

# INSTITUTIONAL ARRANGEMENTS AND POLICIES

*The Land Governance  
Assessment Framework  
Technical Report*

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## 1.0 INTRODUCTION

The Ugandan constitution was adopted on October 8, 1995 by the interim, 284-member Constituent Assembly, charged with debating the draft constitution that had been proposed in May 1993. Uganda's legal system since 1995 has been based on English common law and African customary law (customary law is in effect only when it does not conflict with statutory law). It is in this constitution that land tenure and land rights are enshrined. The Ugandan judiciary operates as an independent branch of government and consists of magistrate's courts, high courts, courts of appeal, and the Supreme Court. Judges for the High Court are appointed by the president; Judges for the Court of Appeal are appointed by the president and approved by the legislature. The decisions of the courts form the body of law in Uganda by setting precedents.

Uganda embraced a decentralized system of governance based on the District as a Unit under which there are lower Local Governments and Administrative Unit Councils. Elected Local Government Councils which are accountable to the people are made up of persons directly elected to represent electoral areas, persons with disabilities, the youth and women councilors forming one third of the council. The Local Government Council is the highest political authority in its area of jurisdiction. The councils are corporate bodies having both legislative and executive powers. They have powers to make local laws and enforce implementation. On the other hand Administrative Unit Councils serve as political units to advise on planning and implementation of services. They assist in the resolution of disputes, monitor the delivery of services and assist in the maintenance of law, order and security.

### **The Local Governments in a District rural area are:**

- The District
- The Sub-county

### **The Local Governments in a city are:**

- The City Council
- The City Division Council

### **The Local Governments in a Municipality are:**

- The Municipal Council
- The Municipal Division Council

### **The Town Council is also Local Government**

### **The Administrative Units in the rural areas are:**

- County
- Parish
- Village

**The Administrative Units in the urban areas are:**

- Parish or Ward
- Village

The Local Government Act, 1997 gives effect to the devolution of functions, powers, and services to all levels of Local Government to enhance good governance and democratic participation in and control of decision-making by the people. The law also provides revenue, political and administrative set up of Local Governments as well as election of Local Councils.

The powers which are assigned to the Local Governments include powers of making local policy and regulating the delivery of services; formulation of development plans based on locally determined priorities; receive, raise, manage and allocate revenue through approval and execution of own budgets; alter or create new boundaries; appoint statutory commissions, boards and committees for personnel, land, procurement and accountability; as well as establish or abolish offices in Public Service of a District or Urban Council.

The central Government is responsible for national affairs and services; formulation of national policies and national standards and monitoring the implementation of national policies and services to ensure compliance with standards and regulations. Line ministries carry out technical supervision, technical advice, mentoring of Local Governments and liaison with international agencies.

Land administration is an important factor in the maintenance of community identity, i.e. sovereignty. The State has a residual duty to ensure that its land resources are not used in such a manner as to sabotage the public welfare. This more often than not is expressed in legislation to regulate land use and defend public interest. The quality of land rights is often enhanced and not eroded when account is taken of the overall goals and aspirations of the judicial principles, which create and protect them. Thus, Land rights are only as secure as the political and social context in which they are required, enjoyed and transacted. Land Administration is an important factor in the constitution and enjoyment of property rights as it converts tenure regimes into resource management, challenges and strategies.

The principle of good governance as applied to the stewardship of land resources has led to the growth of participatory stakeholder designed and driven structures and infrastructure operating on the basis of transparency and cost effectiveness. Land Administration function is thus not merely the means through which State interest in private property is expressed; it is also an incident of responsible stewardship of land resources.

Land administration is a function, which entails the mobilization of

institutional mechanisms and personnel for juridical, regulatory, fiscal and cadastral components development. The review below highlights the significant achievements of law and policy toward land administration in Uganda.

In Objective X, the Constitution of the Republic of Uganda, 1995 imposes a duty upon the state to take all necessary steps to involve the people in the formulation and implementation of development plans and programs which affect them. In pursuit of this objective, Article 32 recognizes the significant role women play in society and imposes a duty on the state to take affirmative action in favour of marginalized groups on the basis of gender for purposes of redressing imbalances, which exist against them.

The Constitution decentralizes the land administration function. The lead ministry for the delivery of land services is the Ministry of Water, Lands and Environment, through the Directorate of Lands. A number of branch offices around the country had been established to provide local land services (surveying, mapping, valuation and registration). However, they largely operated as a “post box” service for the headquarters since the center handles most of the services. In light of the Constitution, The ministry remains with the functions of quality assurance, policy formulation and offering of technical assistance.

The Constitution under Article 238 – 240 establishes the land management institutions, thus the Uganda land Commission and the District Land Boards. It also prescribes the functions for each of these institutions. While the Constitution prescribes the membership, procedure and terms of service of the Uganda Land Commission, it gives Parliament power to enact legislation prescribing the same for the District Land Boards.

## **1.2 Objectives**

1. Gather evidence to make an expert assessment on a prescribed set of indicators from the LGAF Module that describes the level of governance in Institutional arrangements and policies.
2. Deduce Policy Recommendations that would be in line with the best practice given the contextual setting of Uganda.

## **2.0. OBJECTIVE 1: GATHER EVIDENCE TO MAKE AN EXPERT ASSESSMENT ON A PRESCRIBES SET OF INDICATORS FROM THE LGAF MODULE THAT DESCRIBES THE LEVEL OF GOVERNANCE IN INSTITUTIONAL ARRANGEMENTS AND POLICIES**

### **2.1. Clarity of mandates and practice: institutional mandates concerning the regulation and management of the land sector are clearly defined, duplication of responsibilities is avoided and information is shared as needed.**

The Land Sector is premised on two frameworks that are complementary. The Land Sector Reform Coordination Unit and; the Land Management Institutional Framework that supports the day to day delivery of land services at various levels. The mandates of each unit are clearly defined below.

#### **Land Sector Reform Coordination Unit**

Land Sector Reform Coordination Unit (LSRCU) is responsible for reform of the land sub-sector by implementing the Land Sector Strategic Plan II (LSSP II) which provides for the operational, institutional and financial framework for the implementation of sector wide reforms including the implementation of the Land Act. It is responsible for facilitation of policy, legal and regulatory framework development, promotion of good governance in delivery of land services, and planning for implementation of land sector reforms. The following projects are currently in implementation.

#### ***Land Tenure Reform Project***

The project aims at reforming the land sub-sector by implementing the Land Sector Strategic Plan (LSSP), which provides the operational, institutional and financial framework for the implementation of sector wide reforms including the implementation of the Land Act. The specific objectives are:-

- Creating an inclusive and pro poor policy and legal framework for the land sector;
- Putting land resources to sustainable productive use;
- Improvement of livelihoods of poor people through equitable distribution of land access and ownership, and greater tenure security for vulnerable groups;
- Increasing availability and use of land information;
- Establishing and maintaining transparent, accessible institutions and systems for decentralized delivery of land services;
- Mobilizing and utilizing public and private resources effectively for the development of the land sub- sector.

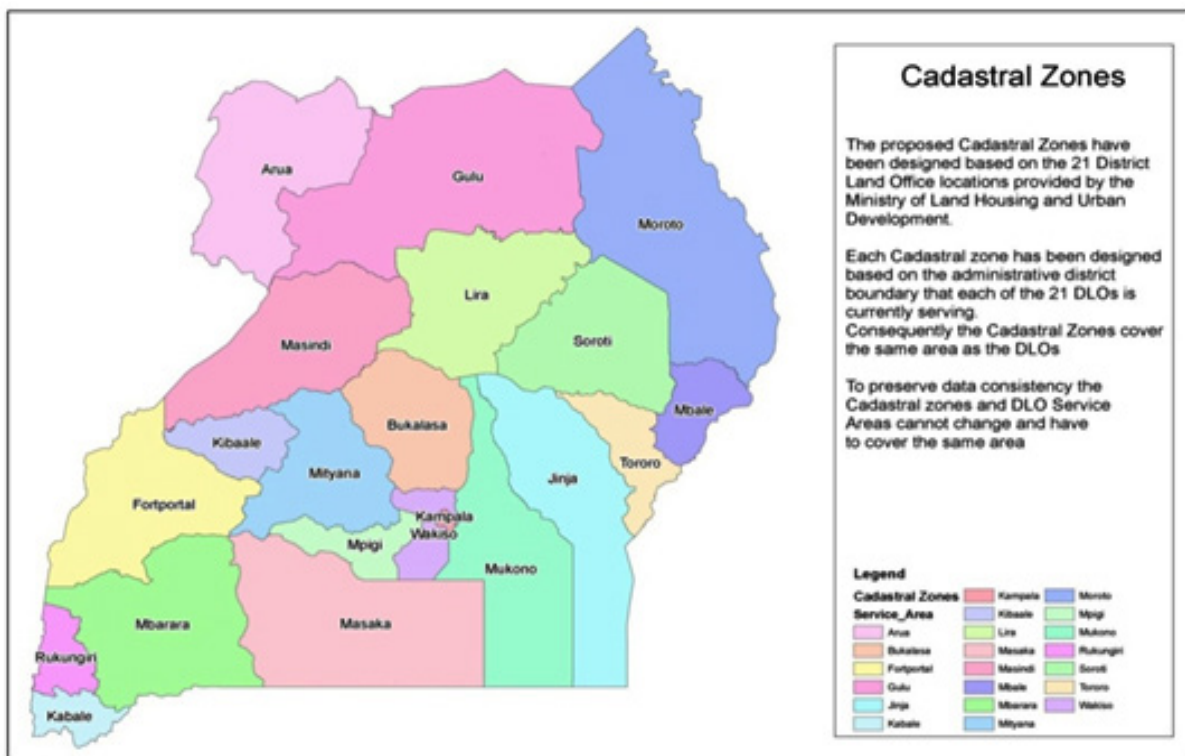


**Digital Mapping Project**

Digital Mapping Project is responsible for providing topographic database as a source data for use by Natural Resource Departments at district level. The data is used by district planners in their day-to-day work during planning for economic and developmental activities within the district. The Project has covered almost the entire country with exception of the North and North East areas of the country.

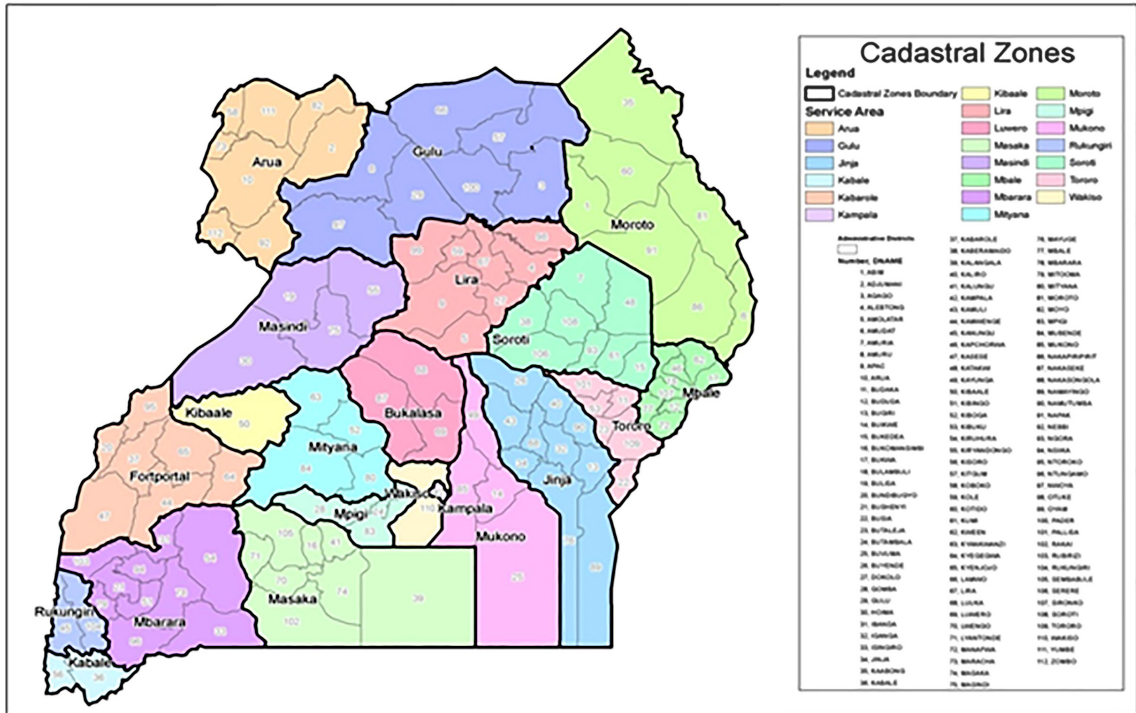
**Ministry of Lands, Housing and Urban Development Zonal Offices**

MLHUD is establishing 21 Zonal Offices (MZOs) in every cadastral zone of Uganda. All land title records are being transferred from Kampala to the respective MZO where all land transactions are to be registered, and new certificates of titles issued. The MZOs are to provide the services of physical planning, land administration, land valuation, surveys and mapping, land registration and housing at every cadastral zone. A cadastral zone represents a service area within which customers will conduct business with a larger district land office to facilitate service provision and minimize the costs of establishing District Land Offices with all the required technical officers in each district. Consolidation of services brings economies of scale whilst maintaining a decentralized land administration structure in the country. The proposed cadastral zones will be used for the implementation of Land Information System (LIS) servers (each zone will host a LIS server) which will generate unique transaction and property codes on the basis of the named cadastral zone.



**The 21 Cadastral Zones which are to host the 21 MZOs**

**Cadastral Zones and corresponding administrative districts**



The creation of the 21 cadastral zones will enable MLHUD to maintain rigid unchanging unique identifiers can be allocated to properties for ease of management of information about the location of each piece of land and its attributes. Unstable property identifies tend to create uncertainties in the description of land which may make the information about land to be unreliable and prone to errors, misdescriptions and duplications of certificates of title. It should be noted that the use of cadastral zones does not prevent the creation of new districts (currently 112); if new districts are established they will be allocated to one of the 21 cadastral zones listed in the table above.

New purpose-built MZO offices are being constructed throughout the country in order to improve on the efficiency and effectiveness of service delivery. A Land Information System (LIS) has been established in Uganda which is to be linked to every MZO. MZOs will be the nodes of the LIS in each cadastral zone into which all information about land in each district within the cadastral zone will be collected, processed and validated before the information is to be transferred to a National Land Information Centre (NLIC), which is centrally located in Kampala. With the establishment of MZOs, the role of DLOs is to capture field data for processing and quality assurance by MZOs before the said information can be transferred to NLIC for use by land registry customers.

### **MZOs are intended to have the following benefits**

- Efficient and effective land administration service delivery nearer to the people at each cadastral zone, including issuing of certificates of title and registration of land transactions
- Reduction of land transaction costs
- Organized and well coordinated land registration processes
- Provision of a customer focused and healthy working environment
- Provision of reliable, easily accessible and up-to-date land information to support land market activities

### ***National Land Information Centre***

The National Land Information Centre (NLIC) functions as the nerve centre for all computerized information about land in Uganda and provides methodological support to the MZOs in land registration and cadastral activities and serves as the main provider of land information, assures land information data exchange with other agencies.

### ***Land Sector Working Groups***

In order to ensure smooth implementation of the Land Sector Strategic Plan (LSSP), all key aspects of the LSSP objectives have Working Groups/ Focus Groups that have an official from the LSSP Implementation Division specifically assigned and charged with the functioning and delivery of outputs. These are multi stakeholder groups of experts representing the Private Sector, Academia, Professional bodies and Civil Society Organizations. This was an attempt to ensure that;

- a. The sensitization focus group, for provision of information of land rights, materials developments and mainstreaming the concerns throughout LSSP activities;
- b. The Rules and regulations Focus Group, responsible for the development of appropriate regulations under the Land Act and shall also be charged with other rules and regulations that may arise in the process of reviewing other land related laws. This shall be complemented by the presence of a law review working group that is responsible for reviewing and revising different laws;
- c. The Systematic Demarcation working group that shall spearhead systematic demarcation activities under LSSP, an activity that will ensure security of tenure and availability of information on land parcels. It is responsible for the development of regulations pertaining to Systematic Demarcation;
- d. The Land Fund Focus Group, responsible for the development of a management plan and regulations for the operationalisation of the Land Fund. It is also responsible for Government Land, which is a

- line activity for Uganda Land Commission;
- e. Access to Justice/Dispute resolutions focus group. This will be established to strengthen and complement the initial Land Tribunals Focus Group that had been charged with establishing operations of Land tribunals. This working group will be also responsible for Local Council Courts;
  - f. A central/local government planning forum charged with determining and coordinating project support to local government and the land administration institutions that have a major stake in these project activities. Workshops are arranged biannually for these stakeholders to determine priorities and to agree on issues relating to accountability and programming;
  - g. Other Working groups would be composed as the need arises. Some of these are:
    - i. The National Land Policy Working Group
    - ii. The National Land Use Policy Working Group
    - iii. Law Review Working Group

## **The Land Management Institutional Framework**

### **Central Government Institutions**

#### ***Land Administration and Management***

The Vote Function of (Land Administration and Management) falls under the Directorate of Land Management. The general functions of Land administration and management include: land management, registration, mapping, surveying and valuation of properties, coordination and supervision.

It is also responsible for policy, legal and regulatory framework development, administrative land dispute resolution (with emphasis on alternative dispute resolution), provision of public information on land rights, Geomatics and land information, promotion of good governance, effective and efficient delivery of land services, and planning for implementation of land sector reforms.

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, and a Land Sector Reform Coordination Unit.

### ***Office of Director, Land Management***

The Office of Director, Land Management is responsible for budgeting, resource allocation and monitoring of the Lands Sector. It also gives policy direction on matters concerning land management in the country.

### ***Department Of Surveys and Mapping***

The department of Survey and Mapping is responsible for the establishment of survey and geodetic controls, quality checks of cadastral jobs, survey of government land and international boundaries, production and printing of topographical maps. The Department is also responsible for producing a National Atlas.

### ***Department of Land Registration***

The Department is responsible for issuance of certificates of titles, general conveyance, keeping custody of the national land register, coordination, inspection, monitoring and back-up technical support relating to land registration and acquisition processes to local governments.

### ***Department of Land Administration***

The Department of Land Administration is responsible for supervision of land administration institutions and valuation of land and other properties.

## **Physical Planning and Urban Development**

### ***Directorate of Physical Planning and Urban Development***

The Vote Function of Physical Planning and Urban Development falls under the Directorate of Physical Planning and Urban Development, comprised 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.

The Vote Function is responsible for budgeting, resource allocation and monitoring of the Physical Planning and Urban Development Sector. It is also responsible for coordination of policy, legal and regulatory framework development in the sub-sector. The major aim of this vote function is to attain an orderly, progressive and sustainable urban and rural development as a framework for industrialization, provision of social and physical infrastructure, agricultural modernization and poverty eradication.

### ***Office of Director, Physical Planning and Urban Development***

The office of Director, Physical Planning and Urban Development is responsible for ensuring that there is orderly, progressive and sustainable urban and rural development in the country. The office is also responsible for budgeting, resource allocation and monitoring of the Physical Planning and Urban Development Sector.

### ***Department of Physical Planning***

The Department of Physical Planning is responsible for policy making, standard setting, national planning, regulation, coordination, inspection, monitoring and back-up technical support relating to urban and regional planning.

#### ***Department of Urban Development***

The Department of Urban Development is responsible for formulation of urban policies, regulations, development and review of relevant laws, standard setting to enhance orderly urban development.

#### ***Department of Land Use Regulation and Compliance***

The Department of Land Use Regulation and Compliance is responsible for ensuring compliance land use related policies, plans & regulations; providing technical support and guidance to LGs in the field of land use regulation, monitoring & evaluation; and systematisation of the land use compliance monitoring function and practice

### **Housing**

#### ***Office Of Director, Housing***

The Office of Director, Housing is responsible for budgeting, resource allocation and monitoring of the Housing sector. The office also coordinates the functions of Housing and Human Settlement in the country.

#### ***Department of Human Settlement***

The Department of Human Settlement is responsible for formulating policies, legislation, procedures, setting housing standards, monitoring and evaluation of implementation of housing policies and providing technical back up support in order to increase the stock of affordable and decent housing that enhances the quality of life and safety of population as well as to guarantee the security of tenure for all especially the vulnerable in society.

#### ***Department of Housing Development and Estates Management***

The Department of Housing Development and Estates Management is responsible for formulating policies, legislation, procedures on Estates, supervising housing development and estates development. This Department was created under the Ministry of Lands, Housing and Urban Development after the transfer of a number of staff from the former Department of Building that used to be under the former Ministry of Works, Housing & Communications during FY 2007/08.

#### ***Support to Earthquake Disaster Victims Project***

The project is mandated to enhance Earthquake Disaster Management through sensitization to build capacity of the population and demonstration to enhance construction techniques in earthquake prone areas.

**The specific objectives of the project include:**

- To develop guidelines for construction in earthquake prone areas
- To increase awareness of the public about seismic safety in order to mitigate the effects of earthquake b. disaster using both print and electronic media;
- To train personnel in earthquake resistant construction techniques; and
- To enhance formulation of self sustaining Disaster Management Systems at all levels of leadership, which d. would not only coordinate dissemination of information, relief and evacuation in the event that disaster strikes but also continue sensitizing their communities on Disaster Management.

***Department Of Finance and Administration (F&A)***

The Department is headed by an Under Secretary and made up of seven organizational units namely; Administration, Accounts, Personnel, Policy Analysis Unit, resource/Information Centre, Internal Audit Procurement Unit. A Principal Officer heads each of these Units. The operations of the office of the Ministers and Permanent Secretary are funded through this department.

The Department has overall responsibility for the following functions in the Ministry, namely: Financial Management, Accounting, Administrative services, Personnel services, Supplies, Procurement matters, Policy analysis, Internal Audit and provision of information on the Ministry services among others.

The department has specialized units whose mandates are highlighted below:-

- a. Policy Analysis Unit (PAU). The Unit provides strategic policy advice, coordinates policy development, monitoring and evaluation of policies in line with overall national development strategy, regional and international priorities.
- b. Resource Centre (RC). The Resource Centre is responsible for collecting, processing, storing and disseminating information in the Ministry and the general public. It is also responsible for operationalising and reporting on the implementation of access to information initiative in the Ministry.
- c. Procurement and Disposal Unit (PDU). The Unit is responsible for coordinating and managing all procurement and disposal activities in the Ministry. It also monitors all contracts awarded to ensure that they perform according to the set out terms and conditions in the contracts.
- d. Internal Audit Unit. The unit is responsible for carrying out the audit function in the Ministry.

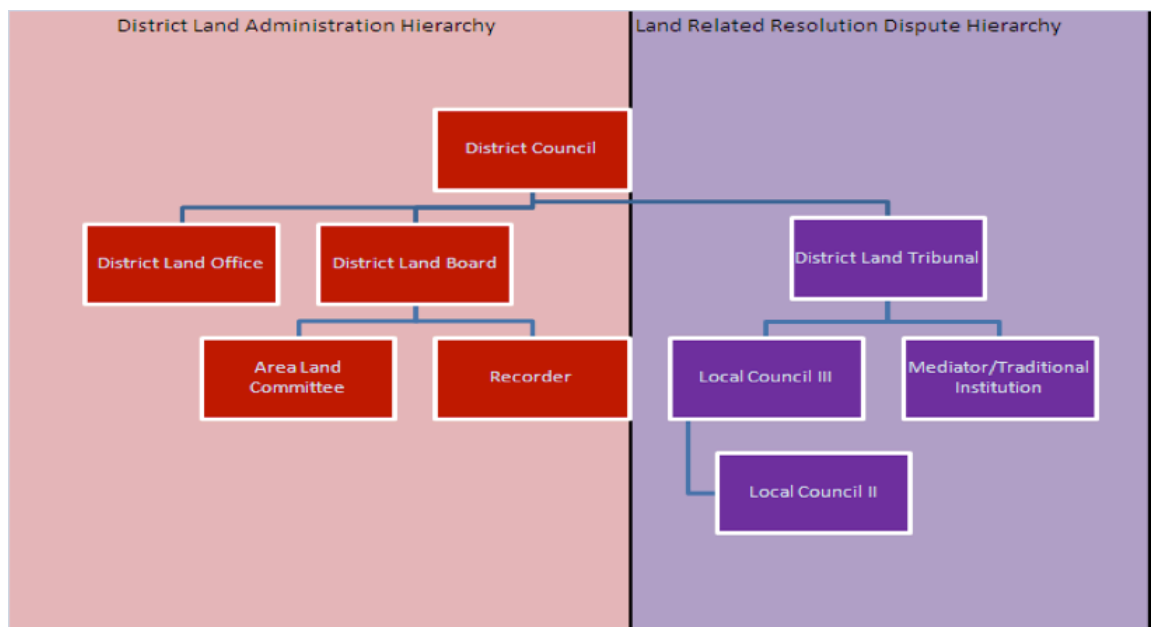
**Planning and Quality Assurance Department (Pqad)**

This department is responsible for strategic planning, monitoring and evaluation of projects and programmes, quality standards assurance, and coordinating the training function in the Ministry. The department is headed by Commissioner, Planning and Quality Assurance.

**Decentralisation of Land administration Services**

For purposes of land administration local governments are responsible for

- District Land Boards
- District Land Offices
- Area Land Committees
- Recorders



**Decentralized Land Management Structure**

***District Land Boards***

Under the Land act (Cap. 227) the District Land Board (DLB) performs the following functions, to

- a. hold and allocate land in the district which is not owned by any person or authority;
- b. facilitate the registration and transfer of interests in land;
- c. take over the role and exercise the powers of the lessor in the case of a lease granted by a former controlling authority;
- d. cause surveys, plans, maps, drawings and estimates to be made by or through its officers or agents;
- e. compile and maintain a list of rates of compensation payable in respect of crops, buildings of a nonpermanent nature and any other thing that may be prescribed;



- f. review every year the list of rates of compensation payable in respect of crops, buildings of a nonpermanent nature and any other thing that may be prescribed;
- g. deal with any other matter related to the above matters.

Under the National Forests and Tree Planting Act a DLB is required to maintain a register in which all rights and interests of any nature in respect of private forests shall be kept, including:

- The nature of the right or interest ;
- The manner in which it came into existence;
- The name of the holder or beneficiary of the right or interest, and
- Any other information as may be prescribed.

### **District Land Offices**

The District land Offices (DLO) provide technical services to the District Administration and District Land Board in terms of facilitating the registration and transfer of interests in land, to coordinate surveys and map/plan generation and to assess and collect revenue.

Every DLO is required to have the following technical officers:

- a District Land Officer,
- a District Physical Planner,
- a District Staff Surveyor,
- a District Registrar, and
- a District Valuer.

With the establishment of MZOs, the role of DLOs is to capture field data for processing and quality assurance by MZOs before the said information can be inputted into the LIS which is linked to the NLIC.

### **Area Land Committees**

Area Land Committees (ALC) are established at sub-county or division level. Their role is to adjudicate upon and demarcate land. During land adjudication an ALC may be required to resolve land disputes over boundaries or conflicting claims over land. In hearing and determining any claim, ALC is required to use its best endeavours to mediate between and reconcile parties having conflicting claims to land.

### **Recorders**

The Recorder at the sub-county level is the sub-county Chief or assistant Town Clerk at the division level. The role of the Recorder is to issue certificates of customary ownership and certificates of occupancy and to register subsequent land transactions on the basis of the said certificates.

### **2.1.1. Land policy formulation, implementation & arbitration are separated to avoid conflict of interest**

The Functions of Policy formulation, implementation and arbitration are clearly distinct and separate these are, the Land Sector Reform Coordination Unit and; the Land Management Institutional Framework that supports the day to day delivery of land services at various levels. The mandates of each unit are clearly defined below. Arbitration is two pronged. There is the administrative disputes resolution which falls under the Ministry of Lands directly under the directorate of land management and then the Judicial dispute resolution which falls under the Mandate of the Ministry of Justice and constitutional Affairs and the ministry of Local governments.

#### **Land Policy Formulation**

Policy formulation is a function of the Executive. The Minister responsible for lands holds this mandate. For operational purposes, the Minister is supported by the Land Sector Reform Coordination Unit. It is responsible for facilitation of policy, legal and regulatory framework development and the promotion of good governance in the land sector. It is responsible for strategic planning and visioning for the land sector through the development of the Land Sector Strategic Plan.

#### **Implementation**

The Land Management Institutional Framework that supports the day to day delivery of land services at various levels. It is also responsible for policy, legal and regulatory framework implementation, administrative land dispute resolution (with emphasis on alternative dispute resolution), provision of public information on land rights, Geomatics and land information, promotion of good governance, effective and efficient delivery of land services, and planning for implementation of land sector reforms

#### **Arbitration**

A distinction is made between judicial land dispute resolution and administrative land dispute resolution. The former comprises disputes arising out of civil or criminal wrongs that have a cause of action with remedies granted by a court or informal dispute resolution system. This mandate falls with the Ministry of Justice and constitutional Affairs for matters that go to formal courts of law and Ministry of Local government for matters at the local level through the Local council courts. The later (administrative dispute resolution) comprises of disputes arising out of the work and functioning of land rights administration and these disputes require administrative remedies. This is the mandate of the land management.

Under dispute resolution, there is often conflict between the Ministry of Local Governments and Ministry of Justice over who has the supervisory mandate over the Local council Courts.

Furthermore, the Ministry of Lands, Housing and Urban Development

understood Alternative dispute Resolution as squarely falling under its mandate. The Ministry of Justice considers this its mandate as well. This creates challenges in streamlining the land justice delivery structure.

### **2.1.2. Responsibilities of the ministries and agencies dealing with land do not overlap**

There is a clear definition of roles governing the functioning of the Ministry and other agencies dealing with Land. All land agencies are statutory creations. The Ministry gives policy direction to the following autonomous and semi-autonomous institutions.

#### **Uganda Land Commission (ULC)**

The Uganda land commission (ULC) was established by the 1995 Constitution of the Republic of Uganda. The constitution provides for the setting up of Uganda Land Commission as an autonomous body; and at the commencement of the financial year 2006/2007, Ministry of Finance Planning & Economic Development created a vote for Uganda Land Commission.

#### **Vision, Mission and Objectives**

**The Vision** of the Uganda Land commission is, “all Government land and property thereon, secured, effectively managed and historical land injustices resolved”.

**Mission Statement:** The mission of Uganda Land Commission is, “to effectively hold and manage all Government Land and property thereon and resolve all historical land injustices”.

#### **Objectives**

- To ensure the effective and efficient management of all Government land &
- property thereon.
- To develop & maintain an updated inventory and data base for all Government
- land and property.
- To ensure that all Government land is titled and secured
- To ensure proper use and accountability of the land fund
- To enable bonafide and lawful occupants acquire registrable interest.

#### **National Housing and Construction Company**

National Housing and Construction Company limited is a Ugandan public enterprise that was established by the National Housing Corporation Act of 1964. The act was later repealed by the 1974 Decree to form National Housing and Construction Corporation.

**The functions of the corporation were;**

- develop, build and manage housing estates and to sell houses upon such terms of payment as the Board would prescribe or to let houses at economic rents;
- build, or permit or assist the building, on any land owned, leased or controlled by the corporation of any premises which were considered by the corporation to contribute to the improvement or development of a housing estate;
- Undertake contracts of building and civil engineering works on behalf of the Government or any person.
- Provide or assist in providing housing accommodation for citizens of Uganda at an economical cost.

**The corporation had powers to: —**

- to enter into contracts for the building of houses for the corporation on any estates developed or to be developed or managed by the corporation and to let or sell upon deferred terms of payment or otherwise any house so built;
- to enter into agreement with any person to form a company or a partnership with the object of providing loans to persons resident in Uganda for building purposes or for purchasing dwelling or partly dwelling houses;
- to lend or advance money to, or acquire any interest in, or otherwise assist in the subscription of capital in, any undertaking engaged in or proposing to establish any business for the building or acquisition of houses, as may be approved by the Minister in consultation with the Minister responsible for finance;
- to delegate, subject to the written approval of the Minister, the management of a housing estate which has been developed or built by the corporation to any local authority or person willing to undertake such management; and

In July 2002, the Corporation became a public limited liability company known as National Housing and construction Company Limited.

The Company's mandate is to increase the housing stock in the country, rehabilitate the housing industry and encourage Ugandans to own homes in an organized environment. Its vision is *"To transform people's lives and communities by providing affordable and well-built housing."*

On the 10th December 2009 National Housing and Construction Company rebranded changing its image with a major objective of promising Ugandans Value for money as it seeks to increase the housing stock in the country, rehabilitate the housing industry and encourage Ugandans to own homes in an organized environment.

The company aims at creating the reality of home ownership in well-planned and permanent built environments.

### **Housing Finance Bank Ltd**

Incorporated as a private company under the Companies Act in December 1967, the Bank has become a household name and has grown in leaps and bounds with a good track record among the pioneers of a mortgage lending. National Housing & Construction Corporation, a parastatal involved in real estate business has 0.82%, National Social Security Fund (50%) and the government of Uganda (49.18%). It exclusively undertook the mortgage business and for a long time enjoyed monopoly in the market. Later on went on to acquire a commercial bank license on 9th November, 2007 and finally became a fully fledged Commercial Bank on the 2nd of January, 2008.

The bank provides affordable financing options for home development and acquisition, and promotes a culture of saving amongst Ugandans.

### **The National Physical Planning Board**

Is created by Section 4 of the National Physical Planning Act No 8 of 2010. The Board is responsible for ensuring orderly, progressive and sustainable urban and rural development through appropriate physical planning.

#### **The functions of the Board are;**

- a. advise government on all matters relating to physical planning;
- b. hear and determine appeals lodged by persons or local governments aggrieved by the decision of any physical planning committees;
- c. determine and resolve physical planning matters referred to it by physical planning committees;
- d. advise the government on broad physical planning policies, planning standards and the viability of any proposed subdivision of urban or agricultural land;
- e. study and give guidance and recommendations on issues relating to physical planning which transcend more than one local government for purposes of co-ordination and integration of physical development;
- f. approve regional, urban or district physical development plans and recommend to the Minister national plans for approval;
- g. advise the Minister responsible for local governments on the declaration of town councils, town boards or upgrading of urban authorities;
- h. advise the Minister on the declaration of special planning areas;
- i. cause physical development plans to be prepared at national,

- regional, district, urban and sub county levels;
- j. monitor and evaluate the implementation of physical development plans;
  - k. formulate draft planning policies, standards, guidelines and manuals for consideration by the Minister;
  - l. ensure the integration of physical planning with social and economic planning at the national and local levels;
  - m. exercise general supervisory powers over all lower planning committees such that they can seek guidance, set standards and take control; and
  - n. foster co-ordination of physical planning related or interdisciplinary activities in the country in order to promote orderly and sustainable development of human settlements in rural and urban areas.

In the absence of the Board, the Minister may perform its duties on the advice of the head of the national physical planning department.

The Act sets up planning committees at the district, urban and local levels. At the district level, section 9 of the Act establishes the District Physical Planning Committee with the following functions: to cause to be prepared local physical development plans through its officers, agents, or any qualified planners; to recommend to the Board development applications for change of land use; to recommend to district council subdivision of land which may have a significant impact on the contiguous land or be in breach of any condition registered against a title deed in respect of such land; to approve development applications relating to housing estates, industrial location, schools, petrol stations, dumping sites or sewerage treatment, which may have injurious impact on the environment as well as applications in respect of land adjoining or within a reasonable vicinity of safeguard areas; to hear appeals by those aggrieved by decisions made by the district physical planner and lower local physical planning committees; to ensure the integration of physical planning into the three year integrated development plan of the district; and to exercise supervisory powers over all lower planning committees and to ensure integration of social, economic and environmental plans into the physical development plans.

At the urban planning level, section 11 of the Act establishes the Urban Physical Planning Committees which are mandated with the following functions: to cause to be prepared urban or 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 in breach of any condition registered against a title deed in respect of such land; and to determine development applications relating to industrial location, dumping sites or sewerage treatment which may have injurious impact on the environment as well as applications in respect of land adjoining or within a reasonable vicinity of safe guarding areas and to hear and determine appeals made against decisions of the urban physical planner or subordinate local authorities.

At the local level, the Act recognizes that the sub-county councils shall constitute local physical planning committees with the following functions: initiate the preparation of local physical development plans; recommend to the district physical planning committees the approval of local physical development plans; implement structure plans in close consultation with the district physical planner and implement in close consultation with the district physical planner, detailed plans and area actions plans which shall address the matters such as the treatment of a particular planning aspect like residential, transportation, water supply, sewerage, in part or as part of a long term plan; advisory or subdivision plans, indicating permitted subdivision, use and density development; and the assessment of immediate land requirements to accommodate specific population needs and detailed allocation of the land requirements to land uses taking into account compatibility of adjoining land uses and conforming to the existing physical development plan proposals for the area.

### **The Architects Registration Board**

The Architects Registration Board was established by an Act of Parliament in 1996 to regulate the architects' profession in Uganda. It is an independent, public interest body and our work in regulating architects ensures that good standards within the profession are consistently maintained for the benefit of the public and architects alike.

### **Section 4 of the Architects Registration Act Caps 269 enumerates the functions of the Board as:**

- To regulate and maintain the standard of architecture in the country;
- To register architects;
- To make byelaws for better carrying into effect the provisions of this Act;
- To prescribe or regulate the conduct of architects in Uganda;
- To promote training in architectural sciences.

Its work is overseen by a Board of 6 members. By law, two of the members are appointed by the Minister of Lands, Housing and Urban Development while the other four members are selected by the Uganda Society of Architects.

The Board is responsible for regulating and maintaining the standard of architecture in the country through registering Architects, making Bye- laws

for the better carrying into effect the provisions of the Statute, regulating the conduct of Architects and promoting training in Architectural Science.

### **The Surveyors Registration Board**

The Surveyors Registration Board is created by Section 2 of the Surveyors Registration Act Cap 275 of 1974 to regulate and control the profession of surveyors and the activities of registered surveyors within Uganda, and to advise the Government in relation to those functions. The board may do all such things as are calculated to facilitate or are incidental or conducive to better carrying out its functions.

The Board is responsible for regulating the surveying profession in the country. The Board regulates surveyors through registration of surveyors, disciplining of surveyors and giving practical licenses to surveyors.

The Act permits to Board to acquire hold and in any way dispose of any property movable or immovable.

Because these are statutory creations under the same Ministry, the role of the Ministry is maintained as regulator and overseer of the functioning of these agencies through the Minister responsible for Lands.

#### **2.1.3. Administrative (vertical) overlap is avoided.**

The institutional framework is streamlined and there are no vertical overlaps.

#### **2.1.4 Land right & use information is shared by public bodies; key parts are regularly reported on & publicly accessible**

In its study in 2008, the Ministry found that there is no sharing of information within the various land sector institutions. It prioritized Developing a Sector Wide Approach to Planning (SWAP) and Establishment of Project Monitoring & Evaluation Framework as an approach that would harness close collaboration and information sharing. For this to work however, resources will be needed to facilitate the development of management plans, monitoring tools, and other instruments that guide the programs being implemented and private actors in the sector. The development of a SWAP for MLHUD Sector will provide an opportunity for further rationalization of the roles that various actors can play in long-term strategic planning.

#### **The specific focus will be on:**

- Monitoring and evaluating the project with major emphasis on value for money
- Ensuring accountability to our partners and all stakeholders.



### **2.1.5. Overlaps of rights (based on tenure typology) are minimal and do not cause friction or dispute**

Overlaps on Mailo land have historically created friction and tension. Despite being the most legislated tenure in Uganda's history, concerns around tenant – land lord relations are escalating requiring a once for all solution. Then Land Fund has been applied to pay off the land owners and settle the tenants but this was unsustainable as there was not enough money in the fund to complete the exercise. The impasse created through the multiple of rights on the same piece of land has taken on a political face, making this a potent area for conflict. It is the tenure where large scale eviction of tenants is experienced.

Customary tenure is currently the tenure most susceptible to abuse and violation of human rights. There are mass evictions without compensation for lack of proof of ownership. The constitutional provision for the option to convert customary tenure to freehold undermines the resilience and existence of customary tenure as equal to freehold. The provision for conversion has led to the elite and land speculators especially in the oil and mineral rich parts of Uganda to acquire large chunks of land in the pretext that it is free land that they can obtain free titles over. The option to convert has further exacerbated conflicts over land as the elite and speculative purchasers of land especially in the mineral and oil rich areas have acquired huge pieces of land without the consent of the community.

The law is silent on the definition of family head and this undermines equality as defined in Article 31(2) of the constitution. It means that the definition of household head as understood by customs and traditions will be upheld.

### **2.1.6. Ambiguity in institutional mandates (based on institutional map) does not cause problems**

#### **Land Justice**

The ambiguity is found in the land justice delivery mechanisms. Ministry of Justice and Constitutional Affairs have a conflicting mandate with the Ministry of Lands, Housing and Urban Development over management of Land Tribunals and the execution of the mediation function. This resulted in the non- funding of the Land Tribunals and their being rendered redundant.

Furthermore, the Judiciary is challenged by the Ministry of Lands, Housing and Urban Development's response to

- Execution of court orders and decisions
- Appearance to court of technical officers especially Registrars of title as expert witnesses.

In this, the Judiciary finds the Ministry of Lands non-responsive and therefore obstructing justice.

**2.2 Equity and non-discrimination in the decision-making process: policies are formulated through a decision-making process that draws on inputs from all concerned. The legal framework is non-discriminatory and institutions to enforce property rights are equally accessible to all.**

Chapter 4 of the Constitution and in particular articles 31 – 33 provide for equality and non discrimination. However, the legal framework has not lived up to the constitutional expectation of equality and non discriminations.

S.2 of the Land Act reinstates the constitutional Provision in its Art. 237 that all land in Uganda vests in the citizens of Uganda who own it according to the four tenure systems. This is a very gender neutral statement. Theoretically, it is assumed that this tenure reform gives equal chances to both women and men to buy land from their own resources but very few women in fact own land. Limited cash income and their restricted employment opportunities outside the home make land purchase unaffordable for most rural women. To date, a small number of women own land, and even fewer can exercise effective control over it. Yet the voice of the disinherited female peasant has, until recently, gone largely unheard.

The National Land Policy 2013 has responded to this by providing that:

*“Government shall by legislation protect the right to inheritance and ownership of land for women and children”*

It hopes to achieve this by designing and implementing a regime of matrimonial property law aimed at the protection of spouses, making legal provision for joint or spousal co-ownership of family land and the matrimonial home, amendment of the Succession Act to provide for the right to succession and inheritance of family land by women and children, and amend the land act to restore the consent clause to protect children below 18 years.

On protection of the land rights of women or children or persons with disability under customary tenure, Section 28 states that:

*‘Any decision taken in respect of land held under customary tenure, whether in respect of land held individually or communally shall be in accordance with the custom, traditions, and practices of the community concerned; except that a decision which denies women or children or persons with disability access to ownership, occupation or use of any land or imposes conditions which violate articles 33,34 and 25 of the Constitution on any ownership, occupation or use of any land shall be null and void’.*

Whereas this provision seems progressive, the burden of proof is on he/she who asserts that his or her right to land is violated according to a particular custom to seek legal redress. This approach that allows for customary law application in personal law matters maintains biases against women, and leaving the issues for courts to decide presupposes that the arbiters are not themselves influenced by prevailing gender perceptions.

The National Land Policy 2013 has responded to this by providing for the review and regulation of customary law and practices in access to and ownership of land.

### **2.2.1. Land policies & regulations are developed and adjusted to new circumstances in a participatory manner involving all stakeholders**

The Land Sector makes effort to ensure that consultative processes are applied to land policy and regulation development. Over the past ten years, the Land Sector has engaged in the development of the following:

- The National Land Use Policy 2008
- The National Land Policy 2013
- The National Urban Policy (in the making)
- The Land Act
- Mortgage Act
- Physical Planning Act.

There are sixteen (16) land related laws under review.

In order to ensure participation and representative views, Focus Groups with an official from the LSSP Implementation Division specifically assigned and charged with the functioning and delivery of outputs are created for each process. These are multi stakeholder groups of experts representing the Private Sector, Academia, Professional bodies and Civil Society Organizations. Other Working groups are composed as the need arises.

#### **Some of these are:**

- The National Land Policy Working Group
- The National Land Use Policy Working Group
- Law Review Working Group

The approach adopted is that an issues paper is developed by the Consultant. This group is mandated to analyze the papers, collect more information and input from their constituents to enrich the process. After the initial drafts are produced, these groups undertake a national consultative process, taking into account the different interests groups and stakeholders. This group also receives submissions from special interest groups and individuals. The findings are fed back to the consultant in writing for incorporations. The final draft is subjected to a national conference with a representation of the key interest groups and Whereas policies have been developed, regulatory frameworks are slow in getting amended to match the changes in the policies.

### **2.2.2. Land policies address equity & poverty reduction goals; progress towards these is publicly monitored**

The key issues addressed by the national land policy include historical injustices, border disputes, the ineffective dispute resolution mechanisms,

disparities in ownership, access and control over land by vulnerable groups, displacement, land grabbing and landlessness. The policy further addresses the underutilization of land due to poor planning and land fragmentation, environmental degradation and climate change, poor management of the ecological systems due to their transboundary nature and unsustainable exploitation of natural resources arising out of conflicting land uses and inadequate enforcement mechanisms. It tackles issues of ineffective and inefficient land administration and management systems.

Although developed, monitoring mechanisms for these policies have not yet been developed. Therefore indicators for reporting progress have not yet been developed and there is no mechanism in place for public accountability.

Currently, the Land Sector Strategic Plan II is being developed and it is only then that government priorities will be confirmed for the next ten years. It is also against the LSSPII that a monitoring framework will be developed.

### **2.2.3. Land policies address ecological & environmental goals; progress towards these is publicly monitored**

The Land Policies have been keen on taking into account ecological and environmental goals both in terms of land use planning and land tenure. The Land Policy in particular has taken a stand to re-introduce the doctrine of public trust over natural resources in a bid to prevent the potential abuse by the Government.

Furthermore, the land policy recognizes common property resources and the need to harness and protect these. Under chapter 6, the National Land Policy provides for the management of natural resources and the environment, climate change. In chapter 7, it provides for the management of transboundary resources

As stated above, Chapter 8 of the National Land Policy provides for the development of appropriate indicators for the monitoring of land sector performance and for periodic reporting. This however has not yet been implemented as the National Land Policy was only made public in August 2013.

### **2.2.4. Implementation of land policy is costed, matched with benefits and adequately resourced**

Although Chapter 8 of the National Land Policy recognized the importance of costing to ensure implementation, financing will depend on political will to see this policy implemented. The Land sector does not appear as one of the priority sectors. This means that it will keep getting marginalized even when it is land that holds up the Ugandan economy. It is therefore likely

that the costing will not be matched with the resourcing posing serious challenges in policy implementation.

### **2.2.5. There is regular and public reporting indicating progress in land policy implementation**

**There is no reporting framework in place.**

### **2.2.6. Policies are in place to help to improve land access & use by low-income groups and those who suffered from injustice in the past**

The National Land Policy seeks to address historical injustices and the rights of the poor, marginalized and vulnerable. Specifically

- The Kibaale Land Question through the application of the Land Fund to compensate the absentee land lords and give the land back to the Banyoro.
- Rights of ethnic minorities (such as the Batwa, the Benet and Ik who are forest peoples) to their natural habitats by recognizing their tenure rights to their ancestral lands and documenting their defacto rights to prevent evictions or displacements.
- Rights of pastoral communities to their lands to be protected as common properties and protect these lands from appropriation.
- Land rights of women and children through regulating customary law and enactment of matrimonial property laws that guarantee equality and equity.
- Furthermore by ensuring that women are fully integrated in all decision – making structures and processes in access to ad use of land.
- Rights of dwellers in informal settlements and slums through the supply of affordable land in urban areas and providing a framework for regularizing land tenure for dwellers in informal settlements and slums
- Land rights of other vulnerable groups such as displaced persons, refugees and people living with HIV and AIDS

### **2.2.7. Land policies proactively and effectively reduce future disaster risk**

Chapter 5 and 6 of the National Land Policy provide for land regulation and management. This is in a bid to promote sustainable use and exploitation of resources without degrading the resource. In particular recognizing climate change and proposing adaptation and mitigation measures will reduce further desertification in Uganda and mitigate the effects of climate change.

### **3.0. Objective 2: Deduce Policy Recommendations that would be in line with the best practice given the contextual setting of Uganda**

The Policy framework in Uganda is well developed. However, it needs to be resourced to ensure that.

- The existing institutions can deliver on their mandates.
- The legal framework is streamlined to match the new policy environment
- Regulations and guidelines are developed to facilitate implementation
- A Monitoring framework with clear indicators is in place to ensure information on progress is available to the public.

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LANDnet is an institution registered under the laws of Uganda with a mission to create an enabling environment for effective participation of all stakeholders in the efficient use and management of Uganda's land resources for sustainable development.

The foundations of LANDnet lie in the principles of equity and equality, in the desire to ensure inclusion and equal opportunities in access to and control over productive resources including land. Through this, LANDnet aligns itself to existing global frameworks such as Agenda 2030, the Voluntary Guidelines on the Responsible governance of Tenure of Land, Forests and Fisheries (VGGT) and Africa Framework & Guidelines on Land Policies in Africa.

The success of LANDnet lies in strong partnerships and a shared vision with its partners.

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