



# Securing Property Rights Lessons from Uganda

This Best Practice was adapted from "Doing Business 2007: How to Reform Case Study: Registering Property—Uganda," prepared by Booz Allen Hamilton in cooperation with USAID for the World Bank Group's 2007 Doing Business Reformers Club Conference.

## Executive Summary:

*The Ugandan government's approach to property registration reform is part of a larger initiative of economic development and governmentwide improvement of public services. To address this problem, government agencies have been grouped into sectorwide bodies for purposes of discussion and resolution of issues. These, and other related bodies, work with the assistance of donor organizations to improve land administration, the legal framework, and the business environment. It is hoped that recent interventions will improve Uganda's property registration process.*

## Introduction

As the country's economic reform programs move forward, Uganda's political leadership has realized the importance of land and property rights in terms of the country's ability to achieve its development goals, as well as the private sector's ability to maximize contributions to the country's economic goals. As a result, the land registration process has been included in the government's larger efforts to improve public service through the creation of a better legal and institutional framework and a better business environment. The Ugandan government is hopeful that reorganization of the lands and business registries, and the provision of customer service training for staff, will yield improvements in the property registration process and, in turn, raise Uganda's Doing Business rankings.

## Context

Since gaining independence in 1963, Uganda has gone through periods of great turbulence. The most noteworthy period began in 1971 when General Idi Amin Dada toppled the civilian government of Milton Obote. Civil strife continued until the National Resistance Movement (NRM), under the leadership of Yoweri Museveni, took power on January 26,

1986. The following year, Uganda embarked on a comprehensive Economic Recovery Programme. Beginning with its first economic recovery plan, the Ten-Point Program, and continuing through subsequent phases of reform, the NRM has sought to increase macroeconomic stability, achieve high economic growth, and restore investor confidence.

Uganda's economic reforms have been driven by the NRM in its quest to address inequities in Uganda's legacy, including those resulting first from colonial rule and later from expropriation of properties and lands owned by Indians expelled in 1973. Uganda's political leadership has realized the significance of reforming land and property rights and improving their implementation.

According to President Museveni, in the case of property rights, public offices responsible for the protection and administration of property rights (whether tangible or intangible), including the Uganda Registration Service Bureau (URSB), the Lands Registry, and the courts, have failed to provide effective service. To address property rights constraints, Uganda committed to reforming the legal and institutional framework for land administration, as well as further improving the business environment.



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### Approach

The issue of land reform was first addressed in 1992, through constitutional reforms, followed by legislative action in 1998 with the enactment of the Land Act of 1998. The Land Act serves as the overarching law related to land administration in Uganda.

Legislative action was coupled with policy reforms begun in 1997 with the publication of the first edition of the Poverty Eradication Action Plan (PEAP). PEAP established the pillars for economic growth and placed expanded emphasis on private sector-led development, business environment improvement, and global competitiveness. PEAP was supplemented by the Medium Term Competitive Strategy (MTCS) for the private sector, which was a road map for putting Uganda on a course toward making needed improvements in the business environment. The updated MTCS, titled as the Competitiveness & Investment Climate Strategy (CICS): 2006 –2010, reflects Uganda’s increasing understanding of and commitment to alleviating constraints that impede private sector-led growth, including the performance of public offices to register and administer property rights.

Policy implementation took a collaborative approach. Government agencies were grouped into sectorwide bodies, each known as a “congress,” for discussion and resolution of issues across different entities. The platform for property rights and land administration is provided by the Justice, Law and Order Sector (JLOS) body, which incorporates the Land Registry, the Uganda Registration Services Bureau (Business Registry), Commercial Court Division (CCD), and the Uganda Law Reform Commission (ULRC). Further, this approach recognizes the important roles played by the private sector and the donor community and acknowledges the need for expanded interaction among the government, the private sector, and civil society. Such expanded commitment to private-public sector partnership has led to the creation of platforms through which the private sector can channel its views regarding the quality of service delivery.

Prior to reform efforts, the legal framework governing rights related to land and business corporations was scattered across several pieces of legislation. Critically absent in this framework was elaboration of the manner in which the public machinery would deliver legislated services. Service delivery was left to ad hoc arrangements, or, in cases involving more than one agency, required

services were often not delivered at all. Quite simply, services were neither demand driven nor customer oriented. As part of efforts to decentralize, the land reform process focused on bringing services closer to the people by increasing the number of land offices outside of Kampala. Whereas prior to 1998 there were 15 regional land offices, there are now 45 district land offices.

Amalgamation of service delivery was initiated by mandating that the USRB operate as a joint repository for administering a wide range of legislation affecting recognition and registering private sector property rights. Additional efforts to consolidate service delivery across the country by bringing land sector institutions under one roof are also under way. It is generally agreed that there is a need for closer coordination among land sector institutions.

Although the reform of the legal framework has moved more slowly than the need, the reform process has been helped by proactive interpretation of legislation and policy by some government officials who, within the scope of current legislation, have taken steps to repackage service delivery. For example, as a solution for the Wakiso district’s problem caused by a lengthy two-step process whereby payment of assessed fees was required at the district level and registration was required in Kampala, the Kampala Lands Office has set up a Wakiso facility. This allows those from that district seeking to complete land transaction to undertake their efforts at one location.

### *Business Environment Reform*

Legal reform efforts, including those related to the business environment, are overseen by the ULRC and have been supported by various donor organizations. The first donor-supported business initiatives were led by two USAID activities: Support for Private Sector Enterprise Expansion and Development (SPEED) and Strengthening the Competitiveness of Private Enterprise (SCOPE).

Currently, business environment initiatives are sponsored by the World Bank-financed Private Sector Competitiveness Project (PSPC II), which is being implemented by the Private Sector Foundation of Uganda. Under its “Improving the Business Environment” component, PSPC II supports activities designed to lead to improved management of property rights and an improved process for registering and titling land in Uganda. These efforts include computerizing and digitalizing

the land registration system, developing a Client Services Charter for the Ministry of Land, providing capacity-building training for people involved in the delivery of land services, and arranging for surveying and titling of all public land. PSCP II business environment efforts in the land systems area are also supported by the CICS (formally the MTCS) and Danida.

**Financing Reforms**

The Ministry of Finance and Planning and Economic Development (MFPED) hosts all Uganda's reform strategies and allocates financial resources to reform efforts. For the most part, financing of Uganda's land and property reforms has come from a basket of donor-provided funds that are funneled through the MFPED to specific ministries with projects. World Bank support through PSCP II, with an overall budget of \$23 million, has been particularly important.

Unfortunately, government financial resources are insufficient to support the realization of all targeted reforms. In addition, the government's finance release policy conflicts with reform strategies. Both these facts have undermined completion of projected changes. The financial situation is further exacerbated by the fact that over 60 percent of the government process is donor funded. Achievement of reductions in this percentage, a major priority for the Ugandan government, is tied directly to the country's ability to increase revenue generated through the productive sectors of the economy, which in turn are directly affect by property and land reforms.

**Private and Public Sector Support**

The private sector has been particularly aggressive in its efforts to push for property rights reform. In 2005, the Uganda Law Reform Society, in conjunction with the Uganda Bankers Association, met with the Registrar of Lands to discuss concerns that reforms within the Lands Registry

had not been carried out. In March 2007, the Uganda Law Society, an influential body equivalent to a bar association, resolved that the court backlog remained in urgent need of attention and that there was a need to move away from piecemeal reforms to tackle the entire judiciary.

The public sector has been slow to move, partially because the reform process has threatened those having entrenched interests in the existing system. There is a strong feeling that the key to increasing the pace of reform, as well as to improving the efficiency of the lands and business registries, is sorting out the soft issues that impede customer service. The emergence of hotlines, orderly filing systems, efficient communications and networking systems, and full computerization of registry data will do a great deal to speed the pace of the reform process.

**Results**

According to the ULRC, the legal framework that affects the business environment is due to improve as 22 business laws are before Parliament and are awaiting enactment. These include the Companies Law, the Competition Law, the Co-operatives Law, the Contracts Law, and the Copyright Law, among others.

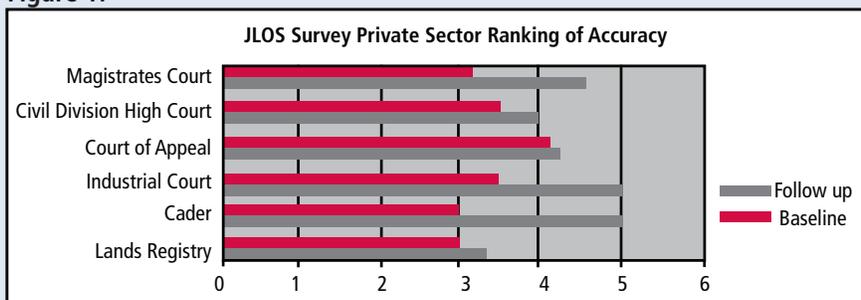
**New Technology**

Government agencies have adopted computer technology, and custom-built databases within the land and business registries have led to improvements in overall program management. Computerization revealed 648 discrepancies within the Land Registry and more than 10,000 discrepancies in the Business Registry. In both registries there is now an ongoing quality assurance program to address such conflicts.

**Litigation**

Cases stemming from the discrepancies found in the registries have invariably led to litigation,

**Figure 1:**



Source: Commercial Justice Reform Programme: First Follow-up User Survey, August 2004

## About BizCLIR:

BizCLIR, or the Business Climate Legal & Institutional Reform Project, is a multi-year initiative of the United States Agency for International Development with the goal of improving the efficiency and impact of assistance programs intended to help developing countries improve their business enabling environments. This series, Best Practices for the Business Environment, represents one of many knowledge management components of the BizCLIR project. The goal of the series is to highlight the known best practices, case studies, lessons learned, and in some cases worst practices, so that the lessons can benefit other practitioners in the field. All issues are available at [www.bizclir.com](http://www.bizclir.com).

which has created a backlog in the courts. There is now a push to redirect these cases to the Center for Alternative Dispute Resolution (CADER) for mediation. Traditionally dispute resolution administration has resided with the judiciary, and the outreach of the judiciary was dependent on the level of financing made available by the government. To address the backlog, a mediation pilot program has been established independently of the mainstream judiciary. This cost-neutral option has enhanced judiciary performance. Government agencies have reoriented to a customer service ethos, with noticeable results. Figure 2 illustrates the increased effectiveness of relevant property rights agencies, as ranked by users.

Finally, the Ministry of Lands has completed its Client Services Charter but has decided to delay implementation until it is able to complete and put into operation all the changes needed to ensure delivery of such service.

## Challenges to Reform

Numerous issues have been identified as challenges to reform:

- **Business registry finance:** Although the Business Registry revised its user fees in 2005 with the objective of operating on a cost-recovery basis, all funds collected are remitted to the MFPED, leaving the Business Registry with no financial flexibility to encourage efficient practices. The retention of fees collected by the registries requires urgent attention.
- **Legislative rationalization:** Failure to rationalize laws with social conditions has led to frustration in the business community. Family land is no longer considered good collateral by banks because of legal requirements to procure spousal consent.
- **Decentralization issues:** The decentralization process is not functioning as it should at the district level and procedures are inefficient and time-consuming, meaning. This means that those who want to do business with the Land Registry must still come to Kampala.
- **Institutional weaknesses:** The staff of land entities often lack capacity to do the jobs required. Further, staff remunerations are low and tend to lead to rent-seeking practices, which further affect efficiency, effectiveness, and integrity of service.

## Conclusions

The business and lands registries have learned to use contract-employee mechanisms to deal with problems of understaffing and lack of staff capacity. Contract employees are recruited for the specific skill sets relevant to the current demands. Both registries are now staffed by university graduates who possess critically relevant skills.

The courts and CADER have realized that by collaborating they can make major reductions in the property case backlogs and do so in ways that generate revenues to offset costs of service. Out of a total of 776 files transferred between September 2001 and September 2002, mediators have been able to settle 176 files, enhancing the efficiency of the court system.

Agencies involved in property rights administration have learned the impact of their decisions on their sister agencies. Change brings with it the element of insecurity for persons working within the sector. The take-up rate of the reform agenda has been slow where individuals have felt their future is threatened. Such weaknesses have led to initial consideration of whether there is a need to shift from the peer review mechanism to a system of punitive sanctions.

Uganda's Doing Business 2007 ranking in the Registering of Property category was 166, putting the country among the lowest-ranking performers worldwide. Four of the areas where Uganda has its worst rankings (in addition to Registering Property, these are Starting a Business, Dealing with Licenses, and Getting Credit) are directly related to the country's need to untangle and reform overlapping and outdated laws and institutional frameworks that constrain the business environment and preclude provision of the required level of customer service. It is hoped that initial interventions, particularly in the reorganization of the lands and business registries and in the provision of customer-service training for staff, will yield results reflected by increases in Uganda's rankings.