Isingiro (Bukanga), Kiboga, Luwero, Nakasongora, Kabarole and in surrounding districts of Mbale, Lira and Apac, Soroti and Katakwi. This is what is happening in Bulisa where the local Bagungu are chasing away the Balaro cattle keepers.

3.4 Leisure Parks, Green Belts

Leisure parks and green belts do exist in Uganda under two property regimes. First, there are private individuals who own them and make them available to the

public. Access is at a fee. Secondly, Kampala City Council, municipalities and towns have designated part of the public land for leisure parks and green belts and the public has free access to these sites. However, the increasing demand for urban land by private investors threaten their survival. Most authorities are considering leasing them to investors.

3.5 Forests

Uganda's forests are an essential foundation for the country's current and future livelihood and growth. Sustainability of these forests, however, is a great challenge not only to forest managers but also to policy makers given that the population is heavily dependent on them for timber, agriculture, and energy production (Hamilton, 1987), resulting in deforestation. At the beginning of the nineteenth century, forests and woodlands covered approximately 45% of the total land area. At present, forest cover has been reduced to approximately 4.9 million hectares or about 20% of the total land area (MWLE, 2001). About 30% of the tropical
high forest is degraded and the degradation trend continues. Following the centralization of the of forest resources in 1967, institutions that local people had devised to limit entry and harvesting forest resources lost their legal standing (Banana and Gombya-Ssembajjwe, 2000). The government recruits forest guards to look after government forest reserves. However, this has proved to be economically unfeasible because forest patches are small and scattered over very large areas. The result, subsequently, has been largely unimpressive forest over the past thirty years. The need to increase community participation in forest management has been a near-universal conclusion of national and international policy initiatives in tropical forestry over the last two decades (Brown *et al*. 2002). The justification for this range from considerations of practicality and cost-effectiveness to philosophical concerns relating to equity and social justice.

3.6 National Parks

Uganda is blessed with several National Parks including Queen Elizabeth, Kidepo, Mgahinga, Lake Mburo and Murchison Falls. Conflicts over National Parks reflect different ideas about which resources should be exploited, and the spatial scale at which they are treated as common. Unless private land registration has been vigorously pursued, people using land in a biodiverse area identified as of conservation value conventionally interpret natural resources as a *common pool resource at the local scale* (Adams, 2002). The reservation of land by the state in National Parks represents an assertion of common interests at the national scale. These national interests are privileged over local interests, particularly consumptive resource use by local people (and especially subsistence hunting). National Parks present nature as a *national common pool resource*. The creation of a national park represents a claim of ownership of species and ecosystems by the state (legally appropriating purportedly unimproved, unoccupied or unclaimed land, or evicting users). National Parks

nationalise common pool resources, and extinguish (or make illegal) all consumptive use, and all forms of local use. At the local scale, the costs of a national park can be very great, both because of the benefits of use values forgone (opportunity costs), and the real costs of being a neighbour (James *et al.* 1999, Emerton 2001). The way in which the declaration of a national park establishes a property regime that excludes consumptive use, and local resource users, is fundamentally inequitable. 'Community conservation' strategies seek to either overcome, or at least finesse that inequity, but they face very significant problems. These relate both to the diversity of the real costs of conservation, and the embedded institutional complexity in park neighbour communities. These make stable regimes of acceptance and compliance with conservation policy problematic. The nationalisation of local common pool resources within national parks under the rubric of conservation is therefore likely to remain profoundly problematic. These problems are likely to be particularly severe where this nationalisation, or declaration of the resource as a common at the national scale, is not founded on strongly argued and clearly presented assessments of costs and benefits at national scale (Adams, 2002).

4.0 The four scenarios

4.1 Ideal Scenario

The very ideal scenario is what obtained before 1900. The major system of land ownership was customary as mentioned above. No conflicts have been reported with this system and land was a common pool. In this system, there was recognition of individual rights as well as community obligation by virtue of access to such rights.

4.2 Moribund Scenario

Moribund scenario presents weaknesses in policy development and these cut across the periods from 1900 up to 1995. There was disregard of the property rights of the citizenry. Intrinsic in this is rewarding parts of Bunyoro to Buganda in the 1900 Agreement and the failure to sort out the absentee landlords in Kibaale for the subsequent periods.

4.3 Slumber Scenario

The slumber scenario presents actions that have been neglected in policy development and this is the period between 1995 to present. The issues of customary tenure has not been adequately dealt with. Second, the relationship between tenants and landlords were not adequately covered under the Constitution and the Land Act 1998.

4.4 Bleak Scenario

This presents major challenges militating against the management of common pool resources and they cut across 1900 to 1995. The major set back is the 1900 Buganda Agreement and its provisions and the 1975 Land Reform Decree. Land occupied under customary tenure was public land and could still be alienated in

freehold or leasehold, but only with the consent of those occupying the land under customary tenure. This legitimizes the feudal system of land tenure in existence, and firmly conferred upon landlords' absolute control of land, which they never had under customary law. For the rest of Uganda, all land was expressly declared to be crown land and all land users became, at the stroke of the pen, tenants of the British crown. The colonial government proceeded to grant a limited number of freehold estates to selected individuals and corporations. With the 1975 Decree there was a confused and chaotic operation of land tenure systems. This led to a multiplicity of land disputes, lack of security of tenure for those occupying land under customary tenure, the exclusion of women from land utilization decisions, widespread degradation of land due to unsustainable methods of resource use and encroachment into protected areas. The decree abolished all freehold interests in land except where these were vested in the State in which case these were transferred to the Land Commission. It also abolished the Mailo system of land tenure and converted them into leasehold.

5.0 Conclusion

Inferences from the foregoing account with regard to Uganda's land policy fascinate as they annoy. They depict a paradigm shift from a very ideal scenario where land was a common pool resource (with all its belongings) to a private property only enjoyed by a few at the expense of the masses. This is related to a wider social order that emphasizes the operations of capitalism. The ideal would be collective ownership of all resources (land) and managing it in a sustainable manner (in terms of production and distribution) such that there is no exploitation of man by man. The scenario obtaining is such that by virtue of one's birth, affiliation and other considerations, some just become land lords and the rest tenants on land they owned hitherto. The various policies and laws overtime are in a bid to create a balance between the aforementioned historical event of remarkable vitality. What must be emphasized that events at the wider social order have serious implications in shaping policy and whichever property regime that is adopted, it will have far reaching implications with the management of common pool resources in Uganda.

Bibliography

Adams, W. M. (2002). *National Parks as Common Pool Resources: Scale, Equity and Community*. Department of Geography, University of Cambridge, Downing Place, Cambridge, CB2 3EN, UK.

Apunyo, R. (2005). *Managing wetlands with changing times - Uganda's experience*, Kampala: Makerere Institute of Social Research.

Banana, Abwoli Y., and William Gombya-Ssembajjwe. (2000). Successful forest: The importance of security of tenure and rule enforcement in Ugandan forests. In People and forests: Communities, institutions, and governance, eds. Clark Gibson, Margaret A. McKean, and Elinor Ostrom, eds., pp. 87-98. Cambridge, MA: MIT Press.

Barrow, E. and Murphree, M. (2001) 'Community conservation: from concept to practice:', pp. 24-37 in D. Hulme and M. Murphree (eds.) *African Wildlife and Livelihoods: The Promise and Performance of Community Conservation*, James Currey, Oxford. Butynski., T.M. and

Becker, C. Dustin, and Elinor Ostrom. (1995). Human ecology and resource sustainability: The importance of institutional diversity. Annual Review of Ecology Systems (26):113-133.

IUCN (2005), *From Conversion To Conservation: Fifteen Years of Managing Wetlands for People and the Environment in Uganda.*

Kalina, J. (1998) Gorilla tourism: a critical look', pp. 294-313 in Milner-Gulland, E.J. and Mace R. *Conservation of Biological Resources*, Blackwell, Oxford.

Kamugisha, J. R. (1993): *Management of Natural Resources and Environment in Uganda: Policy and Legislation Landmarks, 1890-1990.* Published by SIDA's Regional Soil Conservation Unit, RSCU, Nairobi.

Kisamba-Mugerwa, W. (1995). The impact of individualisation on common grazing land resources in Uganda. Ph.D. Thesis, Makerere University.

Kisamba-Mugerwa, W. (2001). Rangelands management policy in Uganda. A Paper Prepared for the International Conference on Policy and Institutional Options for the Management of Rangelands in dry Areas May 7 - 11, 2001 (Hammamet, Tunisia): Makerere Institute of Social Research

Kisamba-Mugerwa, W. and R. Barrows. (1989). *Land tenure and agricultural development in Uganda*. Madison: Makerere Institute of Social Research and Land Tenure Centre.

MISR (Makerere Institute of Social Research), (1998): Proceedings of the Regional Symposium on *Common Property Resources Management in East Africa*, held in Kampala.

NEMA (National Environment Management Authority), (2000). *State Of The Environment Report For Uganda*.

Rugadya, M. (2003). Current status and challenges in the land reform process in Uganda: an NGO Perspective. Paper Presented from 5th–7thMAY 2003, Cape town, South Africa.

Spinage, C. (1998) 'Social change and conservation misrepresentation in Africa', *Oryx* 32: 265-76. Western, D., White, R.M. and Strum, S.C. (1994) (eds.)

Natural Connections: perspectives in community-based conservation, Island Press, Washington.
The Constitution of the Republic of Uganda 1995.
The Land Act of the Republic of Uganda, 1998.
The Local Governments Act of the Republic of Uganda, 1997.
The National Wetlands Policy 1995.
The Ramsar Convention on the Management of Wetlands of International Importance, 1971.