

LAND GOVERNANCE IN IGAD REGION



UGANDA

Country Profile

Assessment of Land
Governance Framework,
Training & Research Land
Governance Institutions

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1.1 Uganda

1.1.1 Country Context

Uganda is located in East Africa and lies across the equator, about 800 kilometres inland from the Indian Ocean. It lies between 10 29' South and 40 12' North latitude, 290 34 East and 350 0' East longitude. Uganda is a landlocked country located in East Africa. It is bordered by Kenya in the East; South Sudan in the North; Democratic Republic of Congo in the West; Tanzania in the South; and Rwanda in South West. It has a total area of 241,551 square kilometers, of which the land area covers 200,523 square kilometres. Land is probably the most invaluable asset for the citizens of Uganda. With more than 80% of the population rural and directly deriving livelihoods through subsistence agriculture, land access, ownership and use are core to economic, social and environmental drivers. According to the Uganda Bureau of Statistics report on the National Population and Housing Census 2014 the total population in 2014 was 34.6 million.

1.1.2 Policy and Legal Framework for Land Governance in Uganda

In Uganda, the legal and policy framework guiding and governances is enshrined in a number of laws and regulations governing Land. The key ones are as follows:

a) Uganda's National Land Policy (2013)

The NLP provides a framework for articulating the role of land in national development, land ownership, distribution, utilization, alienability, management and control of land. This is intended ensure that the country transforms from a peasant society to a modern, industrialized and urbanized society.

The Policy has two major objectives: (1) to re-orient the land sector in national development by articulating management co-ordination between the land sector and other productive sectors in the economy; and (2) enhancing the contribution of the land sector to the social and economic development of the country.

The key issues outlined in the policy include:

- The creation of a customary register to facilitate registration of customary rights;
- Strengthening women's land rights through enactment of provisions promoting the regime of marital property law and joint ownership of land and property for married parties;
- The need to overhaul the existing institutional framework for land administration and land management through decentralization of land services by bringing land services nearer to the populace to make them more efficient, cost-effective and accessible;
- The re-institution of administrative Land Tribunals to handle escalating land conflicts and land evictions; and
- The legal recognition of the dual operation of both customary system and statutory system in land rights administration, land dispute resolution and land management by empowering customary authorities to perform their functions.

Among the key preliminary steps for implementing of the policy will be:

- Putting in place a secretariat and a multi-sectoral and multi-disciplinary committee to lead the implementation of the National Land Policy;
- Preparation of an Action Implementation Plan as a program of land reform with activities sequenced to include short term, medium and long term;
- Costing the reforms and packaging them as programs for stakeholders to choose which programs they would prefer to implement;
- Developing a plan of action/strategy for fundraising for the programs;

- Setting a time frame for review of laws relating to land, as well drafting the proposed new laws;
- Developing indicators for monitoring and measuring program implementation;
- Designing and strengthening structures for coordination of implementation; and
- Defining roles of the different stakeholders, including development partners: CSOs, NGOs, Academia, Researchers, and other non-state actors.

The following have been achieved in the implementation of Uganda National Land Policy:

- Establishment of National Policy Secretariat to coordinate land reforms and prepare action plans that covers all the aspects needed;
- Stakeholder mapping exercise;
- Gender Strategy for implementing the land policy;
- Developing monitoring and evaluation measures to assess the progress and efficacy of the implementation of the policy;
- Stakeholders engagement. Established a donor working group; and
- Review of land policies and laws and identify areas that need reform and policies and laws that need harmonisation.

b) The Constitution of the Republic of Uganda (1995)

The 1995 Constitution of Uganda under Article 237 provides that land shall be vested in the citizens in accordance with the four land tenure systems, namely, freehold, leasehold, mailo and customary. Article 238 establishes the Uganda Land Commission to hold and manage any land in Uganda vested in or acquired by the Government of Uganda. Article 242 provides that Government may, under laws made by Parliament and policies made from time to time, regulate the use of land.

c) The Land Act Cap 227 as amended in 2001, 2004 and 2010

The Land Act under section 2 provides four forms of land tenure systems in Uganda which include Customary, Leasehold, Freehold and Mailo. Under the Act a person can

acquire certificate of customary ownership and can convert customary tenure to freehold tenure

Under section 15, the Act recognizes the right of people to hold communal land. Any group of persons may form a Communal Land Association for any purpose connected with communal ownership and management of land, whether under customary law or otherwise. The Communal Land Association may also form a common land management scheme by which the members agree to manage the communal land and to set out their rights and duties. Section 17 stipulates that one-third of the officers of such an Association need to be women.

Section 29 grants bona fide occupants property rights. The following are established under the Act.

- Land Fund (Section 41)
- Uganda Land Commission (Section 46)
- District land boards (Section 56)
- Land committees (Section 64)
- District land tribunals (Section 74).
- Section 40 was amended in 2004 by broadening the definition of spousal land and preventing a spouse's objection to its sale from lapsing.

Section 39 requires that before any transaction can be carried out on land on which a family resides or from which it derives a sustenance, the spouse, dependent children of majority age and the Land Committee, in case of children under the age of majority, must provide written consent.

Under the Land Amendment Act (2001), Section 98 was amended to provide for extension of the time limit within which magistrates courts and local council courts are authorised to continue dealing with land disputes pending before them prior to the commencement of the land act. It should be noted that the land tribunals were established but are not yet operational.

Under Land Amendment Act of 2004, Section 38 was amended by introducing section 38A on security of occupancy on family land by every spouse. The Section gives family land a broader definition to mean ordinary residence, land from which the family derives sustenance, land which the family voluntarily agrees to be treated as such or which is treated as family land according to the norms, culture, customs, traditions or religion of the family.

The 2004 amendment in Section 39 excludes the children's consent as was the requirement under the principle Act in respect to any sale of family land. It now only spousal consent that is required before any family land can be sold, exchanged, transferred, mortgaged or leased. Under Section 40 the amendment on the issue of citizenship provides that any non-citizen who immediately before the coming into force of the Constitution held land as lessee on conversion within the meaning of the Land Reform Decree, 1975 shall be deemed to have continued to hold a lease for ninety nine years from the first day of June, 1975." This settles the effects of the land Reform Decree of 1975 that had destabilised the land tenure system of Uganda. Section 64 of the amendment provides for the establishment of the land committees on the advice of the Sub-county or Division Council, in accordance with this section, appoint a Land Committee at Sub-County or Division level which shall exercise the functions conferred on a Committee. The District Land Tribunal is established under the amendment of section 74 and their membership is therein provided. The Act amends Section 2 of the Registration of Titles Act by substituting Registrar with Commissioner among other things.

The 2010 Land Amendment Act introduces Section 32A which seeks to enhance the protection of lawful and bona fide occupants who shall not be evicted from registered land except upon an order of eviction issued by a court and only for non-payment of the annual nominal ground rent. It further amends Section 35 by introducing 1(a) that makes provision for the tenant by occupancy to give the owner of land the first option before assigning the tenancy by occupancy.

d) The Condominium Properties Act 2001

The purpose of this Act is to provide for the division of building into units and common property, to provide for individual ownership of those units by issuance of certificates of title in relation to the units, to provide for ownership of common property by proprietors of units as tenants in common, to provide for the use and management of the units and common property and for other connected matters.

The Act under Section 7 provides for Common Property where the Registrar shall, upon opening a separate part of the Register for a unit under section 4, record in that part the unit factor, record that unit factor on the certificate of title issued in respect of the unit. The common property comprised in a registered condominium plan shall be held by the owners of all the units as tenants in common in shares proportional to the unit factors for their respective units.

A share in the common property shall not, subject to this Act, be disposed of or become subject to a charge except as appurtenant to the unit of an owner. A disposition of, or a charge on a unit shall operate to dispose of or charge that share in the common property without express reference to it.

e) Physical planning Act 2010

This Act provides for the establishment of a National Physical Planning Board, to provide for the composition, functions and procedure of the Board, to establish district and urban physical planning committees, to provide for the making and approval of physical development plans and for the applications for development permission and for related matters.

The Act under Section 3 provides that the entire country is declared a planning area and this Act shall apply to the entire country in all respects. Section 4 establishes the Board to be known as the National Physical Planning Board to consist of nine members appointed by the Minister of whom five shall be persons not employed in the public service who shall hold office for a term of three years subject to re appointment for one more term.

The Board shall be a body corporate and shall have perpetual succession and a common seal and the seal shall be authenticated by the signature of the chairperson and the secretary. Among the functions of the board under Section 6 is to advise government on all matters relating to physical planning, to hear and determine appeals lodged by persons or local governments aggrieved by the decision of any physical planning committees and to advise the government on broad physical planning policies, planning standards and the viability of any proposed subdivision of urban or agricultural land among others.

Section 9 provides for the establishment of a district physical planning committee, in each district with the function of to cause to be prepared local physical development plans, through its officers, agents or any qualified physical planners; to recommend to the Board development applications for change of land use; to recommend to the district council subdivision of land which may have a significant impact on contiguous land or be in breach of any condition registered against a title deed in respect of such land among others.

Each urban authority or city shall establish an urban physical planning committee with the following functions to cause to be prepared urban and local physical development plans and detailed plans, to recommend development applications to the Board for change of land use, to recommend to the urban council, subdivision of land which may have significant impact on contiguous land or be in breach of any condition registered against a title deed in respect of such land.

A sub county council under Section 13 shall constitute the local physical planning committee with the following functions:

- a. Initiating the preparation of local physical development plans;
- b. Recommending local physical development plans to the district physical planning committee for consideration;
- c. Recommending to the district physical planning committee the approval of local physical development plans;

- d. Implementing structure plans, in close consultation with the district physical planner; and
- e. Implementing, in close consultation with the district physical planner, detailed plans and area action plans which shall address the matters specified in the Third Schedule.

f) Land Acquisition Act Cap 223

The Act makes provision for the compulsory acquisition of land for public purposes and for matters incidental thereto and connected therewith. Section 2 provides for power of the minister to enter onto land to ascertain the suitability for its acquisition by the government. The Act further provides that Government shall pay compensation to any person who suffers damage as a result of the exercise of the powers of acquisition. Any dispute as to the compensation payable under this section shall be referred by the Attorney General to the court for decision.

Under Section 3, whenever the Minister is satisfied that any land is required by the Government for a public purpose, he or she may, by statutory instrument, make a declaration to that effect. The declaration shall be published upon which notice shall be given to the affected persons to bring any complaints in respect to such acquisition.

g) Survey Act Cap 232

The purpose of this Act is to regulate the survey of lands. Section 4 provides for the establishment of a board to be known as the Surveyors Licensing Board which shall consist of the commissioner as chairperson and not less than three other members. The members of that board shall be appointed by the Minister, and two of the members shall be licensed surveyors. A member, other than the chairperson, shall hold office for a period of three years, but shall be eligible for reappointment. A member, other than the chairperson, may at any time, by writing under his or her hand addressed to the chairperson, resign his or her membership on the board.

The Board is under obligation to make arrangements for the examination of persons seeking to be licensed as surveyors in accordance with the Act, to issue, on the payment of the prescribed fees, a licence to any person to whom a licence may be granted in accordance with the Act, to keep a register of licensed surveyors, subject as hereafter provided, to take disciplinary proceedings against licensed surveyors; and to perform such other functions as are conferred on the board by the Act.

h) The Registration of Titles Act Cap 230

The RTA relates to the transfer of land and registration of titles. The Act provides that a certificate of title is conclusive evidence of ownership of the land in respect to which it describes by the person in whose name it is registered.

The Act provides for protection of legal and equitable interests in registered land through lodging caveats thereto such as under section 86 of the Act.

The Act governs dealings in respect to registered land such as transfers under Section 92 where the proprietor of land or of a lease or mortgage or of any estate, right or interest therein respectively may transfer the same by a transfer in one of the forms in the Seventh Schedule to this Act; but where the consideration for a transfer does not consist of money, the words “the sum of” in the forms of transfer in that Schedule shall not be used to describe the consideration, but the true consideration shall be concisely stated.

1.1.3 Land Administration and Institutions

There are several institutions and stakeholders involved inland governance. The major ones are as follows:

(a) Ministry of Lands Housing and Urban Development (MLHUD)

The Ministry is mandated to ensure a rational: sustainable and effective use and management of land and orderly development of urban and rural areas as well as safe, planned and adequate housing for socio-economic development. This ministry is responsible for providing policy direction, national standards and coordination of all matters concerning lands, housing and urban development. It is responsible or putting in place policies and initiating laws that ensures sustainable land management promote sustainable housing for all and foster orderly urban development in the country. The sectors involves the Uganda Land Commission (ULC), though membership from other institutions including semi-autonomous bodies, development partners, private sector and civil society organizations that deal with this ministry.

The Ministry has three Directorates:

- *Directorate of Land Management:* The Directorate is headed by the Director, Land Management who is in-charge of the overall sector management, coordination and supervision. The Directorate is made up of the Office of Director, Department of Land Registration, Department of Land Administration, Department of Surveys and Mapping.
- *Directorate of Physical Planning and Urban Development:* The Directorate of Physical Planning and Urban Development, comprises of the office of Director, Physical Planning and Urban Development; the Department of Physical Planning; the Department of Urban Development and the Department of Land Use Regulations and Compliance.

- *Directorate of Housing:* The Directorate of Housing is responsible for co-ordinating the functions of Housing and Human Settlement in the country.

i) National Land Information System

A National Land Information System (NLIS) is a geographic information system for cadastral and land-use mapping, typically used by local government. Similar to a GIS, an NLIS is designed specifically to contain spatially references land related data for a defined area and procedures and techniques for the systematic collection, update, processing and distribution of this data. A NLIS is a decision-making tool that creates, visualizes, analyzes, reports and publishes land-based data such as parcel information, zoning, land use, ownership and general property information. In addition to those land related data, the NLIS may contain other additional information such as data on soils, hydrology, rainfall or socio-economic information.

The implementation of land information system leads to a decreasing number of land related disputes, reduces the risks of fraud or bribes, secure land for both local administrations and beneficiaries and encourages investments. NLIS is a performing tool that contributes to reduce poverty. The NLIS has been established in Uganda under the DeSINLISI Project under the Ministry of Lands Housing and Urban Development (MLHUD). The NLIS it is expected replace the current manual system of land allocation, deed plan preparation and land registration.

The NLIS will:

- Provide a set of technical processes and procedures for the registration of rights and interests in real estate units in Uganda by supporting the MLHUD business workflows in its main fields of intervention (First Registration – Freehold/Leasehold, survey preparation, leasehold to Freehold Conversion, extension of Lease/Sublease, subsequent registration, request for copy of Deed Plan, certificate of customary ownership or certificate of occupancy;
- Simplify and automate the procedures for land and real estate transactions;

- Be the sole electronic source of land and real estate for mailo, freehold, leasehold and customary rights and interests held under a unified registry for the whole country;
- Provide specific system administration tools to manage users, perform workflow management, security audits, system configuration and the configuration of charts of accounts and fee schedules;
- Support the generation of ground rent demands;
- Support parcel creation from JRJs using standard cadastral editing tools and the ability to generate deed plans according to predefined template Generate reports on staff productivity, registry content, and financial information on revenue for services provided by the DLOs;
- Generate standardized query and notification letters as well as other reports;
- Provide a public access module that allows general enquiries by the public within the DLO customer service areas;
- Support decentralized business workflows in the DLOs;
- Support the functions of a national land administration body called the National Land Information Centre (NLIC).

j) Ministry of Water and Environment (MWE)

This is the technical arm of government in charge of management and sustainable utilization of water and environment resources.

k) Ministry of Works and Transport (MWT)

This ministry is responsible to plan, develop, and maintain transport infrastructure and engineering works in the country. It does monitoring and provision of transport infrastructure, support functions, regulator functions and research activities related to roads, rail, water or air transport and does the engineering works which happen on land.

l) Traditional or cultural leaders under the Institution of Traditional or Cultural Leaders Act, 2011

Section 9 on the role of traditional or cultural leaders provides that such leader shall promote and preserve the cultural values, norms and practices which enhance the dignity and wellbeing of the people where he or she is recognised as such and promote the development, preservation and enrichment of all the people in the community where he or she is recognised as such.

Among the specific roles pertain land distribution, allocation and dispute resolution in respect to the land owned by the respective traditional institutions. Such institutions are at the center stage in the administration of the land in the communities where their subjects live and as such they form part of the administrative structures of land governance in Uganda.

m) Other Institutions:

- The District Land Boards, independent from the Uganda Land Commission and from any other government organ or person, are in charge of all land in the district. These Boards hold and allocate land in the district which is not owned by a person or an authority. They also facilitate the registration and transfer of interests in land. At least one-third of the members of a District Land Board have to be women (11).
- The Land Committees, set up in each parish, gazetted urban area or division [in the case of Kampala in an advisory role to the District Land Board], consist of a chairperson and three other members, at least one of whom must be a woman. These Committees assist the District Land Boards in an advisory and facilitating capacity. In addition, they should safeguard the rights in land of women, children and persons with disabilities (11).
- District Land Tribunals with jurisdiction determine the following disputes:

- ✓ Disputes on land whose value is above 50 million shillings in rural areas, 100 million shillings in gazetted urban areas and 250 million shillings in divisions;
 - ✓ Determine land disputes related to the grant, lease, repossession, transfer or getting of land by individuals, the Uganda Land Commission or other authority with responsibility for land;
 - ✓ Determine any dispute related to the amount of compensation to be paid for land acquired by the national or local Government;
 - ✓ Make orders to cancel entries on the certificate of title or cancel the certificates of title and vesting of title in cases handled by the lower land tribunals;
 - ✓ Determine any other dispute relating to land under the Land Act.
- Traditional leaders may determine or mediate in disputes over customary tenure. One or both parties to a land dispute may invite the traditional authorities to hear their matter.
 - Institution of Surveyors of Uganda (ISU): The primary objective and purpose of the Institution is to promote, maintain and protect the standards of the surveying profession in Uganda.
 - The Uganda Land Alliance (ULA): ULA is a membership consortium of national, regional and international civil society organizations and individuals, lobbying and advocating for fair land laws and policies that address the land rights of the poor, disadvantaged and vulnerable groups and individuals in Uganda. Its mission is promote people-centered land governance that recognizes and protects the rights of the poor and vulnerable through advocacy for fair land laws, policies and empowering rights holders for sustainable livelihoods. It is involved in the following programmes: Policy Advocacy by influencing legal and policy processes towards a more equitable distribution of land access and ownership, and greater tenure security for the vulnerable groups; land Rights Protection for

supports communities to set up traditional land governance structures through formation of communal land associations (CLAs) and mapping of common lands to secure their tenure land rights and administration and land resources Management by focusing on identifying emerging land, resource and environmental trends and issues, and makes an analysis of associated impacts, challenges and opportunities.

- Buganda Land Board (BLB) is a professional body set up by His Majesty the Kabaka of Buganda to manage land and properties returned under the Restitution of Assets and Properties Act of 1993. Such properties include among others; The Bulange, The Lubiri at Mengo, The Butikkiro, The Buganda Court Building, Kabaka's official 350 sq. miles of land, Namasole's 10 sq miles of land, Banalinya's Land, Kabaka's lake, Former Omulamuzi and Omuwanika's Official Residencies at Mengo, Land Adjacent to The Mengo Lubiri on which Buganda Ministerial Houses used to stand, all Bassekabaka's Tombs, Buganda Works Building at Kakeeka, Basiima House and Nalinya's House at Lubaga.

Furthermore, the assets under its mandate extend to include all those as outlined by the M.O.U between the President of Uganda and His Majesty the Kabaka. They include former estates of Buganda Kingdom Comprising of;

- Land in urban centres or towns.
- Land where former administration headquarters i.e. Countries and Sub-counties where situated.
- Land not claimed, utilized or occupied by any lawful or bona-fide occupant.
- Land on Mityana Road (Jjeza Farm).
- Former Buganda Kingdom Markets.

1.1.4 Land Tenure Systems

Article 237 (3) of the 1995 Constitution and Section 3 of the Land Act Cap 227 both provide that land in Uganda may be held in terms of four tenure categories, namely freehold, mailo, leasehold and customary.

Freehold tenure

Freehold titles give rights “in perpetuity”; that means the rights do not have a time limit and may be passed on to future generations. About five per cent of households in Uganda hold land under this tenure. The incidences of freehold tenure, which are standard, include the conferment of full power of disposition and the compulsory registration of title in perpetuity (Obbo et al, 2014).

Mailo land tenure

Mailo land tenure was introduced in Uganda as a result of the 1900 Buganda Agreement, commonly known as the Uganda Agreement with the British. Mailo land tenure is peculiar to the Buganda Kingdom. It used miles as its measuring reference, but a corruption of pronunciation in the native Luganda language resulted in the term “mailo”. Under Article 15 of the 1900 Buganda Agreement, the total land area of Buganda was estimated to be 19,600 square miles (approximately 20 per cent of the total area of Uganda) and was divided between the Kabaka (King) of Buganda and other notables in the Protectorate Government. This land included that of the “lost” counties of Buyaga and Bugangaizi, which had been forcefully removed from the Bunyoro Kingdom with the help of the British colonial administration (Batungi, 2008). Under the Mailo tenure system, land is held in perpetuity and a certificate of increasing women access to land is key for transforming title is issued. The main advantage of this system is that it provides security of tenure, thus allowing long-term investments, including those related to conservation. Originally, there were two categories of ownership under this system (Official and Private Mailo). The major challenge of mailo tenure is with the multiple, overlapping and conflicting interests and rights. Mailo is subject to the rights of occupiers, or kibanja holders.

Both separate the ownership of land from occupancy or ownership of developments by lawful or bona fide occupants and this is guaranteed by the Land Act 1998. The kibanja holder has an option to purchase and, thus, move up to the mailo title status. The Land Act also guarantees statutory protection to the kibanja holder and his or her successors

against any eviction as long as the prescribed nominal ground rent is paid to the landowner (Obbo, et al, 2014).

Leasehold tenure

A leasehold estate is created in land as the result of a contractual agreement between a lessor (landowner) and a lessee, in which the lessee enjoys exclusive possession of the land of the lessor for a specified period for a cash payment, called rent, from the lessee to the lessor. There are two types of leasehold tenure arrangements, namely, private leases given to individual landlords and official or statutory leases given to individuals and/or corporate groups under public act terms. Private leases granted by a landowner often require the payment of rent, while statutory leases issued by the Uganda Land Commission (ULC) on public land may be accompanied by conditions of land use. Therefore the lessor still holds the right to revoke ownership when leasehold conditions are abused.

Leaseholds can be obtained from an individual, local authority or the government for a period, usually 49 or 99 years, with agreed terms and conditions. The leasehold transactions, being essentially contractual, allow parties to define the terms and conditions of access in such a manner that suits their reciprocal land-use needs. Most public land in urban areas is converting to state leasehold, enabling local authorities to raise revenues

Leases are instruments for development for a specific period. They give rights on condition that certain developments will be made, such as the construction of certain structures and the payment of a yearly rent to the lessor. In practice, leases are rarely monitored. Many existing leases have expired, while with others the conditions have not been met.

Customary land tenure

It is the most dominant land tenure system and covers 68.6 per cent of the land in Uganda (MLHUD, 2010). Customary tenure is found all over the country, but it predominates in the northern and eastern, (2000). Customary tenure is managed by

families and clans. Clan structures for managing customary land tenure vary from family, extended family and clan committees or clan positions, such as that of “Rwot kweri” in Acholi, and “Adwong wang tic” in Lango.

Other clan structures, such as in Buganda, Bunyoro and Tooro, are organized under a kingdom. The Land Act defines customary tenure as “a form of tenure applicable to a specific area of land and a specific description or class of persons, subject to section 27, which prohibits discrimination against women, children and people with disabilities (USAID, 2013). The current Land Act (1998) contains provisions that permit public land occupants and holders of customary rights to apply either for leaseholds (public land) or freeholds (public land and customary land). Leaseholds can be obtained from an individual, local authority or the government for a period, usually 49 or 99 years, with agreed terms and conditions. The leasehold transactions, being essentially contractual, allow parties to define the terms and conditions of access in such a manner that suits their reciprocal land-use needs. Most public land in urban areas is converting to state leasehold, enabling local authorities to raise revenues. The major disadvantage of customary tenure is that it tends to emphasize cultural values more than the economic and financial gains from the land. This retards development. Land users are not encouraged to make long-term investments in the land, nor can they take care of the land as they would do if they had clear title to it. Land held under customary land tenure especially for communal use tends to suffer from neglect and consequent degradation.

The government has received funding under which it will carry out mapping, surveying and registration of customary land. In its pilot phase, about 600 communal land associations in Apach District are to be registered, thereafter other Districts shall follow suit.

1.1.5 Gender aspects in relation to land governance

The Constitution of the Republic of Uganda of 1995, embodies far-reaching policy and legal reforms aimed at securing women’s land rights, advance gender equality and

women's empowerment. First and foremost where the principles of non-discrimination, gender equality and women's empowerment enshrined in the policy and legal frameworks. Article 21: all persons are equal before the law in all spheres of political economic, social and cultural life and in every other aspect and shall enjoy equal protection of the law. Article 31 (1) of the Constitution entitles women and men to equal rights during and after marriage including the acquisition of property which may be land during marriage. Article 32 of the Constitution provides for affirmative action in favor of groups marginalized on the basis of gender or any other reason created by history, tradition or custom. Article 33(4) states that the state shall provide facilities and opportunities necessary to enhance the welfare of women to enable them realize their full potential and advancement.

The land Act Cap 227 provides for mandatory representation of women on land tenure governance institutions as follows: the Uganda Land Commission must have at least one female member out of 5 members, the District Land Boards must comprise of one third of their membership as women, the area Land Committees must have at least one third of the membership as women (out of 5) members and Communal Land Management Associations to have at least one third female members.

The Uganda National Land Policy 2013 has among its core principles, "Equity and justice in access to land irrespective of gender, age, disability or any other reason created by history, tradition or custom". NLP stresses the importance of considering socially and culturally acceptable tenure relations as a means of expanding opportunity for rights for women and other vulnerable groups. All the above is in place to provide a system of equal opportunity in terms of both land ownership and governance among men and women in Uganda.

1.1.6 Land taxation in Uganda

The principal legislation on tax matters in Uganda is the Income Tax Act Of Uganda deriving it authority from Art. 152 of the Constitution of the Republic of Uganda that provides that no tax shall be levied except by express provision of an Act of Parliament. The Income Tax Act therefore provides for land taxation among other things.

In respect to taxation of land, two aspects come into play: land tax and property tax. Land tax is different from property tax since the former is a levy on the unimproved value of the land and thus an ad valorem tax on land excluding the value of the buildings or other capital improvements while the latter are taxes on the combination of land, buildings and improvements to the site.

The Income Tax Act Cap 340 under S.2(ddd) defines rental income in relation to an individual for a year of income to mean the total amount of rent derived by the individual for a year of income from the lease of immovable property in Uganda by the individual with the deduction of any expenditures and losses incurred by that individual in respect of that property. This definition caters for the property on the land. The Act also imposes property tax on every person with property income under S. 20 which includes land. Capital gains tax is also another tax paid in respect to land.

The Stamps Act Cap 342 in its schedule provides for stamp duty to be paid in respect to caveats lodged under the Registration of Titles Act or any other law relating to registration of title to land under item 19, duty shall also be paid in respect to any mortgage on land under item 31, gift which may include land under item 35, lease under item 38, surrender of a lease, under item 62. All this is duty payable in respect to transactions pertaining to land.

1.1.7 Summary of challenges, Gaps, conflicts and Duplications

- There is limited co-ordination at the MLUD and district based institutions there is a danger that the centre will attempt to take on too much, or that local governments and other local institutions will not be empowered enough to fulfill their roles effectively.
- There is limited public awareness about land policies and laws. Most people especially in the rural areas do not understand land policies and laws and their implications;

- There are several institutions created under the law but not operational. For example the Land Fund and land tribunals;
- There is lot of political interference that affect implementation of the laws by taking populist decisions.
- There is inadequate policy and law at the local levels, there no laws made at the local levels to implement the main acts.
- A number of other land-related laws are in need of review and up-dating in order to harmonise them with the provisions of the Constitution and Land Act and to meet current needs. For example, the Survey Act, the Registration of Titles Act (which is currently based on the Torrens system of registration, setting out lengthy and difficult procedures for the acquisition of certificates of titles), the Land Acquisition Act (which is currently inconsistent with Constitutional requirements for compensation for land acquired by government and could cause difficulties in acquiring land for redistribution to tenants);
- The heaviest burden of implementation lies with the local governments. These local governments have serious capacity short falls. Districts are likely to be unable to recruit qualified technical staff for District Land Offices and therefore unable to perform adequately the support services necessary for many aspects of land reform; and
- There are effective dispute resolution institutions especially for disputes on customary land.

1.1.8 Recommendations

- There is need to strengthen coordination between institutions involved in land administration to ensure effective planning and land management;
- There is need to strengthen capacity of local governments to address land rights and recording systems;

- There is need to redefine the land tenure relationships under the Land Act between the landlords, bonafide occupants, lawful occupants and tenants, communal land and customary land, issuance of certificate of occupancy to avoid overlapping land rights etc.
- Clearly define the mandates of the different government agencies responsible for land governance for purposes of improving coordination.
- Government should invest in land management and development research that will inform policy that works for the uniqueness challenges government is facing in land governance.
- Increase funding for the land sector which in turn will generate more non tax revenue for government. Given the central role of the land sector in the national development agenda and the livelihood of the population, there is need to prioritize funding the land sector to address the challenges that are ultimately affecting the development of the country.



African Union



African Development Bank



Economic Commission for Africa



UPHOLDING PEACE FOR A PROSPEROUS AND INTEGRATED REGION SINCE 1986
AU SERVICE DE LA PAIX POUR UNE REGION PROSPERE ET INTEGREE DEPUIS 1986

LAND POLICY INITIATIVE

LAND GOVERNANCE IN IGAD REGION

Assessment of Land
Governance Framework,
Training & Research Land
Governance Institutions

UGANDA

Country Profile



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

**Swiss Agency for Development
and Cooperation SDC**