

# TrustLand Policy Brief

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## Institutional Land Conflicts

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### Executive Summary

Private and public institutions such as churches, health centres, schools, and local government are facing claims on the land that they occupy. The land holding is most often not registered as the land was given as entrustment or it was public land that belonged to the state until the Constitution of 1995. Today institutions must negotiate borders with the descendants of the people who donated land for projects of common good, evict users from their land,

and settle disputes with other institutions over claims to land. Disputes over institutional land are often framed in terms of who can bring development and whom it should benefit. Institutions need funds and facilitation to register their land, but boundary demarcation must be accomplished through negotiation and land conflicts must be resolved in ways that allow the involved parties to work together in the future.

### Introduction

In northern Uganda, there has been a rash of controversies over institutional land since the closing of IDP camps and the return of people to the locations from which they had been displaced. Churches, health centres, schools, and local government are facing claims on the land that they occupy. The disputes are of three general types.

1. Descendants of men or families who donated land for projects of common good are asserting that the institution has taken more land than it was originally given.
2. People who settled on, or are using, land claimed by institutions refuse to vacate or to acknowledge institutional claims.
3. Institutions themselves disagree over rights to a piece of land and the institution that is located there.

### Background

Land disputes between institutions and local people occur all over Uganda, but the recent history of northern Uganda has provided especially fertile ground for this type of conflict. From the late 1980s, when fighting increased in a given area, people took refuge on the land of institutions such as churches and health

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centres. Later, the entire population was forced into camps and these were almost invariably located where there was some existing institution such as a school, a church, or sub-county headquarters. These institutions were obliged to allow displaced people to settle. When peace returned, some settlers preferred to stay on for various reasons.

Land allocations stem back to colonial times when the colonial administration, chiefs, and local families gave land to Anglican and Catholic missionaries to establish churches as well as health facilities and schools. Accounts of the original land allocations emphasize that the donors trusted the institutions to act as agents of development. To this day, arguments about claims on institutional land are often framed in terms of who can bring development and whom it should benefit.

With the resettlement of people after internment in the camps, land assumed new significance and value. Having been removed from their land, or been forced to accommodate the displaced, people were far more anxious about their land. A market in land emerged and land in small urban centres was particularly sought after. Individuals, families and institutions were eager for development, and, as is often said: 'Development cannot stand on air; it must stand on land.'

Under these conditions, the issue of legal rights became more urgent. Most public and private institutions had neither freehold nor leasehold titles. Their boundaries had not been surveyed and no mark stones had been put in place. The land had been allocated in a time of land abundance and under a regime that asserted that land belonged to the state - a situation that changed with the 1995 Constitution, which declared that land belonged to the people.

The two main churches had been large landholders from colonial times. However, there was a difference in documentation that derived from church-state relations. The common British foundation laid a basis for trust between the Church of Uganda and the colonial administration, whereas the Catholic Church held less trust in the colonial administration and therefore registered a greater part of its land.

The state and the two churches have initiated land registration programmes yet it is a huge and costly undertaking hence there is only limited progress.

## Results

### *1. Reclaiming donated land*

Members of families whose forebears gave land for churches, schools, markets and local government administration are today asserting claims. Often they acknowledge that some land was given, but they disagree about boundaries. In one example, the sub-county had sub-divided a portion of its land in a Town Board and offered plots for sale on condition that the buyers develop them. A descendent of the man who had originally donated land to the local government claimed that some of the land being sold was still the property of his family. A drawn-out court case prevented the sales from going forward. The aggrieved party complained that the sub-county had not consulted with them nor made any effort to negotiate.

In another instance, land given to a church was disputed by descendants of the donors. There were conflicts with three different families whose land bordered the (unregistered) church land. The magistrate instructed the parties to negotiate with one another, but that did not happen until a new priest took office. He pursued a strategy of appeasement in the interest of working out acceptable boundaries that could be



Plotting development: plan for sub-dividing sub-county land

surveyed and registered. He considered it better to give up some land in order to gain the agreement of his neighbours and secure the rest of it. Moreover, he saw that his church had no resources to develop its land.

## 2. Evicting users of institutional land

While most people left the sites of IDP camps once they closed, some remained because they had no place to go or the location in small urban centres was attractive. And while the living departed, the dead were left where they had been buried during encampment. Institutions intent on developing their land gave notice that settlers must leave and that graves must be exhumed to make way for roads and new buildings. In some cases, assistance was given for the removal of graves; compensation for eviction was usually not offered since it was claimed that the displaced people had no right to continue staying on land belonging to the institution. Yet local government officials, like churches, were wary of inflaming animosity in the communities with which they had to continue working. This is also a common dilemma when churches want to develop land where they have allowed Christians and church workers to live on for generations.

‘Most institutional land is not registered. We will give freehold straight away to protect their land from descendants trying to reclaim what their fathers and grandfathers gave. We will survey and put mark stones for public institutions. But we need funds to pay surveyors. Schools could levy money from parents. Or the district could give transport, allowances and mark stones to the district surveyor to survey the land of institutions.’ (Chair, Nwoya District Land Board, 1.2.2014)

## 3. Land disputes between institutions

The church-founded primary schools were nationalized in the 1960s and the re-introduction of ‘the foundation body’ in 2008 has led to claims by the Catholic Church and the Church of Uganda to the same schools. The Educational Act of 2008 gives the foundation body influence on the appointment of head teacher and deputy head teacher and on the religious values of the school. In Lango sub-region about 20 schools are under contestation; another 20 cases have been settled.

In one such case, a man donated land to the Church of Uganda in 1961, the Obote I government upgraded the semi-permanent school to a primary school, and during the 1970s, the two churches worked together on further upgrading the school to permanent buildings. Thereafter both churches claimed to be the rightful foundation body. The conflict is still unresolved and the school is deteriorating. Since churches usually founded schools on their own land, the contestation over the foundation body of primary schools is viewed as a land dispute.



School ‘hardware’ (buildings and land) and ‘software’ (teachers)

## Conclusion

Most institutions have no title to their land and no clearly demarcated boundaries.

Conflicts between institutions and descendants of land donors or people who settled on institutional land are usually local conflicts. They involve parties who must continue to interact. Negotiation and mediation provide a better basis for fruitful cooperation than the imposition of decisions by a remote authority.

Land disputes between churches pertain to the changing conditions of land ownership in the public-private collaboration on education where the churches own the ‘hardware’ (land and buildings) and the government provides the ‘software’ (teachers).

## Implications and Recommendations

Involving members of donor families in management bodies such as councils and boards facilitates negotiation and gives them a sense of ownership of the institution.

Descendants of land donors may be appeased by recognition of the contribution made by their forebears. Naming a road, building or hospital ward in their honour, or erecting a memorial to their generosity are welcome forms of appreciation.

Evictions should not be done in haste. People should be oriented in good time about institutional plans for development and the possible benefits to the community.

Surveying and registering institutional land requires funds. Different types of institutions will need to develop different strategies for raising resources and securing their land. District Land Boards should prioritize the security of the land of public institutions.

As in land conflicts between families, conflicts involving institutions must be negotiated with neighbours and local witnesses to improve possibilities of good relations in the future. However, the public interest should prevail where conflicts involve schools, health centres, infrastructure and local government.

When no resolution about school 'ownership' can be achieved, Ministry of Education at national and local level should resolve the conflict between churches over the primary schools in order to serve the interests of the students and the community – and avoid school deterioration and division amongst the parental community, at times leading to the loss of lives and property.