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Uganda`S Postcolonial Land Tenure Regimes & The Decolonial Question: Overcoming The Limits Of Neo-Liberalism & Colonial Epistemes in Political Economy

Ashiraf Mugalula

*Correspondence: Ashiraf Mugalula

***Detailed author information and related declarations are provided in the final section of this article.*

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ABSTRACT

This paper attempts to engage the ongoing debate on the land question in Buganda—and Uganda—through a lens of decolonization. By focusing on the ongoing tension and controversy between the state and Buganda kingdom regarding mailo land¹ and ‘kyapa mu ngalo² program, the paper argues that neo-liberal economic principles cannot resolve themselves because they are anchored within colonial political economy that advances the interests of capital and political power vis-à-vis society and the masses. Such a discourse ends up silencing the society’s discourses on land, land reform and land use and the different ways in which the land question can be articulated. Taking the society’s discourse of motherhood as a decolonial conceptual premise, the paper shows the different ways in which the meanings attached to land have been thought about by people beyond the inflexible ways deployed by both the state and Buganda kingdom.

Keywords: Land Question, Decolonization, Mailo Land System, Neo-liberal Political conomy, Buganda Kingdom.

Introduction

¹ Uganda has currently four systems of land tenure i.e., freehold tenure, customary tenure, lease hold tenure (on public land). Mailo tenure is predominant in the central region of Uganda—Buganda.

² Kyapa mu ngalo is translated as title-in-hand. It is a campaign by the kingdom of Buganda to issue leasehold titles to tenants on the kingdom and king’s land.

The debate on mailo land tenure dates way back to the colonial period with its roots in the 1900 agreement between the colonial state under the stewardship of Sir Harry Johnston and Kabaka³ Mutesa II of Buganda which made transformation in land and land relations to introduce a new form of land relation (ownership). Since then, there have been numerous contestations over this form of tenure starting with the unsatisfied people of Buganda who were left out of the colonial land distribution of 1900 which sparked the bataka movement that challenged such reforms⁴. Resultantly, Buganda like many other parts of Uganda have faced numerous land conflicts, land evictions and contestation across the different political regimes. Following these contests, especially in their contemporary moment, the new wave of contest on mailo land has seen the state and Buganda kingdom on opposing sides. Resultantly, the kingdom, through its administrative arm, *Mengo*⁵, launched a campaign dubbed ‘kyapa mu ngalo’ in 2017 to ensure that tenants on kingdom and king’s land get lease titles. It is believed by Buganda kingdom that getting this title will guarantee security of tenure, ease access to credit by farmers and help stimulate ‘development’. Initiating kyapa mu ngalo was attributed to the ever-increasing cases of land grabs, evictions and land conflicts. According to the view of the state, however, the kyapa mu ngalo program is a ‘fraud’ for the numerous reasons it outlines. It should be noted that the debate as to whether legal reform of land tenure can help resolve land wrangles is rooted in a colonial imagination, which created customary law and customary land tenure. But the colonial system also created a freehold land tenure and so a market in land where there was none. At closer examination, both creations were also political acts since they stemmed from political decisions of colonial administrators without questioning the various historical social relations on land. Like the colonial logic which created competing systems of land tenure, the current drive to land titling is also articulated differently by the competing political authorities. Whereas the Buganda authorities claim that kyapa mu ngalo will provide security to the tenants, the state isn’t convinced and looks at this initiative as competing with state land titling. As an alternative to the Buganda kingdom initiatives and the problems on mailo land, the state has proposed abolishing mailo land and fusing it with other tenure systems especially freehold. The paper argues that both the state and Buganda kingdom frame the land question and so their alternatives using neoliberal epistemological discourses which emphasize questions of ownership, security, marketization and development which end up silencing the society’s discourses/views on land, land reform and land use and the different ways in which the land question can be articulated. Through ethnographic research, the paper shows the different ways in which the meanings attached to land have been thought about by people beyond the inflexible

³ Kabaka is a title for the king of Buganda.

⁴ See Lwanga-Lunyigo S. *The Struggle for Land in Buganda: 1888-2005*. (Kampala: Wavah Books, 2007).

⁵ Mengo as an administrative arm of Buganda kingdom handles all the administrative and technical work of Buganda kingdom including handling land matters on behalf of both the king and the kingdom.

ways deployed by both the state and Buganda kingdom. The society's notion of motherhood is deployed in articulating the relation to and use of land by society beyond the normative.

The paper will begin by outlining the land question in a historical context in Buganda/Uganda in order to highlight the colonial roots of the contemporary neoliberal epistemic assumptions. The second section of the paper will give background to the kyapa mu ngalo program in order to give some context to the contestations on mailo land and the shifting perspectives on what reforms need to be undertaken. The third section will engage the debate on mailo land and kyapa mu ngalo between the central government and Buganda kingdom. The section will show how the contestation is anchored in neoliberal economic and political assumptions. It will then proceed to outline the society's views on the land question in a decolonial format by outlining the limits of the neoliberal project enforced by the state and the kingdom. Doing so will expose not only the limits of the narratives which emphasize ownership, marketization, commodification and development but also the exclusion of society by privileging the state and the market.

The colonial origins of neoliberal epistemologies: Situating the land question in a historical context in (B) Uganda

The contemporary land question cannot be discussed outside its historical and political context. It should be noted that the discourses which are used in such engagements can be traced to the colonial and imperial discourses which were framed to justify a colonial agenda. In the context of Buganda, and Uganda in general, the antecedents of land reform are attributed to the 1900 agreement. But it should be noted that the agreement arises out of the long contestation over power and land in the earlier period of colonialism 1884-1900 with numerous conflicts and land redistributions along religious lines. This is coupled with the conflation of two different forms of land relations to mean one i.e., that of Buganda and the European/British one. The relations that used to exist in Buganda were misconstrued given the fact that colonial administrators, ethnographers and anthropologists came with European epistemic discourses on land tenure to interpret them.

Neoliberal epistemologies on land can be traced from works of earlier colonial administrators and anthropologists like Fredrick Lugard and John Roscoe who championed discourses and narratives of ownership and private property in their writings—most of the time attributing it to precolonial social relations. Lugard for instance in his *the Story of the Uganda Protectorate* argues that the Kabaka of Buganda 'owned' all the land, though with a provision that he could not alienate. He owned certain estates as "private property" and the chiefs who were in charge of provinces owned similar estates which

were under their offices not entirely the whole province.⁶ Additionally Lugard postulates that the king could at his wish request for more estates in case he needed them. For Lugard, “he could dispossess the greatest chief in the kingdom of lands, property, wives and children, and give them to the meanest slave, without the slightest demur/objection”.⁷ The king would not be questioned in case he dispossessed the chiefs of any land and gave it to whoever he wished. Anyone would buy land if they needed it. Lugard considers that there was some kind of individual tenure in the precolonial period⁸. Two key important issues can be noted from Lugard’s story: the deployment of the language of ownership of land and property (in the precolonial, which ownership was entirely a preserve of the king and his chiefs), and the notion of private property. These conceptions presuppose a fixed, static and ahistorical relations to land and other property. The idea of ownership can be read to mean that the king owned land individually.

Scholars like Archie Mafeje and Lwanga-Lunyiigo have to the contrary argued that discourses of land ownership and property are very modern western concepts. Lwanga-Lunyiigo in his book, *the struggle for land in Buganda*, argues that at the time when the british imperialists started interacting with Buganda, land control was viewed as political. For him, unlike Lugard, it was he british who “came with a perspective of land control as being ownership”.⁹ Lwanga-lunyiigo notes that the British failed to appreciate the Buganda perception and ended up putting land ownership in the hands of the chiefs during the 1900 agreement. To illustrate this, he notes that:

The colonial land system removed the Kabaka from his position as the Ssaabataka or chief trustee of land in Buganda; it removed the clan heads as trustees of land on behalf of their clans; the relationship between the Kabaka to the chiefs and through the chiefs to the peasants changed since the colonial system divorced the ownership of land from political responsibilities, most radical of all, land could now be bought and sold like any other commodity. From holders of land at the will of the Kabaka, chiefs now became major owners of land in Buganda in perpetuity. The giver of land, the Kabaka, was now given land under the Buganda Agreement of 1900¹⁰

From the above quote we note how the colonial transformations established the discourse and practice of ownership through the reform of 1900. Lwanga-Lunyiigo tries to explain how the colonial machinations changed the whole land system and transformed tenure and the power relations regarding land. The imposition of notions of ownership, private property and the market comes from the failure to understand what was implied in those relations and the need to impose preconceived epistemological premises onto

⁶ Lugard Fredrick F. *The story of the Uganda Protectorate*. (Ed. Howard Angus Kennedy). (London: Horace Marshall and Sons, 1900), p.20.

⁷ Lugard, *The Story, 1900*, p.22.

⁸ Lugard, *1900*, p.20.

⁹ Lwanga-Lunyiigo S. *The Struggle for Land in Buganda: 1888-2005*. (Kampala: Wavah Books, 2007, p.41

¹⁰ Lwanga Lunyiigo, *The Struggle*, 2007, p.6.

the colonized society. Besides, what is referred to as ownership in the precolonial is only limited to a period when the kings had started centralizing power and so making transformations on land in the late 18th century and early 19th century. Even then, the concept of absolute private property wasn't at play in those relations.

From such conceptual framings, the colonial state framed the most fundamental and destabilizing land reform in the history of Buganda and Uganda—the 1900 agreement. Despite the relations to land having been destabilized in the early days of colonialism (1880s) when the neoliberal/colonial forces of the market had started taking center stage in Uganda, the 1900 marked a 'fundamental shift'. If initially there were suspicions that the king had started owning land alongside some of his chiefs and other privileged individuals, the 1900 agreement gave them full (individual) private ownership and issues to do with evictions, conflicts and dispossession of land started increasing.

The distribution of land saw the emergency of two categories of people: the land owners and the landless. If the agreements allocated half of the land in Buganda to the British crown, then the remaining half was allocated "in the form of free estates to the Kabaka, senior chiefs and 1000 chiefs and private land owners". According to Lwanga-Lunyiigo, the allocation of freehold estates was left to the discretion of the *Lukiiko* (Buganda parliament) which then was a council constituting of landed chiefs.¹¹ The reform did not only create the landed and the landless, it also introduced a system where peasants became tenants at the mercy of the landlords—majority chiefs—and they in turn "expected and demanded rent and tribute from the peasants whom they evicted from their *bibanja* as they wished".¹² Following this unjust allocation, the peasants and the institution of *bika* (clans) headed by *bataka* (clan heads) were left out. The peasants/farmers (the largest portion of society) "were relegated to serfdom, whereas the landlords became entitled to the labour of the tenants and produce in return for using the land"¹³.

This brought an uproar raising questions against the distribution. This inspired the *bataka* movement to challenge the injustices in the allocation which only did not leave them out of the land allocation but also denigrated their political power—since the relationship that people had to land was political—and came with unjust rent and tribute demanded by the new landlord chiefs. This challenge prompted the colonial state to enact the *Busulu* and *envujjo law* in 1928. This somehow calmed the tempers of the peasants and the *bataka* who now got some relief from the *Busulu* and *envujjo* enactment. With this enactment, money

¹¹ He notes that the protectorate government took an estimated 10,550 square miles out of the total 19600 square miles, "the missionaries took 92 sq miles and the chiefs took the rest. the allotment of the 8000 square miles among 1000 private landowners was left to the *lukiiko* . it was empowered to decide as to the validity of claims, the number of claimants and the extent of the land granted assuming that the total amount of land thus allotted amongst the chiefs and accorded to the native landowners of the country was not to exceed 8000 square miles...and out of the over 1 million people, only 3700 had benefited from the land allotment." Lunyiigo, 2007, p.47, 51, p.9.

¹² *Ibid.*, p.8

¹³ Nakayi Rose and Monica Twesime Kirya, "The Legal, Policy and Institutional Framework of Land Governance in Uganda: A critical Analysis". HURIPeC Working Paper No 38, October 2017

replaced labour and produce as tribute and the tenants could now stay on the land as long as they paid their Busulu with a possibility of selling the land.¹⁴ If the peasants scored by getting some of their grievances addressed, though not fully as expected, the colonial state registered double gains i.e., avoided the continuation of a peasant movement and “ensured continuity and expansion of production and promote security of tenure”.¹⁵

This agreement can be said to have had and to continue having political, economic and *epistemological* implications regarding the land question in Buganda. First, it cemented the discourse of land ownership and land as private property by giving land to a few people who owned it individually since land was no longer owned on behalf of the people either by the state or Buganda kingdom. This epistemological assumption continues to guide land reforms in the contemporary moment and it's at the heart of the discussion by both Buganda and the state regarding mailo land. The concept of ownership presupposes the possibility to sell or buy land freely. As such, people started selling and buying land thereby being brought closer to the market. With the agreement came the idea of having title over land i.e., lease titles and freehold titles to the land as proof of ownership. In the contemporary sense, this is what we can call the neoliberal titling and private property regime which is being emphasized by the World Bank and IMF following the propositions of Hernando de Soto.¹⁶ In here, with the introduction freehold ownership and titles to land, we see a regime of appropriation and extra-economic coercion which was practiced by both the colonial state and the Buganda chiefs on the peasants when first they were dispossessed of their land and second by the coerced ground and property rents/taxes (busulu and envujjo)¹⁷. After the 1928 busulu and envujjo law, there emerged a new relationship on land i.e., the dual rights on land which is key for this particular paper. The law introduced rights of bibanja holders and title deed holders on the land. This dual rights of tenants and landlords, much as it was expected to resolve the land wrangles did not actually resolve it, it just temporarily cooled the tempers. This is the reason why today we have the controversy between Buganda and the state over mailo land. The continued conflicts and land evictions on mailo land can be attributed to the 1900 settlement because it created a framework which is being followed as a blueprint for resolving land questions i.e. land reform with emphasis being put on private land ownership and documentations/land title as the only legitimate proof of ownership.

¹⁴ Lwanga-Lunyiigo 2007; Mamdani M. *The Contemporary Ugandan Discourse on Customary Tenure: Some Historical and Theoretical Considerations*, in Mahmood Mamdani (ed), *The Land Question: Socialism, Capitalism and the Market*, Kampala: MISR, 2015; Mamdani, M. *Politics and Class Formation in Uganda*. New York: Monthly Review Press, 1976.

¹⁵ Ibid., p.9. Security of tenure was a long colonial agenda in relations of land.

¹⁶ de Soto H. *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. New York, Basic Books, 2000.

¹⁷ Mamdani 1976; Lwanga Lunyiigo 2007.

This colonial agenda (currently couched in a neoliberal language) was cemented by the East African royal commission¹⁸ which was set up by the colonialists to study among the many things land in East Africa¹⁹ in 1953. It did not only extend the epistemic assumptions described earlier by the colonial administrators and anthropologists but also made recommendations which would work as blue prints for “independent nations”. After deliberately describing the people as primitive and backward, the commission suggested the need for liberation through the logic of the market by introducing money and private property. The report argues that when the African started working with the whites, they realized that land could be bought and sold and that land had “value”.²⁰ What value meant to the colonial state was monetary which could be used to access land. This means that land to get value had to be commodified. Other “values” which are beyond the economic [monetary] are disregarded by this colonial discourse.

The commission came out bare to explain the desire by the people of Buganda to have freehold tenure against any other form of tenure.²¹ Its report alleges that the existence of freehold tenure is considered to have abated the land problems in Buganda and many other regions of the country desired for the same. Buganda is praised for moving closer to the modern tenets of economy and so production due to the existence of land titles but this effort is also said to be inhibited by the customs and traditions of Buganda. It recommended that east African countries have to embrace a complete shift to a purely modern system of land ownership and efforts had to be made by the colonial state to change the modes of land relations to western colonial modes ownership in form of a “movement”.²² The report suggests that land use had to be in line with market value. This means that for members of the community who wish to use the land for activities outside the market framework are to be denied the right to access certain lands which are deemed essential for the development of the market and thus the proliferation of the capitalist interests. “A free market gives to the buyer access to land for those economic purposes which are consistent with the price which he has to pay for it and ensures to the seller the opportunity to dispose of land which he is unable to utilize adequately in relation to the price which it would fetch”.²³ As such, the colonial conception of what land needed to be and offer was material i.e., material advancement. The colonial logic regarding land right from its initial phases remained as a legacy in the postcolonial period and they have intensified due to “postcolonial regimes of market fundamentalism”.²⁴ The Obote and Amin regimes attempted to deal with such limitations through making all land public but ended up following the same logic i.e., they initiated (law) reforms but maintained titles as important in this arrangement i.e., lease

¹⁸ The East African Royal Commission 1953-1955 Report. London: Her Majesty's Stationary Office, June 1955.

¹⁹ East Africa in this report included Uganda, Kenya and Tanzania

²⁰ E.A Royal Commission Report, 1955, p.22-24.

²¹ Ibid., p.26

²² E.A. Report, *ibid*, p.49

²³ Ibid., p.49-50

²⁴ Chimusoro Kenneth Tafira and Sabelo J. Ndlovu-Gatsheni, “Beyond Coloniality of Markets: Exploring the Neglected Dimensions of the Land Question from Endogenous African Decolonial Epistemological Perspectives”. *African Insight*, Vol 46(4) (March 2017): 9-24., p.13.

hold title. For instance, in 1975, “Amin abolished all perpetual land ownership tenure systems and vested all land in the state, which granted periodic leases to land users”²⁵ Even after “nationalizing” the land and do away with freehold land including mailo land, the land question was not resolved²⁶. The only explanation for this is that the people were not involved in such processes²⁷—they were pushed out of the arrangements and discussions to reform the land. Second the basis for addressing the land question was land law reform still giving the state the power to do so with the influence of the market. Thus, as will be highlighted later, abolishing mailo land which state is fronting today may not necessarily be the solution because it means the conceptualization of the problem is narrowed to the tenure system. This is because, it is not going to be the first time mailo land is abolished, Amin and Obote attempted the abolition strategy but the question still remained.

Kyapa Mu Ngalo: Context, meaning, processes

In this section I try to highlight Buganda kingdoms’s kyapa mu ngalo program in order to give context to the looming debate on mailo land. Among the many debates which constitute the contemporary land question in Buganda is the question of kyapa mu ngalo titling scheme. The kingdom, through its administrative arm, *Mengo*²⁸, launched a project and campaign dubbed ‘kyapa mungalo’ to ensure that people who live, stay and use mailo land [also called king/kabaka’s land] get lease titles as a solution to the escalating land conflicts and land evictions in the region. The kyapa mungalo project was officially launched in April 2017 but the process started years earlier. Two months after the launch, king/kabaka Mutebi II ordered Buganda Land Board (hereafter BLB) to sensitize the public about the presumed benefits of the “recently introduced compulsory land registration and acquisition of leases by tenants on kingdom land commonly known as Kyapa mungalo” when addressing his subjects in “Singo county” [an administrative division of Buganda] (Daily Monitor, June 18, 2017). “We need to put more effort in sensitising our people on why we came up with that new land registration arrangement so that they make the right decision” (ibid.). For starters, kyapa mu ngalo has always been presented by sections of government and by conventional media as a type of title which is being issued by Buganda kingdom on kabaka’s land. According to the manager corporate affairs, operations and business development of the

²⁵ Nakayi Rose, “Uganda Mailo Land Reforms: Disentangling Landlord From Tenant” *The Elephant*, September 4, 2021. Available at: <https://www.theelephant.info/features/2021/09/04/uganda-mailo-land-reforms-disentangling-landlord-from-tenant/>

²⁶ See Parliamentary Debates (Hansard), National Assembly Official Report, Third Session, Second series—Volume 88, 1968-9. February 20-28, 1969

²⁷ Parliamentary Hansard, ibid., p.373.

²⁸ Mengo (Bulange) is an administrative arm of Buganda kingsom and it handles all the administrative and technical work of Buganda kingdom including handling land matters on behalf of both the kingdom and the kingdom through Buganda Land Board

Buganda land board—which is the body in charge of kingdom and king’s land—kyapa mu ngalo is not a title nor a titling scheme²⁹.

Kyapa Mungalo was not anything new other than a promotion, the constitution and other land acts all provide for the four tenure systems and go further to say that one can obtain lease tenure from all the other tenures. Buganda land board was the first as earlier as 1994 after restoration of the kingdom and assets and properties were returned to the kabaka, we had a mandate of sustainably managing the land for future office bearers and for posterity. think about ways of using the land but keeping it as well. one of the things that came up was offering leases on the land, it would ensure security of tenure but also would help maintain the social relationship between the kabaka who is supposed to be supreme and superior to his subjects and the subjects who were inferior. By the kabaka maintaining the mailo rights and the subjects having the lease rights, the superior vs subordinate relationship is maintained since the mailo owner remains with reversionary rights. We looked for a unique way of maintaining the social status quo where the king was the landlord/omutaka (saabatata) but at the sometime empowering the people with security of tenure, with leases of up to 5-99 year terms and also getting money in the process. As soon as assets and properties were returned in 1993, BLB was created and the journey of offering leases to the people was started. Kyapa Mu Ngalo was just a promotion that we gave a timeline for giving reduced rates to the people i.e reduced rates of premium, reduced rates surveying and ground rent. The principle of kyapa mungalo was that we were offering leases on the official mailo land. And this had been going on for some time since 1994 with no one caring to stop it or make any reform about it. In fact KM are other BLB projects are some of the little things you can quote trying to put in implementation the constitution, the land act and land policy.³⁰

This narrative therefore gives clarity to the idea that has been central in the discussion around the same i.e., of regarding kyapa mu ngalo as a title or a titling scheme. Actually, the central government issues these titles and BLB helps in the process i.e. in surveying. But one should note that the people consider the lease titles being issued to be kyapa mu ngalo titles.

According Kizito, Buganda runs “massive systematic survey campaign, in kampala and kyadondo area, and in 2017, 20,000 people had paid for their land to be surveyed and registered. BLB and the kingdom thought of a way to give back to the community and thought of a thank you token. It was against this background that KM was developed. It was a thank you token to those who had massively come to register their land and incrementally moved to survey their bibanja...and so those who wished to get titles

²⁹ Interview, Omukungu Kizito Bashir BLB 7/03/2022 Bulange Mengo,

³⁰ Interview, ibid.

were issued lease titles at discounted rates”³¹ Its not that that titles were made or processed by BLB but by ministry of lands. He labels government criticism of kyapa mu ngalo as unnecessary “noise”. Such unnecessary noise he contends promoted the campaign and “Buganda got a mileage”³². By October of 2018, it is said that over 1000 people on “Kabaka`s land had already received their land titles through BLB ever since Kyapa Mungalo campaign was launched by the prime minister Charles Peter Mayiga”.³³ Much as people think that the issuing of titles ended, it is actually the promotional campaign which ended but not the lease process. “The process is still ongoing and the same.

The process of acquiring a kyapa mu ngalo title³⁴ starts with registration.³⁵ For one to access the lease title, they have to submit a written application. With the application is also a requirement of submitting proof of ownership of the kibanja especially in form of documentation, i.e., sales agreement, a will, transfer agreement etc. However, even those without documentation to prove ownership³⁶ have a window which caters for them in a special arrangement using avenues of verification provided for, including asking the bigger percentage of people around the area. Also required are two passport photos, a sketch map of the land and a registration fee³⁷. The application fee is (USD 180) 650,000 shillings dropping from (USD 264) 950,000 after the launch. The applicant also pays an additional registration and application fee of (USD 70) 250,000 shillings³⁸. BLB sends inspectors to verify the “authenticity” of land ownership through reviewing ownership agreements. The inspection is done alongside the omutongole who is equivalent to the village chief³⁹. The neighbours have to sign on the form as a mode of verification of ownership.

The inspection report is sent to *ow’omuluka* (the parish chief) after which it is sent to higher levels for further verification i.e. *Gombolola* (subcounty) and *saza* (county) levels⁴⁰. At county level, “the applicants are vetted by a committee that sits every month.”⁴¹ The committee among other members consist of the BLB Branch Manager at county level in that county and the kingdom’s local government officials. If the committee approves the application, it now gets sent to the “Central Lease Committee of Buganda Land

³¹ Interview *ibid*.

³² Interview *ibid*.

³³ Zirimala Daudi, “More Bagandas attain their land titles in new ‘Kyapa Mungalo’ campaign”. *Capital FM radio online*, October 12, 2018. Retrieved from <https://capitalradio.co.ug/bagandas-attain-land-titles-new-kyapa-mungalo-campaign/>

³⁴ I will maintain the name kyapa mu ngalo title not because that’s its name but it’s the widely recognized name for the lease title issued on king and kingdom land as earlier explained. Since that is the name known to society and for purposes of clarity on the title being discussed, the name will be carried forward.

³⁵ Interview, Omukungu Kizito Bashir BLB 7/03/2022 Bulange Mengo,

³⁶ history points to periods of wars and insecurities where people lost their documents. also in Buganda, people are given land without any documentation (interview, *ibid*.)

³⁷ Interview, *ibid*.

³⁸ Daily Monitor, “Truth, lies about Mengo land lease” Daily Monitor News Paper, Friday May 26, 2017. Available at <https://www.monitor.co.ug/uganda/news/national/truth-lies-about-mengo-land-lease-1703036>

³⁹ Interview, *Ibid*.

⁴⁰ Daily Monitor, May 26, 2017; also interview Omukungu Kizito Bashir BLB 7/03/2022 Bulange Mengo

⁴¹ *Ibid*.

Board” which finalizes the verification process. “The value of the empty plot is then computed...basing on the benchmarks set by the Chief Government Valuer, and once the value of the land is determined the applicant is then required to pay what is called a premium⁴². After the valuations, BLB advances to you an offer that spells the amount of premium you need to pay, title processing fees (stamp duties and facilitation fees to Uganda govt land offices), the term of the lease, etc.⁴³ An agreement then is lodged between the tenant and BLB after which papers are sent to the ministry of lands for processing the title request. A person is required to pay a continuous 1% of the value of the land or 10% of the premium. On the expiry of 49 years of the lease, the one occupying the lease, according to the agreement, has automatic right to renew it by paying a new premium based on the freshly estimated value of the land” (ibid.). How can kyapa mu ngalo help us to understand the tensions in competing land tenure regimes in Buganda and what conditions of possibility can it provide for overcoming the conflicts that arise from such competition? To understand this, we need to engage with the different epistemologies and discourses around the land question.

The neoliberal normative conception of land and the kyapa mu ngalo program.

The normativity of the narrative around land in the context of reform can be traced from the assumptions and justification behind any reforms on land. But first, how has land been conceptualized in the neoliberal epistemological frame? The neoliberal market-led protagonists think of land and its relations based on market assumptions which emphasize land ownership, security of tenure and consequently its financialization.⁴⁴ For that to be realized, land has to be treated as private property and a title issued to justify ownership.⁴⁵ Muchetu has argued that “market-led redistribution of land requires land to be tradable, that is, to be considered as a commodity”.⁴⁶ Such neoliberal conceptualizations and epistemologies regarding land end up associating land with an economic value, “expressed in price per hectare at ownership, transfer or when paying for its use (rent)”.⁴⁷ This ends up having implications for “our understanding of demand and supply” and “inevitably on its value in the market”.⁴⁸ These conceptualizations however were considered more than two decades earlier by scholars on the land and agrarian question including Sam Moyo as being inadequate and he called for understanding the struggle

⁴² The premium is 10 per cent of the value of the land. If a plot is valued at (USD 13,888.89) Shillings 50 million, for instance, the applicant will be required to pay (USD 1388.89) Shs 5 million (10 per cent of 50m) for the 49-year lease”. Daily monitor, ibid.

⁴³ Should you tell lies then the registration gets forfeited in favour of the right entity. Interview ibid.

⁴⁴ De Soto H. *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. New York, Basic Books, 2000; Deininger, K. *Land Policies for Growth and Poverty Reduction*. Washington DC.: World Bank and Oxford University Press, 2003; Deininger Klaus and Castagnini Raffaella. “Incidence and Impact of Land Conflict in Uganda”. *The World Bank: World Bank Policy Research Working Paper* 3248, March 2004

⁴⁵ De Soto H. *The Mystery of Capital*: 2000; Deininger, K. *Land Policies*, 2003.

⁴⁶ Muchetu Rangarirai Gavin. *Agricultural Land-Delivery Systems on Zimbabwe: A Review of Four Decades of Sam Moyo's Work on Agricultural Land Markets and their Constraints*, in Chitonge Horman & Mine Yoichi, *Land, the State & the Unfinished Decolonisation Project in Africa: Essays in Honour of Professor Sam Moyo* (eds). Bamenda: Langaa Research & Publishing CIG, 2019, p.105.

⁴⁷ Muchetu, *Agricultural Land Delivery*, 2019, p.105.

⁴⁸ Ibid.

for land and the political economy around land reform as important.⁴⁹ Important to note is the fact that land has to be a market item, tradable and exchangeable with a value determined by the market. Such conceptualization which reduces land to a mere commodity becomes problematic for “its market value is not merely affected by production costs”⁵⁰.

How then do we get to understand the conceptualization of land in particular projects like *kyapa mu ngalo* scheme or the government titling programs and controversies over land? Here I suggest that we look at the epistemological assumptions guiding the reforms and programs. Any land scheme outlines the promises it seeks to deliver to a population and in such promises and assumptions, we can derive the conception of land and its relations. The BLB website contains an outline of the benefits of titling through *kyapa mu ngalo*, i.e., (1) ‘Facilitates clients with security of tenure; 2) enables land act as collateral security therefore ease of access to finance; 3) adds value to your land; and 4) a leasehold certificate of title prevents potential encroachment’.⁵¹ Registering land under this scheme would help “increase the value of land occupied by these ‘bibanja’/lease holders so that they may not easily be lured into selling to the regime capitalists”.⁵² The *katikiro* [prime ministr of Buganda kingdom] Charlse Peter Mayiga when addressing people on June 17, 2017 argued that the programme “will help solve land disputes in the kingdom and also help tenants on Kingdom land legitimize their tenancy and be able to access financial credits.”⁵³ However, he pointed to the fact that the this programme was not mandatory and those who wish not to register their land because they see no importance of “owning lease titles were free to continue paying nominal ground rent (*Busulu*).” Even when one’s lease title expired and they don’t feel the need to renew or have no financial capacity to do the same, they can “go back to the previous arrangement where they pay *busulu*.”⁵⁴ The project aimed at dealing with land grabbers especially those in the state institutions that the then Buganda kingdom minister of finance [Robert Waggwa Nsibirwa] while speaking at Bulange gardens referred to as “vultures”. Nsibirwa argued that, “Ugandans...should sideline naysayers and embrace their culture of regularizing their tenancy if they

⁴⁹ Moyo and Skalness 1990, cited in Muchetu, 2019, p.105.

⁵⁰ Ibid. The exclusive use of supply and demand schedules to determine land values resulted in the commodification of land, a commodity that can be traded regardless of its sociocultural dimension. The commodification of land had serious exclusionary effects on socioeconomically vulnerable groups (the downtrodden), such as women and children. The downtrodden have an insatiable desire for land but do not have the means (resources) to purchase it on the free market...unless it is provided to them for free. The essence of a market-led land-delivery system is that it seeks to permanently transfer land from less efficient producers to more efficient users. This land-delivery system would exclude the downtrodden, with their limited educational skills and access to capital and credit, p.106. This articulation speaks to the historical roots of the agrarian question as shaped in Europe to concentrate power and economic reproduction in the hands of patriarchal structures.

⁵¹ Buganda Land Board (BLB) Website <https://www.bugandalandboard.or.ug/titling>

⁵² Uganda Review, “Uganda Elite Continue to Steal from the Sick”, September 12, 2017 Available at <https://www.yowerimuseveni.net/forums/topic/uganda-elite-continue-steal-sick/page/4/>

⁵³ Daily monitor, “Kabaka directs Buganda land board to sensitise public on ‘Kyapa mu ngalo’ campaign”. Sunday June 18, 2017. Available at <https://www.monitor.co.ug/News/National/Kabaka-directs-Buganda-land-board--Kyapa-mungalo--campaign/688334-3975878-d5dhf9/index.html>

⁵⁴ Interview Omukungu KB BLB March 3, 2022 Bulange Mengo.

want to survive vultures” in Uganda’s volatile land sector”.⁵⁵ For Nsibirwa, “It is self-defeating to hear someone condemn an activity that safeguards people’s tenancy in a country full of land wrangles and grabbing.”⁵⁶ Thus, the premise is on tenure security alongside other benefits—security from grabs spearheaded by some bigwigs in state institutions.

It is argued that *kyapa mu ngalo* (with all its “good intentions”) is more expensive than the previous system of *busulu* despite the campaign claiming that it offers leases at a subsidized cost. One respondent alludes that “one paying *busulu* can be better off than someone who is getting a lease title whether *kyapa mu ngalo* or government title especially if you aren’t into business. You pay less money, you do your work like farming and get huge benefits”.⁵⁷ He adds that lease is 49 years and it can just be by luck that it gets extended to 99 years. Unlike the lease whose period expires, the system of *busulu* does not and the tenant continues to use the land unless he/she wishes to stop.⁵⁸ From the above, we note the feeling that even when titles are to be issued, they shouldn’t be forced on people. There are people who feel less need to be integrated into the “land market” because they have no need to engage in the transactions that happen there. People can survive with the little they have and so they have no need to have titles. This was made clear when Kayira noted that “titles are for those who wish to do business and access loans from banks but not people who have no need for them”. It is also important to note from the above that Kayira isn’t concerned with just the cost of the lease but also the (im)possibility of renewal. Here by mentioning ‘luck’, he intimates that there is also a possibility of failing to renew. This is also a worry that other people have with the lease title. When asked about the same, this respondent claimed that:

No one wants *kyapa mu ngalo*, we cannot have a lease title on our land. Land 30 years ago was cheap but 20 years back it has become very expensive. Imagine the children you are going to produce are told to vacate the land because you got a lease title. A lease will specify the period of time when you have ownership after which you cannot be the owner until you renew...The lease reaches a time when the owner of the land sees that land has gained value, they either increase the price or you leave the land. If this is done by the state, how different then is the Buganda kingdom from the state when both are targeting the tenants. We buy land with hope that our children and grandchildren will have where to stay. But the uncertainty with the future given this lease makes it not a good one.⁵⁹

From the above, we note the concern with the cost of the lease and the uncertain future of “ownership” of the land. “The ordinary person and the rich are not the same, those with money can buy off those with

⁵⁵ Kimbowa J, “Buganda gives out 150 *Kyapa mu Ngalo* titles”. The Observer, August 31, 2017. Available at <https://observer.ug/news/headlines/54702-buganda-gives-out-150-kyapa-mu-ngalo-titles>

⁵⁶ The Observer, August 31, 2017, *ibid*.

⁵⁷ Interview Omutaka Jjajja Kayiira Kasibante David Fredrick of Mbogo clan, April 20, 2022, Mityana.

⁵⁸ Interview, *Ibid*.

⁵⁹ Interview Y. R. April 20, 2022, Mityana (he requested his name to be kept anonymous).

kyapa mu ngalo titles either way, even if it means using force”.⁶⁰ This is made clear when he notes that you are only an owner of a piece of land after renewal of your lease and there is a possibility of the land owner increasing the lease value either in terms of premium or renew costs. The concern comes mostly because when people acquire land, they are also acquiring it for their future generation and the commodification is only concerned with the current. On the uncertainty of the renew, he noted that “the current king may understand the reason why kyapa mu ngalo was established” but wondered what happens when a new king comes into office later and “refuses to heed to provisions being prophesied, that if people with leases can no longer afford the lease, they go back to the previous arrangement”⁶¹. In a continued state of worry, he asked, what if the new king comes at a time when land is more precious than today and refuses to renew their lease titles? what will happen to our grandchildren who stayed on the land and it’s the only place they know as home?” The future generation of their children and grandchildren is a point being emphasized here. For him, a “lease reaches a time when the owner of the land sees that land has gained value, they either increase the price or you leave the land”. This then can turn into targeting the tenants on bibanja. He knew such schemes to be common with government but not the kingdom, thus the lease by the kingdom creating more worry and suspicion.

One would wonder why this respondent was concerned with the king not renewing his lease yet the kingdom through BLB (and so the king for this case now) promised them security by offering an alternative to the lease i.e., going back to the previous arrangement? Here, Y.R. noted that there is the idea of *kabaka asiimye* which often guides the state of things in the kingdom. In most cases, when they say *kabaka asiimye*, it is very hard for any subject to object. So, his concern was on the possibility of the new king deploying the phrase *kabaka asiimye*⁶² and consequently refuse to renew their leases, and worse still refuse to grant the previous status of paying busulu⁶³. Such meanings and the respect accorded to such a phrase possibly may be the reason some respondents worry about the uncertain future of their ownership of land if leased and perhaps may call for a reflection on the implication of such worries by the people. We cannot dismiss the worry of these people; they have a point in speaking to them. Concerned with the way kyapa mu ngalo came and what this may mean for the people occupying bibanja on kabaka’s land, one respondent, expressed a similar worry:

Kyapa mu ngalo never went through the lukiiko for a discussion. It is a few people who came up with it, and only took it to lukiiko when society started criticizing it. If it is to benefit community then community

⁶⁰ Interview, *ibid.*

⁶¹ Interview, *ibid.*

⁶² Different interpretations can be given to this phrase, it can mean appreciating, it can mean to “will”, it also means to accept, and it can mean to decide. There is no English interpretation which can bring out the best meaning to this phrase, that’s why I will keep deploying it in its Luganda form to maintain the meaning. The closest meaning which can be deduced is “if the king wills”.

⁶³ The discussion of *kabaka asiimye* cannot be extensively dealt with here.

must have been involved or even the lukiiko had to discuss it. People in Buganda land board and the prime minister/katikiro bring up these program in the name of king even when its not in the interest of the king's people. They coin them using respected phrases like kabaka asiimye so that they don't face resistance.⁶⁴

Of course, this speaks to the worry that the earlier respondent expressed when he speaks to the fact that some members of the kingdom bring forward programs in the name of *kabaka asiimye*. The idea of kyapa mu ngalo not having been discussed in the lukiiko will be discussed somewhere else. For now, I focus on the insecurity that may arise out of what is called security. I have highlighted these suppositions because they offer a critique to some of the promises and assumptions of the kyapa mu ngalo program but also to the commoditization and marketization of kibanja land which in turn may cause problems for the tenants and their descendants.

One important question to ask is, how should we think about this kind of narrative? Isn't this a new form of accumulation? Isn't the risk of following this kind of narrative and provisions one way of shifting land into a new regime of private property? I will argue that the kyapa mungalo titling project just like the neoliberal state enforced titling projects is creating new capitalist frontiers i.e. capitalism is working to create new sites of accumulation by trying to draw people into the market [call them elaborate traps] to be able to exploit them but not to promote the alleged 'development', agricultural productivity and access to credit. To do that, it has to reduce land to what Muchetu has referred to as a tradable commodity and to ensure that farmers or kibanja holders who were outside the domain of the market are drawn into the market. The normative conceptualization tends to push such by couching it in the language of tenure security, which of course is a language which can easily be accepted by the general population given the threats that are numerous on land including grabs and evictions. This partly explains why some people had to accept the kyapa mu ngalo scheme not because they feel it provides the utmost security but because they think it's a trend provided to them by the neoliberal regime and the only option available to them especially that it's coming from an institution from which they expect to 'get protection'. The enforcement of such narratives has numerous actors including the state, national and international financial institutions, donor organizations and donor states, and recently Buganda kingdom and others. Those engaging this question do not question the powers at play in extending this neoliberal agenda. If at the global level we have international financial institutions of IMF and World Bank, then at the local level we have the local financial institutions like Banks including centenary bank and Stanbic bank⁶⁵. Most of the banks have moved a step further to take themselves closer to the farmers who own land in form of

⁶⁴ Interview JM Mukono, March 2022.

⁶⁵ Interview, Omukungu Kizito Bashir BLB 7/03/2022 Bulange Mengo.

kibanja and otherwise. This has been through themselves initiating loan schemes which puts them closer to the people and luring them through the kingdom since they know that anything that comes from the kingdom is accepted. Many banks including centenary bank, Postbank, housing finance bank etcetera have partnerships with the kingdom to support those who want credit to lease the land and to avail credit to those that want to do investments⁶⁶

This according to Chitonge is a conceptual distortion, which came with the emergency of colonialism. For him, the colonial project did not only change relations around land but also the “way Africans ‘*think*’ about land”⁶⁷—epistemologies around land. This alteration and distortion was based on “the European conception of land”.⁶⁸ This has been framed as coloniality of power, evoking how questions of epistemology are also questions of power.⁶⁹ And Gupta would suggest that such conceptions keep changing with the changing face of domination i.e., when formal colonial rule ended, a “regime of development took over” and this was made possible through the Bretton Woods especially in 1944 mostly by institutions like the IMF and World Bank.⁷⁰

The State and Buganda Kingdom in the context of land reform: Power, politics, custom and epistemological vision.

This section aims to offer a critical reflection on the controversy between the state and Buganda kingdom over mailo land. I argue in this section that the controversy is not merely one aimed at addressing the land question per se but also one of power. The debate on mailo land has been couched in the language of reform. The debate is not new. As outlined in the first section of this paper, it has its roots in the colonial epistemological and political history which was then carried forward to the contemporary across the different political regimes. Most successive government have always sought law reform as the solution right from the colonial to the early post-independence governments and the contemporary NRM regime which has couched it in very neoliberal terms. The debate today has focused on whether to deal with the land question necessitates abolishing mailo land or not. The Amin and Obote regimes abolished such tenure and made all land public until NRM regime brought it back through the 1995 constitution and the 1998 Land Act. Today, there are two contending positions to this debate i.e., that of the central government (state) that looks at reform in form of abolition and Buganda kingdom that thinks that

⁶⁶ Jackson E, A 360-Degree Solution to Property Ownership In Uganda. August 28, 2018. Available at: <https://www.busiweek.com/a-360-degree-solution-to-property-ownership/>.

⁶⁷ Chitonge Horman. *The Land Question and the Economy: Cues of an Incomplete Decolonisation Project in Africa*, in Chitonge Horman & Mine Yoichi Land, the State & the Unfinished Decolonisation Project in Africa: Essays in Honour of Professor Sam Moyo (eds). Bamenda: Langaa Research & Publishing CIG, 2019, p.35

⁶⁸ Chitonge, the land question and the economy, 2019, p.35.

⁶⁹ Ibid.; see also Okoth-Ogendo, H.W.O. “Some issues of theory in the study of tenure relations in African agriculture”. *Journal of International African Institute*, 59(1) (1989): 6–17

⁷⁰ Gupta, Akhil. *Postcolonial developments: agriculture in the making of modern India*. Durham: Duke University Press, 1998, p.39.

abolition is not the solution but *kyapa mu ngalo* coupled with the strengthening of the land management/governance institutions and the need to effectively implement land laws.

The first position advanced by the central government argues that the problem with land today in Buganda should be attributed to the nature/type of land tenure that is predominant in the region i.e., mailo land tenure. And to deal with it requires abolishing mailo land. For the state, the Buganda land problem can be located in two logics i.e., the colonial origins of predominant mailo land tenure; and the use of cultural narratives by Buganda kingdom to justify its support of mailo land tenure and *Kyapa Mungalo*. The government narrative suggests that mailo land is a colonial form of tenure which can only serve to disadvantage the majority tenants. In June 2021, the president of Uganda argued that mailo is a “very bad” and “evil” system of tenure.⁷¹ To him, those who own the land should have full ownership rights just like many other places in Uganda where no one can easily evict them. He gave a directive to the members of NRM Central Executive Committee (CEC) to resist the scheme.⁷² In an “18-page mobilisation missive dated November 8 to all members of *CEC*”, he called for resistance of “all the schemes of *okutemako* (cut pieces from) of *bibanja* owners’ land or *Kyapa Mungalo*.”⁷³ He categorized leases offered on mailo land to be for the “educated sometimes foreign producers using land” and not “Ugandans who have their homes (*obutuuro*) and graves of their ancestors on those lands”.⁷⁴ The system (to Museveni) is the root cause of land grabs and illegal evictions. He cited an example of *Ssenabulya* who was evicted from his land despite having given them the same land as a forest during the national resistance army war in *luwero* as bush for hiding. Museveni noted that:

“I was surprised to hear that veteran *Livingston Ssenabulya* who gave us a forest during the [1986] liberation war had been chased from his land. The person who was chasing them, *Namwandu Mulyante*, was our person”.⁷⁵

In support of the presidents contentions on mailo, a minister of state for lands *Mayanja* averred that *Mailo* owners “deploy lawyers, court brokers, valuers, police, army, private security firms, *kanyama*, local defence units, bribe local councils” to ensure that *bibanja* holders lose their land. These he argues have tried their best to “hold both the government (executive) and the *bibanja* holders hostage. They quote the constitutional sanctity of property, they play around with lawful and *bona fide* tenancy and in these

⁷¹ Ajuna D. V, “Museveni Slams ‘Very Bad’ Mailo Land Policy”, *Daily Monitor*, June 09, 2021.

⁷² Kafeero Stephen, “Fight Buganda land board, Museveni tells NRM’s CEC”. *Daily Monitor*, November 12, 2021.

⁷³ *Daily Monitor*, June 09, 2021.

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

contexts, the bibanja holders almost invariably lose.”⁷⁶ Mayanja adds that, “Mailo landlords are selling off land like any other commodity without any social or ideological considerations whatsoever. They sell their mailo to buy vehicles, build houses or to raise air tickets to join the armies that sweep Japan, Europe, Canada and USA (kyeyo).”⁷⁷ There is no guarantee that when land is sold to new mailo owners, bibanja holders will retain their tenancy rights and not sold off, even when they know, they are not sure of where next to go or whether they will be compensated. Based on that, he suggests a land reform. Mayanja says:

Land reform is accordingly imperative otherwise hell will break loose and no one may be able to pick up the pieces... Security of tenure cuts across religious, tribal or political differences. It is in this scheme of things, that the call of President Museveni for a comprehensive reform of the mailo tenancy and indeed in any other tenancy, necessary to give security of tenure in perpetuity for all citizens, is a noble call and must be supported by all Ugandans.”⁷⁸

Earlier, Minister Betty Amongi who was minister for lands had warned that mailo is a way in which people unfairly acquire land and it is a logic introduced by the colonial state in 1900.⁷⁹ Daily monitor shows that places like “Bbira on Mityana Road (Busiro County), all land there belonged to the Nkima Clan while villages such as Katende on Masaka Road (Mawokota) was managed by the Olugave Clan. Lwadda in Mutugga currently in Wakiso District belonged to Mpologoma Clan.” but with the 1900 agreement, these came to be owned by individuals thanks to the colonial introduction of mailo tenure which made such land private with people have powers to sell and/or lease whenever they wished.⁸⁰ As things stand, these kinds of lands are now managed by BLB on which it offers leases. All these point to the colonial and exploitative nature of the mailo land tenure and are given to justify its abolition.

Like the colonial state, the contemporary state has always turned to commissions of inquiry to get recommendations on how best to deal with the question. In 2016, a commission was established to look into the land question in Uganda and especially in Buganda. This came to be known as the Bamugemereire commission⁸¹ of inquiry. The commission when presenting its report to the president in

⁷⁶ Mayanja S, “Opinion: After years of suffering, it’s time for bibanja holders on mailo land to win their land back.” The Nile Post. July 23, 2021. Available at: <https://nilepost.co.ug/2021/07/23/opinion-after-years-of-suffering-its-time-for-bibanja-holders-on-mailo-land-to-win-their-land-back/>

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Daily Monitor, “Buganda land question: How did the kingdom walk into this gridlock?”, Thursday June 21 2018. Available at: <https://www.monitor.co.ug/uganda/special-reports/buganda-land-question-how-did-the-kingdom-walk-into-this-gridlock--1763628>

⁸⁰ Ibid.

⁸¹ “On 8 December, 2016 the President of Uganda appointed a Commission of Inquiry into the Effectiveness of the Law, Policies and Processes of Land Acquisition, Land Administration, Land Management and Land Registration in Uganda (the Commission) headed by Hon. Lady Catherine Bamugemereire. The Commission is required to make recommendations for improving the efficiency and effectiveness of the law, policies, and processes of land acquisition, land administration, land management, land registration in Uganda and proposing necessary reforms.” (see Buganda Kingdom, Memorandum to The Commission on Land Inquiry in Uganda: On the Effectiveness of Land Law, Processes of Land Acquisition, Land Administration, Land Management and Land Registration. Bulange, Mengo, April 25, 2018.

2018 proposed that “abolish the Mailo land tenure and to fuse it with other tenures into a single tenure” and reducing the tenure from four to three i.e., freehold, customary and leasehold.⁸² This recommendation perhaps invigorated the president's call for abolition of mailo land in 2021 and his emphasis on the rejection of *Kyapa mu ngalo*. But why would the state opt to do away with mailo land and instead turn it into a freehold tenure? Is this the best alternative we can have? I will suggest that the state and particularly the president is also aware that freehold is not the best alternative. I will return to this in a few, for now let me first outline the position of Buganda kingdom. The state position seems convincing if viewed from the perspective of the tenant. It suggests that *Kyapa Mungalo* and so mailo land tenure is not in the interest of the tenant. However, the critique becomes problematic when he suggests that “customary or freehold may be the only correct model for Ugandans” and for such to work, “ownership should be tied with obligations to use land as agreed with the state” (ibid.). The state is to be put at the centre of resolving such a contestation and freehold and customary are offered as unproblematic tenure systems. From this directive, we can see that the president is challenging *Kyapa Mungalo* but does not come out to show us whether such lease titles come from the state or not. It leaves a question of whether the state challenges Buganda Land Board because it's not legally instituted or because it operates just like other state institutions thus challenging state power yet it is supposed to be left to the customary domain as a cultural institution and not a political one. The tendency is for the state to think of Buganda Land Board as exclusively cultural without regard of the political. The state's position puts emphasis on a return to law reform (land law reform) as a solution ignoring the politics embedded in the land question and the subsequent reforms which are put in place. This puts the society outside the equation if not on its margins yet meaningful reform needs to embody aspects of the politics, the economy and society (state, market and society).

The position of Buganda kingdom is in stark contrast to that of the central government. It stresses that the land question in Buganda has nothing to do with the mailo land tenure system. Buganda kingdom suggests that the current land problems have to be located in the politics of patronage that the state plays that ends up offering favours to one group at the expense of others with the motive of leaders entrenching themselves in power. This mostly coupled with the weak/ineffective institutions and non-enforcement of land laws. The narrative suggests that postcolonial land question originates from the acts of individual leaders and their respective government.⁸³ Gibbs points out that Buganda kingdom officials are weary of NRM government attempts to target the kingdom, with the motive of being weakened both economically

⁸² Buganda kingdom, Memoranda to the commission on land inquiry in Uganda, April 25, 2018, op cite.

⁸³ Musinguzi Blanshe, “Uganda: Is Museveni ready to take on Buganda Kingdom in a tough fight over land?” The Africa Report, Friday, 27 August 2021. Available at <https://www.theafricareport.com/121767/uganda-is-museveni-ready-to-take-on-buganda-kingdom-in-a-tough-fight-over-land/>

and politically (2013: 111-112). As Gibbs would show, land politics always works to privilege the central government by granting it more power in places like Uganda where patronage networks exist (2013: 26). Buganda government thinks that the resultant effect is that the state law reforms end up not eradicating the problem but legitimizing its power.

The minister for special assignments in Buganda kingdom David Mpanga argued while on a TV show that, “the problem is that government is fronting a development paradigm where investors have to get land for free. There is no country which has developed by giving investors free land”⁸⁴. Mpanga states that mailo tenure is not the problem because “there isn’t a system of Mailo in Amuru District (northern Uganda), we have seen land disputes in Amuru, there isn’t a mailo tenure in the Elgon mountain area but there are land wrangles there.”⁸⁵ Citing the Bamugemereire commission report of 2018, Mpanga has argued that some big wigs in the state were identified as being behind some of the land grabs.

We know from the Bamugemereire report, at least from the inquiry stage, that there are certain names that kept coming up; they have been using or misusing state power and state security many times, acquiring their wealth, which they put into land corruptly; those are the people causing insecurity to many people.... If the Kabaka of Buganda as big Mailo land owner in this part of the country was evicting people, that would be huge displacement of populations but on the contrary, the kingdom has been saying; ‘let’s sit down and talk about this so we find a win-win solution and one of the examples is Kyapa Mungalo.’⁸⁶

Buganda kingdom’s Katikiro (prime minister) Charles Peter Mayiga suggests problems that need to be thought about other than dealing with mailo. “One of them is land registries all over the country, someone who has got money can easily get a certificate of title over your own land, two is the police land unit which is ineffective, three the courts of law, am a lawyer and I know lawyers who have chased land cases for over ten years, four – population explosion, five – land has lost nutrients, six – corruption and seven-politically interference.”⁸⁷

In a report submitted to the commission of inquiry, Buganda kingdom lays bare its response to the proposal to abolish mailo land and to the state’s conceptualization of the land problem. Buganda kingdom response is that there was no demand from the public that mailo land should be abolished and there were no “persuasive or justifiable reasons tendered by the Commission to back up the recommendations”.

⁸⁴ Mpanga David. Mailo Land Reform, is it Necessary? Discussing Uganda’s Land Tenure Syetm”, NTV Uganda, NTV on the Spot, Thursday July 22, 2021, 9:45 pm

⁸⁵ Atukunda N and Mujuni R, “Uganda’s land issues go beyond Mailo tenure”. Daily Monitor, July 26 2021. Available at: <https://www.monitor.co.ug/uganda/news/national/video-uganda-s-land-issues-go-beyond-mailo-tenure-mengo-minister--3487086>

⁸⁶ Ibid.

⁸⁷ Kirabo, July 26, 2021, op cite.

Similarly, questions arose when it came to those people whose mailo land was registered and they had land titles. “Were they to be cancelled?”, Buganda kingdom wondered. Legally, the proposal for Buganda kingdom contravenes Article 26 and 237 of the Constitution.⁸⁸ Instead of addressing the land question, the recommendation caused “more confusion”. This is because, “concept of customary freehold was novel and unexplained”. The confusion also came because it wasn’t clear on how the commission would fuse “dissimilar tenures Mailo, Customary and Freehold into one without undermining the proprietary interests of registered Mailo owners of the land”.⁸⁹ To Buganda kingdom, it could be that the state thinks that mailo tenure and freehold are the same, yet assuming so would be both historically and legally wrong. Based on such background, the kingdom formally rejected and is opposed to the idea of abolishing mailo land.

The reason the kingdom gives to support its claim is that mailo land is now “uniquely part of Buganda's history and is now deeply engrained in its culture, customs and traditions”⁹⁰. The uniqueness is attributed to the fact that mailo land recognizes the interests of the registered proprietors and occupants of land”.⁹¹ Similarly, attributing mailo land to the colonial ignores the transformations that have happened on mailo land since the end of formal colonial occupation. The memorandum states that:

It is sometimes wrongly argued that Mailo land tenure represents historical injustices of the land distribution under the 1900 Agreement. On this basis, it is argued that the abolition of this tenure would somehow redress these historical injustices. But these arguments wrongly presume that Mailo land holdings today remain the same as they were in the early twentieth century. The reality is different because, as a result of conveyancing over the years, individuals and institutions, both within and outside Buganda, have acquired Mailo land titles outside the colonial land allocations under the 1900 Agreement. Indeed, statistics available in the Land Registry show that the historical beneficiaries of land under the 1900 Agreement have long ceased to hold the land in question through succession, onward sales/transfers and other land grants. Today a lot of Mailo land is owned or occupied by non Baganda.⁹²

⁸⁸ Buganda kingdom, Memorandum to the commission on land inquiry in Uganda, April 25, 2018.

⁸⁹ Ibid.

⁹⁰ “Indeed, customary practices have developed that define the terms of ownership, usage, occupation and inheritance of land under the Mailo land regime. It accords each party with specific rights and interests that have been recognized over the years. It is difficult to imagine how these would be defined and understood in a fused tenure system... The unique character of the Mailo land tenure in Buganda may explain why, even after it was abolished by General Idi Amin in 1975, the Mailo land division in the Ministry of Lands remained and Mailo land titles continued to be issued and held. In effect Mailo land tenure was only abolished in name and not in fact. Ibid.

⁹¹ Ibid.

⁹² Ibid.

The mailo land allocations of the colonial focused more on people from Buganda and especially the Baganda but today, the above quote intends to show that it transcends the tribal and regional boundaries when it comes to questions of acquisition. Thus, the kingdom alludes to the fluidity of not only mailo land tenure but also Buganda culture, traditions and customs which can change and adopt new and emerging trends. Thus, the conclusion that Buganda would come to is that attempts at abolishing mailo land are attempts aimed at targeting the kabaka because

...as of today, the only entity that retains land as was allocated under the 1900 Agreement is the institution of the Kabaka who still holds the 350 Sq. Miles that is occupied by a variety of people including a lot of non-Baganda. This being the case, it would be the institution of the Kabaka that would be most adversely affected by a proposal to either abolish Mailo land tenure or somehow fuse Mailo land tenure with other tenures. This reality explains the Kingdom's fears that the proposed removal of mailo Land tenure is targeting the Kabaka.⁹³

By mentioning an attack on the Kabaka, Buganda doesn't only believe that its an economic attack, it is also a political attack that aims to weaken the Kabaka's economic base thereby reducing his political base. Besides, Buganda historically had her leaders draw power from land and despite the degeneration of such with colonial modernity, the king still maintained a little bit of such given his position as a landlord. That said, Buganda kingdom agrees that there is a problem with land that needs a long-lasting solution. But for them the solution doesn't lie in abolishing mailo land. Buganda "believes that one of the main causes of rampant and wanton evictions of occupants of land is the paralysis that arises out of the duplicity of ownership by registered proprietors and tenants, bona fide or lawful occupants on land". To the kingdom, the solution lies not in the abolition of Mailo land tenure or the "fusion of tenures, but in the de layering of ownership of land as well as the provision of Leasehold certificates of titles to the landless groups occupying or using registered land" as a mode of protection⁹⁴. Instead of abolishing mailo land, Buganda kingdom suggests what is considered a "unique" alternative:

The benefits of Ekyapa Mu Ngalo policy, which allows occupants on Kabaka's land to acquire Leasehold land titles at a reasonable cost and on favourable terms are available for all to see. Under the Ekyapa Mu Ngalo scheme individuals (formerly unregistered bibanja owners or occupants) have obtained land titles under a subsidized fee arrangement and without discrimination. All categories of occupants have been

⁹³ Buganda kingdom, 2018, op cite.

⁹⁴ Ibid.

given a chance to regularize their occupancy on land and to obtain leases. Based on the successes of the Ekyapa Mu Ngalo scheme we invite the Government to utilise the Land Fund to help unregistered occupants on land to acquire Leasehold land titles on a willing seller willing buyer basis.⁹⁵

From the quote, it comes out clear that kyapa mu ngalo is a magic bullet that will provide security of tenure and so the best solution for the different interests on the mailo land. Kizito suggests that kyapa mu ngalo is unique because of the way it addresses the problem that would arise out of issues of reversion after expiry of the lease. He argues that BLB leases are not designed in such a way because there is a specific clause in the agreement which allows people to redeem their rights prior to getting the land title. In essence, even what would have been used to defeat the purpose of acquiring a leasehold from Buganda was defeated by the framers of kyapa mu ngalo because “we knew [reversion] was the weakness was with any leases in the world”⁹⁶. He emphasized the fact that BLB is aware that it’s dealing with kabaka’s subjects. These are “our fathers, mothers, sisters, children, the people who make up the population and kingdom of Buganda. For that reason, BLB lease takes up a unique form, not even govt doesn’t do that. It offers leases with reversionary powers to govt despite saying land belongs to the people. That is why (we) Buganda kingdom know that the current proposed land reforms especially on mailo land are not sincere reforms by govt, they are not, because when you look at what government has planned to do”.⁹⁷ The state wants to unify tenure and take back land to belong to the state.

The contestation between the state and Buganda has both political, economic and *epistemological* implication. However, from the two perspectives, the state and Buganda kingdom are both deploying the neoliberal language of ownership and tenure security which can be cemented by either abolishing mailo and fronting freehold or offering leaseholda. Both seem to agree that titling [either state-led or Mengo-led] is not the solution to the problems because it emerges out of the limited conceptualization of what the problems is. Instead of engaging that fact, both entities are using another as a scapegoat to justify their own projects i.e. the state to oppose mengo titling and promote state-centered titling and mengo to support and justify its own kyapa mungalo. In justifying their claims, they have deployed languages such as development, which languages are used to promote land grabbing both during the colonial period and

⁹⁵ Ibid.

⁹⁶ Interview, Kizito Bashir, *ibid.*

⁹⁷ Ibid. “...immediately govt came up with the land policy, it drafted an action plan to implement the policy. The plan from the onset has some of the controversial things we have been seeing coming into play i.e. Taxation of idle land as part of things to be implemented, as you see the reforms coming up now, it’s wrong to think it’s a response to an economic crisis and measures to rescue the economy, these are things which were clearly drafted by government are documented. We have the land policy implementation plan 2015/2016 and 2018/19, these are all included. Talk about the compulsory acquisition of land where the owners don’t have to get fair prior compensation, it’s also in the action plan, it’s not out of the blue. These things existed way back in the action plan. The last and most hidden public secret is the government taking the radical title i.e. Doing what Amin did.” Ibid.

today. I suggest that all titling should be located within logics of capitalist “primitive accumulation”, neoliberalism and colonial legacies.

Both Buganda kingdom and state formalisations are obsessed with the idea of the “market”. Like the state, Buganda kingdom suggests that titling land will allow tenants have access to an efficient land market.⁹⁸ One of the assumptions of neoliberal land formalisation is establishment of “effective markets”.⁹⁹ Neoliberal theorists like Feder and Nishio¹⁰⁰, de Soto¹⁰¹ and Deininger¹⁰² have suggested that there should be a well-functioning market in developing countries with potential to extend financial support, and the poor should be integrated into this market through legal mechanisms of formalisation as a counter measure to poverty. I will argue that such assumptions are very problematic because it gives a universal linear understanding of the concept and institution of market(s) across time and space. Neoliberal theorisation resultantly thinks of the market as merely a space where transactions in land (economic) takes place and not as historical and political institutions where negotiations around diverse land relations should take place. This offers an understanding of not only markets as depoliticized but also the discourse of development in which it is located. Moyo and Yeros show that unrestrained land markets are likely to cause a lot of havoc for the people especially the poor citing the creation of landless peasants and rural proletariats in China and Vietnam.¹⁰³ Moyo and Yeros further make a point that we should think beyond institutions like the state and the market if we are to think about land and agrarian reforms. This is because, “a dynamic political process that takes place through power struggle, while changes in the balance of power in society creates profound effects on the outcomes of the reform”.¹⁰⁴ The neoliberal reform narratives, the authors show tends to ignore and take for granted the fact that policy outcomes are “located within arrangements that are invariably re-examined, revised and even overturned...hence the need to examine the interaction between the state and society within existing socio-political and economic contexts if we are to offer a more inclusive land reform explanation”.¹⁰⁵

The land question in Buganda and the controversy around mailo land is also a problem of survival. Buganda is a land owner/lord, if the state buys off land owners through its land fund¹⁰⁶, then Buganda will lose out and the land can be sold to anyone who may not be from the region and anyone can be free

⁹⁸ Interview, Kizito Bashir, 7/3/2022, Mengo.

⁹⁹ de Soto H. *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. New York, Basic Books, 2000.

¹⁰⁰ Feder, G. and Nishio, A. “The benefits of land registration and titling: Economic and social perspectives”. *Land Use Policy*, 15 (1999): 25–43.

¹⁰¹ De Soto, *The Mystery of Capital*, 2000.

¹⁰² Deininger, K. *Land Policies for Growth and Poverty Reduction*. Washington DC.: World Bank and Oxford University Press, 2003.

¹⁰³ Moyo Sam and Yeros Paris. (Eds) *Reclaiming the land. The Resurgence of Rural Movements in Africa, Asia and Latin America*. London and New York: Zed Books, 2005), p. 227, 217.

¹⁰⁴ Moyo and Yeros, *Reclaiming the land*, 2005, p. 257

¹⁰⁵ *Ibid.*

¹⁰⁶ Buganda kingdom report to the commission of inquiry 2018, op cite.

to sell the land at any time they wish to anyone¹⁰⁷. This means that the land is not only changing its form but also changing ownership from Buganda to the state, not the peasants. The implication then can be that the state will have right to distribute the land to whoever and whenever it wishes. Given the influence of the market and the dominance of neoliberal conditionalities of free market, the redistribution may end up favouring capitalist with huge capital to purchase the land and not the peasants. Second, many people from western Uganda have bought land and majority are on mailo land, so changing this land into freehold means protecting the assets they have gathered in case of any future threats, there are people who sell their land because they want to survive¹⁰⁸. They sell willingly—willingness in this case excludes the economic and political conditions which are forcing people to sell their land—but at heart they don't want to let go, people have hope that one day they will regain their land back. One respondent said that his hope to regain his land which was grabbed from him is in regime change. “When this government changes, I know there will be a possibility of regaining my land”.¹⁰⁹ Just like how the colonial state cooled the tempers of the peasants by enacting the busulu and envujjo law in 1928, Museveni thinks that buying off mailo land and availing it to the peasants, it at all they will be peasants, will cool their tempers since his political loss in the “recent presidential elections” central region is partly attributed to that. Here the response becomes more political than imagined. This then speaks to another assumption that the controversy also can be thought of i.e., a power contest. It is argued that the state is opposing mailo land simply because the Buganda kingdom's kyapa mu ngalo program is making the kingdom more popular among the people than the state. It is said that the state is the one issuing titles but the credit that would be attributed to the state now goes to Buganda kingdom¹¹⁰. The state seems to have outsourced some of its powers—*call it outsourcing state bureaucracy*—to Buganda kingdom i.e., of helping in the survey and registration and then it just issues titles, but here the state seems non-existent in the eyes of the public given the publicity of the kingdom on the kyapa mu ngalo program. This partly is claimed to explain why the state considers Buganda Land Board to be ‘illegal’¹¹¹. Kizito Bashir noted that the ministry of lands in the early days of kyapa mu ngalo campaign “led a delegation of technocrats to check the titles which they said were manufactured in Mengo but she left the manufacturing plant under her roof”¹¹². Despite the fact

¹⁰⁷ Interview, Waswa Wilson

¹⁰⁸ Interview, Y. R., op cite; Interview, former NRM chairman Mityana district,

¹⁰⁹ Interview W. S. Kayunga, April 9, 2022.

¹¹⁰ Interview, Dan Muliika, June 13, 2022, Bukoto.

¹¹¹ “...Buganda Land Board, which acts as Kabaka Ronald Muwenda Mutebi's agents on land matters is illegal and all its activities including 'kyapa mu ngalo' should be fought” said Museveni. Sengooba Alirabaki, You Can't Lease Ugandans Their Own Land On Which They Plant Their Food And Bury Their People – Inside Museveni's Attack On Kyapa Mu Ngalo And Kabaka Owned BLB, The GrapeVine, November 12, 2021. Available at: <https://www.thegrapevine.co.ug/inside-story-you-cant-lease-ugandans-their-own-land-on-which-they-plant-their-food-and-bury-their-people-inside-musevenis-attack-on-kyapa-mu-ngalo-and-kabaka-owned-blb/>

¹¹² Interview kizito Bashir, op cite.

that the titles were being made by the ministry, they led a delegation to inspect the manufacturing done in the Buganda Land Board premises which is very laughable”. The problem is that the “technical people are afraid of advising the politicians especially ministers, they would rather escort them despite the embarrassment. The idea and logic is to demonise what comes out of the kingdom. This is because, someone has done the numbers and calculations and known that there are more advantaged people than landlords, the better thing to do is to ensure that even those that were comfortable with Buganda lease titles should be decampaigned so that people can see it otherwise and mobilise themselves against the kabaka or someone else. As someone who has worked on Kyapa Mu Ngalo, there was a lot uncovered, unknown, undocumented things that were happening under neath...govt paying journalists to write stories. Its crazy the amount of energy govt and its personel put in place to fight kyapa Mu Ngalo”¹¹³. This power contest does not benefit the common person but rather ends up promoting capitalist interests and centralizing political authority.

Lastly, this conversation excludes society as an actor in resolving the land question. In the discussion, the state seems to want to legitimize itself as the sole representative of the people and so by denouncing the schemes of Buganda kingdom as representing their interest. In the same vein, Buganda kingdom suggests that the state is the brain behind the land problems and by initiating kyapa mu ngalo, it is protecting the people and so their legitimate interests. In the Buganda Memorandum to the commission of inquiry, it is stated that “sadly, the resolution of the land question in Uganda since independence, and particularly in 1967, 1975, 1998 and 2007, has often been subjective and done in a piecemeal or ad hoc manner often without due consultations with all the stakeholders. Each development, right from 1900 has been heralded as a reform by its advocates, yet still the land sector remains in a state of disorganization”¹¹⁴. Same applies to the recent recommendations which were made by the commission and the statement by the president to abolish mailo land.¹¹⁵ In other words, the state’s attempts are top-down without due consultation, thus not representative enough of people’s interests. This would mean that Buganda does consultations before instituting programs, or is it so! I went further to inquire about the involvement of the community into the programs of Buganda kingdom and Buganda land board which possibly would speak to the question of *consultation of stakeholder*. An official from BLB argued that there “was no need (it was not necessary) to consult people over the lease they know about”. This is because, “the lease process has been going on and the people of Buganda

¹¹³ Ibid.

¹¹⁴ Buganda kingdom, Memorandum, 2018, op cite, p.3.

¹¹⁵ Ibid., cf p.16.

already knew it.”¹¹⁶ For him, leases were being offered even before 1994¹¹⁷. Beyond that people are “happy that they are using the opportunity to connect to the king. A muganda is proud to know that they are connected to the kabaka, and the fact that the leases are reading kabaka of buganda leases land to them makes them happy and there is n reason for making consultations”¹¹⁸ The community was also asked on whether they were consulted but the response was not any different from that of the BLB official¹¹⁹. It shows that on both sides, there are no consultations made. One then would ask, what is the difference between Buganda and the state (at least in terms of conceptual and epistemic leaning)? This shows that much as the state and Buganda may differ on the approach, they share the broader epistemological vision i.e., the vision of entrenching neoliberal politics of land titling and serving capitalist interests and the idea of entrenching power within society, which very ideas lay claim to colonial capitalist property relations and law. This however does not serve the community since none is interested in knowing what society wants before setting up any programs. This can only tell us that Buganda and the state both have a stake in pushing the neoliberal and colonial agenda. That said, I out to state that Buganda should not be thought of outside the confines of the state. This could partly explain why their projects and narrative are similarly couched in the neoliberal and colonial language of development, progress, industry, finance etc.

Ettaka Nyaffe: A decolonial reconceptualization of land through a society’s discourse of motherhood.

In this section, I attempt to bring society at the centre of the discussion of the land question in Buganda. Like any other neoliberal governance practice, epistemology and tradition, the current debate and policy responses by the NRM regime on land tends to present land as a resource worth of exploitation. Such a neoliberal and colonial epistemic discourse privileges land as a commodity and ends up taking for granted the ways in which people perceive of and relate to land. Buganda like many other communities is grappling with the fact that society has been coerced into the neoliberal framework that attaches value of land in its commodification, financialization and marketization. However, for the people of Buganda, land and the relationships on it form a very diverse and complex network that brings together social relations,

¹¹⁶ Interview, kizito bashir, op cite. Kyapa mungalo as an initiative from above as a reward program

¹¹⁷ 1994 is when the kingdom was restored after the Obote regime had abolished all kingdoms in the country. These leases that are referred to here were being offered on crown land and mailo land. “there woud be leases offered by the king to people at a low rate 3-4, sekabaka mutesa issued some leases”. BLB would lease land after 1962. interview, Kizito Bashir, ibid.

¹¹⁸ Ibid.

¹¹⁹ Interview Omutaka Kisoro Kivumbi D Mityana April 20, 2022; interview, Y. R. April 20, 2022, Mityana, op cite; Interview Owek. Dan Muliika Former Katikiro of Buganda June 13, 2022, Bukoto, Kampala district; CKN, June 14, 2022, Kampala; Interview WS Kayunga April 9, 2022

culture, memories, histories among others. It is not only a source of livelihood and sustenance but also a source of identity and belonging. The choice of placing society/people at the center of this land debate [through decolonization as a methodological tool] is that societies have “stories, cultures, social practices, languages” to share and these can become “spaces of resistance and hope”.¹²⁰

Decolonial scholars have argued that European/western model of knowledge have often been provided as an authentic form of knowledge which commands universality and superiority over other epistemologies. The western epistemology pushed other forms of knowledge to the margins and has been presented as the only form of true knowledge which is objective and based on reason¹²¹. It has become “hegemonic” and has generate expansive scientific practices through an establishment of a frame of knowledge that universally conscripts other societies. Relatedly, it’s considered repressive due to the fact that it cannot leave any knowledge created outside the set frame to survive thus failing to appreciate the epistemic diversities¹²². Santos has aptly argued, Western-centric ways of knowing need to be interrogated with other knowledges and other ways of knowing.¹²³ For him, global capitalism and colonialism have historically been purposed to destroying all other possible ways of knowing and he coined epistemologies of the south as an epistemological dimension to resist such destructive tendencies i.e. as a liberation against capitalism, colonialism, patriarchy and neoliberalism.¹²⁴ Mbembe thus contends that any attempt aimed at decolonisation has two tasks i.e. deconstruction of the dominant western knowledge and development of alternative models.¹²⁵ However, Santos unlike Mbembe suggests that decolonisation of knowledge shouldn’t necessarily seek to deconstruct and seek alternatives but a search for an “alternative thinking of the alternatives”¹²⁶. Interestingly Sabelo suggests that we should not think of human beings as only born in knowledge systems but also as “legitimate” thinkers, knowers and producers of knowledge.¹²⁷ The neoliberal epistemological tradition has provided a knowledge framework on land in Uganda and beyond which situates people into a knowledge system.

¹²⁰ Smith, Linda Tuhivai. *Decolonizing Methodologies: Research and Indigenous Peoples*. (London: Zed Books, 1999, p.4)

¹²¹ See Senghor Leopold S. “Negritude: A Humanism of the Twentieth Century,” in *Colonial Discourse and Post-Colonial Theory, A Reader*. Eds. Patrick Williams and Laura Chrisman. New York: Columbia University Press, 1994; Mignolo Walter. *Local Histories/Global Designs: Coloniality, Subaltern Knowledges and Border Thinking*. (Princeton, New Jersey: Princeton University Press, 2011); Anibal Quijano. *Coloniality of Power, Eurocentrism and Latin America* (Nepental: View from the South 1, (3), 2000), 533-580; Sabelo J. Ndlovu-Gatsheni. *Decolonization/Decoloniality: Converging African/Latin American Thinking*. MISR Lecture: Makerere Institute of Social Research, 2019.

¹²² Mbembe Achille. *Decolonising Knowledge and the Question of the Archive*. 2015. Retrieved from <https://wiser.wits.ac.za/system/files/Achille%20Mbembe%20-%20Decolonizing%20Knowledge%20and%20the%20Question%20of%20the%20Archive.pdf> [Accessed on August 16, 2019].

¹²³ Santos D. B. *Epistemologies of the South: Justice against Epistemicide* (London; New York: Routledge, 2016).

¹²⁴ Santos B. de Sousa. *Public Sphere and Epistemologies of the South*. Council for the Development of Social Science Research in Africa (CODESRIA), Africa Development, Vol. XXXVII, No. 1, 2012, pp. 43-67, p.52.

¹²⁵ Ibid., p.18

¹²⁶ Ibid., p.52

¹²⁷ Sabelo J. Ndlovu-Gatsheni. *The dynamics of Epistemological Decolonisation in the 21st Century: Towards Epistemic Freedom*. Strategic Review for Southern Africa, Vol 40, No 1, 2018, p.33.

Following Mamdani's idea that society has to be put at the center of the discussions around land¹²⁸ and Sabelo's suggestion that people should be considered legitimate thinkers¹²⁹, this section engages discourses from the society regarding their conception of land and its relations as a decolonial critique of western neoliberal and colonial epistemes. Ethnographic research on the land question in Uganda with a particular focus on Buganda has revealed that there are multiple yet divergent meanings attached to land beyond the western neoliberal conception which provides land as merely a commodity to be transacted and exchanged in the market and having value in the economic sense. The marketized meanings attached to what land is, ought to be used for and can offer, which is being pushed by the state, to some extent by Buganda kingdom—*though its agency is questioned when it comes to such*—and the neoliberal financial institutions internally and globally including the IMF and World Bank is different from what the people of Buganda seem to have.

Interested in understanding the different dynamics surrounding the land question in Buganda, one of the very first questions I would pose to the respondents in the field was on their understanding of land and the different meanings they attached to it. Very numerous, complex, flexible and interesting responses were registered. Key among them was the idea that *Ettaka nyaffe, ettaka bulamu* (land is a mother, land is life). Thus, land was seen as being much bigger than just an economic good—a commodity.¹³⁰ The conception of land as motherhood comes because society appreciates the different roles land plays in their lives right from the time of conception.

Land is a mother because when you stop suckling your mothers breast, you resort to eating food, and food is grown on land. Even when you go wherever you go, you still can't find another mother. So when you leave your land or sale it, you still refer to either your Butaka or to the land where your ancestral parents were buried. You cannot today find another Butaka just like you can hardly find a new mother¹³¹

This quote offers us an important narrative that locates land in social and familial relation on land couched in the language of motherhood. This narrative speaks to the fact that when land is lost, the possibility of getting it back is limited, even when you get it back, you cannot get the same. The discourse of motherhood speaks to the fact that when you lose a mother you cannot get another mother and even when you get one, there is an addition i.e., step mother, surrogate mother, adoptive mother etc. Same is alluded to when it comes to the question of land. It is not impossible to get another piece of land. But the

¹²⁸ Mamdani, 2015

¹²⁹ Sabelo 2018.

¹³⁰ Interview Omukungu KB BLB March 3, 2022 Bulange Mengo

¹³¹ Interview Omutaka/clan head KKG Mityana April 20, 2022

new land that you can get may have a new addition beyond what you sold and it is disconnected from the realities and memories of life. It also speaks to land as a source of livelihood to the community which offers sustenance. The care which is offered to this community and its people by land can “only be offered by a mother who cannot forsake her children even when they annoy her to the worst point”. Land as a source of livelihood embedded in the concept of motherhood is better elaborated by another respondent:

When I speak about land, I speak of it as my mother (*Mmange*). This is because everything I have in my life is found, based and has been made on land. Everything my mother used when I was being born was on land i.e. From the (herbal) medicine to water, to the food she ate when pregnant etc. When i was born and when I became of age, I started being fed and carried by land. That is why I can say that land is our mother (*ettaka ye nyaffe*). Even when I die, I will have to go back into the land. ¹³²

Thus, one needs not to go to the market to find medicine or to get food to feed their children born and unborn simply because the land can offer such. Land accommodates people since they build their houses on the land. Even the business which land is being turned into is done on land.

When you stop being carried by your mother on her laps and back, it is the land which takes on the burden of carrying you again. With a few exceptions of taking a flight which lasts for a few hours or days, most of the time in our life we are carried by land. We build our houses for homes on the land, we grow food on the land, we do business on the land, we drive cars on land etc ¹³³.

Considering land as *nyaffe* can also be traced from the reign of Kabaka Mutesa I. Kimala notes that Kabaka “*Muteesa I ettaka yaliyita nnyaffe!*” meaning Kabaka Mutesa I called land our mother ¹³⁴. He also cites a one Major Katende who was one of the guards and friends of Kabaka Muteesa I both in Uganda and when he was in exile, speaking to land in the same language of motherhood. He quotes major Katende on one of their conversation thus:

...obuzaale tebugulwa, n’olwekyos, tobutunda. Buli lowtunda ettaka, ebiggwa, ebiggya obutaka, obwakabaka obeera otunze nnyoko akuzaala, naye obeera omutunze. Okwo kwe kutunda obuzaale bwo. Ensi yo obeera ogiriddemu olukwe, nga naawe weeriddemu olukwe. ¹³⁵

¹³² Interview Omutaka/ clan head Jjaja KKDF April 20, 2022

¹³³ Interview Omutaka/ clan head KKG Mityana April 20, 2022

¹³⁴ Kimala Adam. Buganda Gyetwasubwa. (New Era Publishers House, 1998: p.188)

¹³⁵ Kimala, Buganda, 1998, p.188-9.

You cannot buy your origin and belonging, and so you cannot sell it. Whenever you sell land, ancestral grounds, kingdom land, you have sold your biological mother. That's what it means to sell your origin and belonging. It amounts to treason [Translation mine fro Luganda].

The narrative that Kimala gives outlines two issues: One ethical and another epistemological. Ethically, no one in Buganda culture is allowed to sell their biological parent. This would not only mean disrespect but also disregard of cultural and ethical values. Thus, questions of land can as well be couched in a language that pushes cultural ethics. By equating the sale of land to treason, one would be scared to do so because it would call for tough punishments. On the epistemological side, understanding social relations on land would mean embracing society's discourses which speak to the questions in the language that best describes the context. This then can give us diverse understanding which can help resolve questions.

Besides, these numerous meanings attached to land do not in any way suggest that the people of Buganda do not appreciate the economic value attached to land. Land, it is argued, has an economic value but the respondents have offered a more redefined understanding of what economic value and wealth mean. Land having an economic value doesn't mean that it should be subjected to market forces and principles and so availed to the market for sale—*though this is not to rule out the fact that monetization is part of the economic values that people have to land today.* The economic value attached to land lies in the idea of land use. In a conversation with one clan head in Buganda, it was argued that:

land is wealth. It is the most precious item one can have. Children don't know the value of land. They sell it to go to the city centre. They don't know that raring and farming is a job. They just look at land as merely something to sell and get money. If they inherit land from their grandfathers, they just think of selling it to go to the city centre. Land is and should be a **generational item** which we have to use sparingly for even our future generations to benefit. But the current move of selling it is making it lose meaning and future focus.¹³⁶

Here wealth doesn't lie in the sale of land. Wealth lies in how the society and its people make *use of land*. The value derived from land is sometimes not for individual or personal benefit per se. Value has to benefit both the individual and the collective/community when they use land. This is elaborate in a system known as *Kwazika* (mutual borrowing). Here, a person with land can give land to another person who may want to make use of it but without financial obligations. One respondent noted that “we have historically been having a system of kwazika”¹³⁷. A family member, a neighbor or community member can be given land to use for a season or more when they request for it. Those who request to use land may

¹³⁶ Interview Omutaka (not clan head) KW Bbaale Kayunga April 9, 2022

¹³⁷ Interview Kalema Ivan, August 17, 2022, Kampala

be those without, those with land but not enough, or even those that have but what they have can barely suit the type of crop they want to cultivate. This system of *kwazika*, it is argued, wasn't just to help the person or family being given the land but also the giver and the entire community. This is because sharing is part of the social value in Buganda and such sharing goes with no obligation to share the proceeds of the harvest or to pay for it. "We inherited such from our parents and grandparents and we have happily been living in the community satisfied with no one lacking food because they had nowhere to cultivate".¹³⁸. But in most cases, as a mode of appreciation, those who borrow the land out of their will happily share the proceeds of the harvest without the other party necessarily asking for them. This system of land access (not for purposes of ownership but for use) can be read to counter the overhype of the neoliberal focus on cementing ownership rights. In this system, one would hardly think of grabbing another's land because they can have access in times of need. Here both social and economic value are realized. Thus, mutuality and reciprocity formed the basis of both use and tenure rights. *Kwazika* however is getting eroded and replaced by a neoliberal one called *kupangisa* (hire) where one has to pay to use the land for a specified period of time. This then doesn't only propagate a sense of landlessness but also denial, starvation, theft, grabbing and alienation. The marketization of such relations makes people detached from their community and erodes social values which were initially derived from the land.

Many scholars who are grappling with the idea of development have cautioned us against the same because this discourse which comes with the period of enlightenment and colonialism is bad for communities.¹³⁹ The state and the neoliberal agents offer us with a narrative that's so alienating couched in the language of industrial development and this has been used to evict people from their land in the name of promoting development. But this can only be viewed as part of the global imperial and neoliberal western project which seeks to propagate a neoliberal agenda and aid capitalist development and accumulation. The result is that people will end up dispossessed with no means of survival and sustenance, and a place to call home (*Cf Escobar 1995*). In his *Encountering Development*, Escobar has shown us how development was, has been and continues to be "a top-down, ethnocentric, and technocratic approach, which treated people and cultures as abstract concepts, statistical figures to be moved up and down in the charts of progress" (Escobar 1995: 44). For Escobar, the conceptualization of development is "not a cultural one but as a system of more or less universally applicable technical interventions intended to deliver some badly needed goods to a target population". Thus, becoming a force that would later be used to destroy the third world in the name of people's interests (*Ibid.*).

¹³⁸ Interview Kayiira F, April 20, 2022; also interview Kalema Ivan, August 17, 2022, Kampala.

¹³⁹ Tucker, Vincent. *The Myth of Development: A Critique of a Eurocentric Discourse*. In Ronaldo Munck & Dennis O'Hearn (eds.). *Critical Development Theory*. London: Zed Books, 1999; Esteva, Gustavo. *Development*, In Sachs Wolfgang (Ed.), *The Development Dictionary*. London: Zed Books, 2010.; Escobar, Arturo. *Encountering development: The Making and Unmaking of the Third World*. Princeton: Princeton University Press, 1995.

Ferguson's (1990) critique of development is even more relevant because it points to one of the preached benefits of land grabbing i.e. poverty reduction. Drawing on his research from Lesotho, Ferguson argues that the discourse of development uses poverty as a technical problem—and not necessarily a political one—which can only be resolved if aid is extended, *including investment*. Accordingly, development projects often extend political and bureaucratic control on the local population. Drawing largely on a Foucauldian analysis on the power relations, Ferguson points to how development aid is a top-down approach...disconnected from local realities and instrumentalized by politics. The ultimate is to justify political agendas at both local and global levels. The most ironic part of it is that all such is done with a view that it is in the interest of the people (Escobar 1995).

Like earlier shown, land is also perceived as a source of identity and belonging. Buganda is divided along *Bika* (clan lines) and the people of Buganda are identified by their *Bika* (clans). *Bika* forms one of the socio-cultural and political structure in the socio-political organization of Bugandan society. Every *kika* has its *Butaka* (clan land) and it's headed by a clan head called *Mutaka*. It is this *Butaka* that Buganda identify themselves with and as a *muganda* you have to identify with one of the clans (existing or new). Such identity is usually in form of *kulanya* (narrating origin/lineage) from your parents to the grandparents and lastly to your clan and the *Butaka*. Omukungu Kizito narrates that socially in Buganda land is “home to all of us”.¹⁴⁰ Before the marketization of land and before clans lost most of their land, people would be taken to their *Butaka* for burial in moments of death which was considered their home/ancestral land. This land is not only physical and material but also spiritual. That spiritual aspect is “what makes *Butaka* land to be called *Butaka*”.¹⁴¹ Kisoro notes that “this land on which I am is *butaka* for *Ng'onge* (otter) clan right from the time of Kintu and the grandchildren identify with it as their *Butaka* and as grandchildren of Kisoro (the clan head). Even when you have left the land, you keep referring to your *butaka* despite some people actually not knowing the physical location of such *butaka* they refer to. That is the power of land. Land thus is a source of identity in the clan system in Buganda”.¹⁴² It is important to note that unlike in the precolonial where people of a particular clan were settled only on their *Butaka*, today, people are settled in different places in Buganda and outside Buganda but continue to identify with their *Butaka* and referring to it as the only source of identity and belonging that connects them to their ancestors. This means that the perception of land can never be purely material because even those who do not own land physically believe they have a share in their *Butaka*. Interestingly, some *Butaka* have no headquarters but they are referred to. From such narratives we note that people can make claim to land at least spiritually and conceptually. The burial sites and ancestral graves found on *Butaka*

¹⁴⁰ Interview, Omukungu Kizito Bashir BLB 7/03/2022 Bulange Mengo.

¹⁴¹ Interview Omutaka/clan head KKG Mityana April 20, 2022.

¹⁴² Interview Omutaka/clan head KKG Mityana April 20, 2022.

and other ancestral grounds are important aspects of land that signify identity and belonging. Commodifying land thus creates a divide between the people and their origin and being forced to lose your identity and belonging can be categorized as one of gravest violence unleashed on human beings by colonial modernity.

To briefly conclude, this paper considers that the society's discourse of motherhood becomes not only epistemologically and conceptually important in rethinking the neoliberal epistemic discourses on land but also analytically compelling because it complicates the divide between the physical and the socio-political aspects of the land question. From such a discourse, we observe that the meanings and relations on land become contested and diverse with multiple value systems, meanings and uses beyond commodification and marketization. Land forms a relationship of life for many people that consider it beyond the material i.e., as sacred, a source of sustenance, a source of power (like for the clan heads) as well as identity and belonging. This shows that land is just one of the knowledge systems in the cultural and political realm of society but can hardly be explained in a particular systematized (yet colonizing) context like the neoliberals want us to. As a knowledge system, land contains more than people's economic life because people's history and relationship are embedded in it. The reluctance by the state and its neoliberal compatriots to accept the society's orientation on land as diverse and beyond commodity is located in a particular political and epistemic history of both Buganda and the overall colonial project i.e., a complicated history of dispossession and governmentality, stemming from the 1900 agreement that created a market in land and established land as private property to be owned individually (by a selected few). The epistemic violence of colonial modernity does not allow for what Santos calls "ecologies of knowledge"¹⁴³ regarding land simply because it denigrates the sociological knowledge base and the contemporary Ugandan state fundamentally pushes such pro-market discourses.

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¹⁴³ Santos D. B. *Epistemologies of the South*, 2016.

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Author details

Ashiraf Mugalula

Research Fellow, Makerere University |Al-Mustafa Islamic College.

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