

# CONSULTANCY SERVICES OF DEVELOPING STANDARD OPERATING PROCEDURE (SOP) MAINSTREAMED BY GENDER FOR PROVISION OF LAND SERVICES IN UGANDA

## Mainstreaming Gender SOP in Land Administration

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### FINAL REPORT

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## TABLE OF CONTENTS

<b>TABLE OF CONTENTS</b> -----	<b>I</b>
<b>LIST OF ACRONYMS</b> -----	<b>II</b>
<b>GLOSSARY</b> -----	<b>III</b>
<b>EXECUTIVE SUMMARY</b> -----	<b>V</b>
<b>INTRODUCTION</b> -----	<b>1</b>
1.1 PREAMBLE-----	1
1.2 BACKGROUND -----	1
1.3 OBJECTIVES-----	3
1.4 POLICY, LEGAL AND INSTITUTIONAL FRAMEWORKS -----	3
1.4.1 <i>Global and Regional Frameworks</i> -----	3
1.4.2 <i>Legal and Policy Frameworks</i> -----	5
1.4.3 <i>Institutional Frameworks</i> -----	13
<b>GENDER ANALYSIS</b> -----	<b>16</b>
2.1 INTRODUCTION -----	16
2.2 GENDER ISSUES-----	16
2.3 OVERVIEW OF THE GENDERED LAND ADMINISTRATION STRUCTURES -----	19
2.4 GENDER ANALYSIS – SECTOR INTERVENTIONS-----	19
2.5 KEY ACHIEVEMENTS -----	20
2.6 CHALLENGES -----	24
2.7 RECOMMENDATIONS-----	25
2.7.1 <i>Legal and Institutional recommendations</i> -----	25
2.7.2 <i>Other recommendations</i> -----	26
2.8 LESSONS LEARNT -----	26
2.9 ISSUES FOR FURTHER RESEARCH AND DISCUSSION-----	26
<b>GENDER MAINSTREAMING SOPS</b> -----	<b>28</b>
3.1 INTRODUCTION -----	28
3.2 CUSTOMARY LAND TENURE SOPS-----	28
3.3 FREEHOLD LAND TENURE SOPS -----	31
3.4 LEASEHOLD LAND TENURE SOPS-----	32
3.5 MAILO LAND TENURE SOPS-----	33
<b>REFERENCES</b> -----	<b>39</b>

## LIST OF ACRONYMS

ALC	-	Area Land Committee
AU	-	African Union
BFPs	-	Budget Framework Papers
CCO	-	Certificate of Customary Ownership
CLAs	-	Communal Land Associations
CLIN	-	Customary Land Identification Number
CO	-	Certificate of Occupancy
DLB	-	District Land Board
DLO	-	District Land Office
DPPC	-	District Physical Planning Committee
EAC	-	East African Community
GDP	-	Gross Domestic Product
LSSP	-	Land Sector Strategic Plan
MLHUD	-	Ministry of Lands, Housing and Urban Development
MZO	-	Ministry Zonal Office
NDP	-	National Development Plan
NIN	-	National Identification Number
NLIS	-	National Land Information System
NLP	-	National Land Policy
PWD	-	Persons With Disability
SDGs	-	Sustainable Development Goals
SLAAC	-	Systematic Land Adjudication and Certification
SOP	-	Standard Operating Procedures
UBOS	-	Uganda Bureau of Statistics
UN	-	United Nations

## GLOSSARY

- **Gender:** Social and cultural differences between men and women that assign value and create unequal opportunities in life (Kabeer, 2003). These characteristics are variable. Policies and structures play a very important role in shaping the conditions of life, and in doing so they often institutionalize the social construction of gender.
- **Gender disaggregated data:** It involves Collection and use of qualitative and quantitative data by sex (i.e. not gender) is critical as a basis for gender -sensitive research, analysis, strategic planning, implementation, monitoring and evaluation of programmes and projects.
- **Gender equality:** The absence of discrimination based on gender in the allocation of resources, benefits and access to services.
- **Gender equity:** Equal treatment in the distribution of benefits and opportunities between women and men under the law and in practice by mainstreaming gender into various areas of policy, and in public and private life.
- **Gender Gap:** It is a measure of gender inequality that looks at the extent of variation between men and women
- **Gender Relations:** These are the social relationships between women and men. Gender relations are simultaneously relations of co -operation, connection and mutual support as well as of conflict, separation and competition, of difference and inequality. Gender relations are concerned with how power is distributed between the sexes
- **Gender-responsive programming:** It refers to programmes where gender norms, roles and inequalities have been considered, and measures have been taken to actively address them
- **Empowerment:** The range of options that create opportunities and reinforce individual and collective capacities to exercise control over the life of individuals and offer them more choices.
- **Gender mainstreaming:** It appeared for the first time in international texts after the third UN World Conference on Women (Nairobi, 1985) in relation to the debate within the UN Commission on the Status of Women (CSW) on the role of women in development. At the UN Fourth World Conference on Women held in Beijing in 1995, the strategy of gender mainstreaming was explicitly endorsed by the Platform for Action (PFA). 'Mainstreaming a gender perspective is the process of

assessing the implications for women and men of any planned action, including legislation, policies or programmes, in any area and at all levels. It is a strategy for making the concerns and experiences of women as well as of men an integral part of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres, so that women and men benefit equally, and inequality is not perpetuated. The ultimate goal of mainstreaming is to achieve gender equality.’ (ECOSOC, 1997)

- **Gender Norms:** These are a set of “rules” or ideas about how each gender should behave. They are not based in biology, but instead determined by a culture or society.
  
- **Gender Stereotyping:** It occurs when men or women are persistently attributed certain characteristics or roles, thereby creating the belief that these are invariably linked to gender. Gender stereotyping reinforces gender inequality by portraying assumptions and conditions that maintain the inequality as biologically or culturally fixed.
  
- **Patriarchy:** It is the male domination of ownership and of the control of resources that maintain gender discrimination. Patriarchy is maintained by an assertion of male superiority that claims to be based on biological differences between women and men, on cultural values, or on religious doctrines
  
- **Gender Analysis:** It refers to a variety of methods used to identify and classify the different roles of men and women in a sector, their relations and access to and control over resources and benefits. Gender analysis is a prerequisite for mainstreaming gender which pertains to recognizing gender as a critical variable in the development process and entails the need to identify gender issues and the obstacles to its progress so that they can be addressed in interventions.

## EXECUTIVE SUMMARY

This Standard Operating Procedure for Gender Mainstreaming in Land Administration is the first version that will guide the Ministry of Lands, Housing and Urban Development in ensuring that Gender is mainstreamed in all Land Administration processes right from lower Local Government to Central Government level.

The SOPs are anchored on the achievements so far made, challenges encountered and lessons learnt from mainstreaming Gender in Land Administration and the identified gender gaps.

It is known that women's rights to land and other productive resources are essential for realizing their rights to equality and to an adequate standard of living, among many other rights. Women's secure access to land and resources supports their independence and autonomy, provides for their day-to-day needs and those of their families and allows them to weather some of life's most difficult challenges. Realizing women's land rights is an integral part of the gender-responsive implementation of the 2030 Agenda for Sustainable Development.

Therefore, this document defines the proposed step by step process of mainstreaming Gender in Land Administration under the different tenure types. If this is to be achieved, it is recommended that:

- a) Government should fast track and support development and/or review of the Policy, Legal and Institutional Frameworks in order to increase responsiveness to Gender SOPs in Land Administration;
- b) Government should implement the Women's Land Rights Agenda and the Gender Strategy for National Land Policy Implementation;
- c) Government should develop Guidelines for Gender Mainstreaming in Land Administration;
  - a) Government should develop the capacity of land administration actors on gender matters;
  - b) Sensitization on gender awareness to relevant stakeholders including the state and non-state actors like the Civil Society Organization should be undertaken; and
  - c) Ascertainment of political commitment or support from top leadership so as to translate the law into a political reality.

## INTRODUCTION

### 1.1 Preamble

Uganda as one of the Intergovernmental Authority on Development (IGAD) regional member states is developing Institutional Standards robust enough to support systems and procedures in Land Administration with an aim of facilitating efficient and effective land services delivery.

The purpose of this Standard Operating Procedure (SOP) is to mainstream gender equality in the Land Administration process This Standard Operating Procedure (SOP) is focused only on the Ministry responsible for Lands and especially for the land administration processes.

In line with the legal and policy frameworks and general principles of natural justice, MLHUD is required to uphold and promote the rights of women and girls, to mainstream a gender perspective in all our policies and operations, and to work towards the empowerment of women and the elimination of all forms inequality in land access, ownership, land rights and use.

### 1.2 Background

Uganda's Vision 2040 represents the country's bold development agenda towards becoming a middle-income country. Land and land based resources are among the fundamental resources required to support this national development vision. The Vision 2040 acknowledges that, even though Uganda has made significant progress towards greater gender equality in terms of political participation and education, similar progress has not been made in the economy and that disparities still persist in access and control over land and community decision making over land<sup>1</sup>.

In June 2020, Uganda launched its 3<sup>rd</sup> National Development Plan in the series of 6 development plans required to attain the Vision 2040. NDP III<sup>2</sup> will thus provide the framework to guide policy action for the next five years. The overall development goal to be realized over the five-year period is **increased household incomes and improved quality of life of Ugandans** through **inclusive growth, employment and sustainable wealth creation**. Significantly, NDP III adopts a programmatic approach to its implementation in recognition of the importance of the development process and the importance of mobilizing a wide range of stakeholders to contribute towards addressing specific development issues. With regards to land and the land sector, NDP III places emphasis on its improved use and management which also encompasses the sustainable use of land based natural resources including water, wetlands and restoration and expansion of forest cover.

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<sup>1</sup> Government of Uganda: Vision 2040, p. 96

<sup>2</sup> Government of Uganda, 2020: Third National Development Plan (NDP III) 2020/21 – 2024/25

NDP III draws on the lessons from implementation of two previous NDPs and its overall outlook for the coming five years focuses on increased investment in the productive sectors including agriculture, in order to increase livelihoods, generate employment and produce goods for import and export substitution. In addition to prioritizing enhancing productivity in the agriculture sector, NDP III also intends to focus, among others, on supporting small and medium enterprises to access export markets and to support small domestic firms to grow to small and large firms.

Women make up the largest proportion of the working population in agriculture production and are highly represented in the informal sector where they are concentrated in the micro and medium size enterprises. Their tenure security will doubtless be an essential part of the issues to receive specific attention over the five years of NDP III in the efforts to reduce the high percentage of households and individuals who currently operate at subsistence level in both the farming communities as well as the informal sector.

Land continues to be a key resource in sustaining livelihoods for the still significantly high rural population in Uganda and its access, ownership and control key factors in enabling individuals to get a foot-hold at engaging in productive activities and contribute to economic growth and national development. Despite its continued centrality to promoting the wellbeing of every Uganda citizen, land ownership under all the four tenure systems is still dominated by men. This is evident not just in the registered land but also in customary tenure systems whose principles are premised on male inheritance and ownership of clan land and female rights limited to access and use to land through male relations.

It is only recently that women's and other vulnerable groups' rights to land have explicitly been incorporated into the legal framework. Previous reforms had either not taken gender into account at all or made declarations that women and men had equal access to land, but without providing any mechanisms to make sure that such rights were implemented in practice. Generally, sector-specific legislation is required to give general gender-progressive statements in constitutions and softer family laws any weight (Wily 2003: 57; Manji 2006: 106). Thus, the new wave of land administration reforms across African States has been initiated in recent years. Most reforms contain elements of decentralisation and the registration of rights, which are thought to enhance tenure security and economic growth. Apart from the overall intention of many land administration reform processes that is to enhance tenure security, encourage investments and thus promote economic growth, support for land administration reform is often accompanied by a wish to secure women's and other vulnerable groups' access to land and to support existing customary Institutions.

Ministry of Lands, Housing and Urban Development recognizes that Gender is an important determinant of development and has a direct effect on climate change and HIV dimensions. Therefore, it is important to have it addressed. Critical issues include: Right to equitable access to resources; low decision making power due to cultural barriers; responsibility of family care;



information not translated or illustrated in simple easy to understand language; attitude towards PWDs and other vulnerable persons resulting in less equitable treatment and services; quality of participation due to lack of social skills, information, house/domestic chore; time for meetings may be inconvenient for women; right to respect not accorded to the marginalized persons; and right to redress - lack of knowledge of where to seek legal and mediation services.

### **1.3 Objectives**

- a) To facilitate sensitization on Gender for all stakeholders involved in the Land Administration process
- b) To develop capacity for gender analysis, planning, monitoring and evaluation in Land Administration
- c) To establish gender disaggregated databases using Uganda's National Land Information System (NLIS)
- d) To establish knowledge based networking, eforums, and a community of gender mainstreaming practitioners in the Land Sector
- e) To develop institutional mechanisms and procedures for systematic gender mainstreaming and accountability in MLHUD

### **1.4 Policy, Legal and Institutional Frameworks**

#### **1.4.1 Global and Regional Frameworks**

##### **1) UN 2030 Agenda for Sustainable Development**

The Sustainable Development Goals (SDGs), also known as the Global Goals, were adopted by the United Nations in 2015 as a universal call to action to end poverty, protect the planet, and ensure that by 2030 all people enjoy peace and prosperity. The 17 Sustainable Development Goals (SDGs) provide a common global platform for achieving specific development objectives and targets by 2030.

One of the key Global issues addressed by SDG 5 is Gender inequality. SDG 5 aims to achieve gender equality and empower all women and girls. Equality between men and women is an integral part of human rights and a fundamental criterion for democracy. Equality is a necessary foundation for a peaceful, prosperous and sustainable world. Providing women with equal access to education, health care, decent work, and representation in political and economic decision-making processes is fundamental for social cohesion and prosperity.

Women's empowerment and gender equality is integral to all dimensions of inclusive development. There is consensus that progress on all of the SDGs is realistically achieved if women's empowerment and gender equality are prioritized holistically.

Uganda's Vision 2040 and the National Development Plans are aligned to the SDGs and designed to achieve the Global Goals. NDP IV will coincide with the 2030 end of the UN 2030 Agenda.

## 2) AU Agenda 2063

Agenda 2063 was adopted by the 24th Session of the Assembly of Heads of State and Governments of the African Union in Addis Ababa as Africa's blueprint and master plan for transforming Africa into the global powerhouse of the future. It articulates the strategy for Africa to optimize the use of its resources for the benefit of all Africans, informed by seven aspirations, among them "an Africa whose development is people-driven, relying on the potential of African people, especially its women and youth...", with gender equality embedded in all spheres of life.

Agenda 2063 envisages that:

- ❖ By 2063, all forms of violence and discrimination (social, economic, political) against women and girls would have been eliminated and they would fully enjoy all their human rights. This means an end to all harmful social practices and that all barriers to access to quality health and education for women and girls would be non-existent.
- ❖ The Africa of 2063 would see fully empowered women with equal access and opportunity in all spheres of life. This means that the African woman would have equal economic rights, including the rights to own and inherit property, sign a contract, register and manage a business. Over 90% of rural women would have access to productive assets, including land, credit, inputs and financial services.
- ❖ The Africa of 2063 would see attainment of full gender parity. It would see women occupy 50% of elected offices at state, regional and local bodies, and 50% of managerial positions in government and private sector would be women. The economic and political glass ceiling hindering women's progress would finally have been broken.

## 3) AU Gender Policy 2009 and Action Plan

These were approved in 2009 and adopted in 2010. The main purpose of the Policy is to establish a clear vision and make commitments to guide the process of gender mainstreaming and women empowerment to influence policies, procedures and practices which will accelerate the achievement of gender equality, gender justice, non-discrimination and fundamental human rights in Africa.

The Gender Policy provides the basis for the elimination of barriers to gender equality and fosters the reorientation of existing institutions by making use of gender disaggregated data and performance indicators. It also establishes measures to hold managers accountable for policy implementation. The Assembly of Heads of State and Government is the supreme organ of the AU and one of its functions is to determine the sanctions to be imposed on any member state for non-compliance with the decision of the Union.

It is conceived as a tool to facilitate the advancement of Africa's political and social integration and enhance efforts by African people to play their rightful role in a globalised world.

The policy encourages Africa's development partners to provide technical assistance and resources to facilitate the implementation of the Gender Policy and facilitate exchange of best practices instruments and guidelines between member states.

#### **1.4.2 Legal and Policy Frameworks**

##### **1) Constitution of Uganda 1995**

The 1995 Constitution of the Republic of Uganda Article 2(1) states that the Constitution is the supreme law of Uganda and shall have binding force on all authorities and persons throughout Uganda. In its second clause, it states that: "If any other law or any custom is inconsistent with any of the provisions of this Constitution, the Constitution shall prevail, and that other law or custom shall, to the extent of the inconsistency, be void" (11). The Constitution thus forbids discrimination based on gender and accords equal rights for men and women the same status and rights.

The Constitution of the Republic of Uganda further:

- Guarantees gender equality through Objective VI and Objective XI of the "National Objectives of State Policy" section (11). Objective XV recognizes the significant role that women play in society.
- Emphasizes that gender is mainstreamed throughout the Constitution and within chapters related to the Protection of Human Rights, Land and Environment, and Institution of Traditional or Cultural Leaders. These chapters contain provisions that are directly related to women's equal right to land and that specifically outlaw customs that are against the dignity of women or that undermine their status.
- Confirms in Article 21 the equal status of all citizens under the law and prohibits discrimination on a number of grounds, including sex (11).
- Provides in Article 26(1) for every person, including women, the right to own property (11).
- Guarantees in Article 31(1) women's equal rights upon, during and after marriage and provides for the protection of the rights of widows and widowers to inherit the property of their deceased spouses (11). It also sets the legal age for marriage at eighteen for both men and women.
- Compels in Article 32(1) the State to take affirmative action in favour of groups marginalized on the basis of gender (11).
- Describes in Article 33 the status and rights of women and enshrines women's right to equal treatment with men (11). Laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status are prohibited.
- Stipulates in Article 78 that Parliament shall consist of, inter alia, one-woman representative for every district (11); and

- Stipulates in Article 180(2)(b) that one-third of the membership of each local government shall be women (11).

Therefore, the Constitution commits the state and its agencies to operate on the basis of Democratic Principles *"...which empower and encourage the active participation of all citizens at all levels in their own governance..."* and that this will be *"...guided by principles of decentralization and devolution of governmental functions and powers to the people at appropriate levels where they can best manage and direct their own affairs..."* (Objective II).

## **2) Gender Policy 2007**

The development of a National Gender Policy (NGP) in 1997, and its revision in 2007, confirms Uganda's unequivocal commitment to take actions that will bring about more equal gender relations. The policy will ensure that all Government policies and programmes, in all areas and at all levels, are consistent with the long-term goal of eliminating gender inequalities.

The Uganda Gender Policy is an integral part of the national development policies. It is a framework for redressing gender imbalances as well as a guide to all development practitioners. The aim of this policy is to guide all levels of planning, resource allocation and implementation of development programmes with a gender perspective. The emphasis on gender is based on the recognition that "gender" is a development concept useful in identifying and understanding the social roles and relations of women and men of all ages, and how these impact on development.

The *Gender Policy* draws attention to women's lack of effective land rights largely due to patriarchal land inheritance and access norms and practices which discriminate against women and girls, highlighting the negative implications this has for national development.

## **3) The National Equal Opportunities Policy 2006**

The National Equal Opportunities Policy was adopted in July 2006 to guide and direct planning processes, resource allocation and implementation of activities by Government, NGOs and the private sector to promote equality of opportunities for all persons in Uganda, irrespective of gender, age, physical ability, health status or geographical location.

The Policy identifies land ownership as one of the areas in which equal opportunities are lacking. The size of land held by the poor is diminishing leading to increasing landlessness, while most of the land owned by vulnerable groups are not registered, constraining their access to credit. With regards to gender, the Policy identifies limited participation in the market, and control over assets and productive resources as major constraints to gender balance in participation in decision-making processes.

Women are particularly vulnerable due to socially and culturally defined roles, and discriminatory cultural practices on property ownership and inheritance. Although they provide 70%-80% of all

labour in agriculture and 90% in food production and processing, they own only 7% own land and only 30% of them have control over the proceeds of their work in agriculture. The Policy confirms the fact that lack of protection of women's land rights and their secure access to and control of productive resources has adverse implications for investments in agriculture and efforts to promote agricultural productivity.

Among the priority areas of focus for the policy is gender, where the policy commits to ensure access, control and enjoyment of benefits from resources and services by both men and women; promote awareness on gender roles and responsibilities; and sensitize communities on negative cultural practices which limit opportunities for marginalized men and women. Also relevant in this regard is the policy focus on participation, affirmative action and involvement in decision-making, where it seeks to promote representation of marginalized groups at all levels of decision making in planning, monitoring and evaluation.

#### **4) The Succession Act**

Inheritance in Ugandan law is governed by the Succession Act which restricts the application of customary law in inheritance cases, and explicitly recognizes women's right to inherit from their husbands.

Sections 27 and 30 of the Succession Act excludes the residential holding occupied by a wife from the property taken into account in assessing the share of an estate to which the wife may be entitled. This section conveys to the widow an entitlement to her deceased husband's residence. Section 27 also allocates 15% of a deceased male's estate to his surviving wife or wives.

#### **5) Local Governments Act 1997**

The Local Government Act was passed in 1997 to, among other things, give effect to the decentralization and devolution of functions, powers and services at all levels of local governments to ensure good governance and democratic participation in, and control of, decision making by the people; and to provide for election of local councils. The Act gives effect to the constitutional requirement for gender balance and fair representation of marginalized groups on all constitutional and other bodies.

The Act stipulates that women councilors shall constitute one third of all the councils – district, sub-county, municipal, city division, municipal division, and town<sup>3</sup>. One of the two youth representatives and one of the two representatives of persons with disability in each of the

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<sup>3</sup> Section 23

councils shall also be a woman. Furthermore, at least one of the five secretaries in the district executive committee<sup>4</sup> as well as lower local government councils shall be a woman<sup>5</sup>.

## **6) The National Equal Opportunities Commission Act, 2007**

Article 32 of the Constitution provides for establishment of the Equal Opportunities Commission. This is the same article of the Constitution that prohibits “laws, cultures, customs and traditions which are against the dignity, welfare or interest of women or any other marginalized group...or which undermine their status...”, and provides for affirmative action in favor of “groups marginalized on the basis of gender, age, disability or any other reason created by history, tradition or custom” in order to redress imbalances in opportunities and entitlements.

The Act establishes the Commission and defines its functions and procedures. The Commission shall monitor, evaluate and ensure that policies, laws, plans, programs, activities, practices, traditions, cultures, usages and customs of all institutions, governmental, non-governmental and socio-cultural, “are compliant with equal opportunities and affirmative action in favor of groups marginalized on the basis of sex, race, colour, ethnic origin, tribe, creed, religion, social or economic standing, political opinion, disability, gender, age or any other reason created by history, tradition or custom”<sup>6</sup>. It is vested with quasi-judicial powers of investigation and inspection and may compel attendance and production of documents and records from any person or institution; and may undertake investigations on its own motion or in response to a complaint by any person.

## **7) The Public Finance Management Act, 2015**

The Public Finance Management Act, 2015 establishes the legal framework that informs collection, use and accounting for public funds in Uganda. Its implementation is underpinned by constitutional imperatives including those related to promoting equitable development generally and gender equity in particular. It provides for the formulation of a Charter of Fiscal Responsibility, which governs Cabinet decisions with implications on public finances, and its determination, formulation and implementation of government policies.

The Act stipulates that each Accounting Officer shall, in consultation with the relevant stakeholders, prepare and submit to the Minister for Finance, a budget framework paper for the vote, “taking into consideration balanced development, gender and equity responsiveness”<sup>7</sup>. This stipulation ensures that the process of budgeting expenditure of public finances is participatory and inclusive, and that sector plans and budgets are gender responsive.

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<sup>4</sup> Section 16(3)

<sup>5</sup> Section 25

<sup>6</sup> Section 14

<sup>7</sup> Section 9(1)

The importance the Act attaches to gender equity in budgeting is evident in the stipulation that the Minister “shall, in consultation with the Equal Opportunities Commission, shall issue a certificate **(a)** certifying that the budget framework paper is gender and equity responsive, and **(b)** specifying measures taken to equalize opportunities for women, men, persons with disabilities and other marginalized groups”<sup>8</sup>. The certificate is one of the documents that accompany the annual budget when it is presented to Parliament<sup>9</sup>. A similar certificate accompanies the policy statement to be submitted by a vote under section 13(15).

These provisions make gender and equity responsiveness a critical consideration in the development and approval of the national budget, thus ensuring that the allocation and expenditure of public finances promote equitable and inclusive development.

## **8) Uganda Vision 2040**

Vision 2040 is Uganda’s overarching framework for all policy development and strategic investment planning aimed at transforming the country’s economy from a peasant low income country to a middle income country over a 30-year period<sup>10</sup>. Vision 2040 draws the lessons the country has gained based on its previous experience in development planning and is conceptualized around strengthening its fundamentals and exploiting its abundant opportunities. Among the opportunities on which the goals for Vision 2040 are based are the country’s minerals, labor, geographical location and its agriculture potential. The extent to which the transformation envisaged is, however, dependent on strengthening Uganda’s fundamentals which include: its natural resources, including its oil reserves, its abundant water resources, its minerals, and infrastructure among others. Land use and management is included among the fundamentals which need to be strengthened.

Projections of the kind of transformation to economy expected by Vision 2040 are striking. They indicate that Uganda will increase its GDP from its baseline status of USD 506 to its desired 2040 target of USD 9,500. The country is also projected to move to a Lower Middle Income country by 2017, progressing to Upper Middle Income Country category by 2030, attaining its target of Middle Income status in 2040<sup>11</sup>.

Vision 2040 recognizes that gender equality and the empowerment of women are essential prerequisites for its being able to achieve and sustain the socio-economic transformation it envisages. It commits itself to paying specific attention to ensuring that its policies, programs and actions are gender responsive, aimed at reducing gender inequality and treating women and men as equal partners in the development process at all levels - household, community and national.

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<sup>8</sup> Section 9(6)

<sup>9</sup> Section 13(11)(e)

<sup>10</sup> Republic of Uganda, 2010: National Planning Authority, *Vision 2040*

<sup>11</sup> Republic of Uganda, *Vision 2040*, p. 13

Noting that Uganda has made less progress in promoting gender equality in the economy, compared to the progress made in promoting equality through affirmative action in political participation and education, it affirms the need to reduce current gender gaps in the economy as being paramount, including through affirmative action (para: 285). Over the Vision 2040 period, therefore, gender responsive policies, programs and actions will be undertaken including commitment to treating women and men as equal partners. (para: 286).

### 9) Third National Development Plan (NDP III) 2020/21 – 2024/25

Uganda launched its third National Development Plan in June 2020 as it continues to steer its development process towards its anticipated middle income country status (Vision 2040). The NDP's overall thrust shifts slightly from NDP II with greater emphasis being placed on its growth process paying greater attention to sustainability, inclusiveness and equitable development both within and across the different regions of the country. NDP III also adopts a **programmatic approach** which is based on 18 programs which are implemented through integrated, as opposed to “silo”, approaches to planning, budgeting and delivery of services to achieve common results and outcomes. In addition NDP III also adopts a **human rights based approach** to enhance inclusion, equity and equality, and it compels all sectors to pay specific attention to human rights principles, gender equity and non-discrimination.

NDP III is explicitly aligned to the global, regional, sub-regional and national development frameworks and, therefore, will be the national framework through which Uganda's commitments to the UN Agenda 2030, AU Agenda 2063, EAC Vision 2050 and Uganda Vision 2040 will be translated into national investment plans, programs and strategies for achieving the respective goals and outcomes over the next 5 years. NDP III builds on the progress Uganda was able to register over the 5-year period of NDP II and sets out to address the remaining challenges which included severe environmental and wetland degradation, loss of forest cover, land degradation and fragmentation, increased inequality and the high number of rural households stuck in subsistence production<sup>12</sup>.

Unlike in previous NDPs, land in NDP III is viewed within the context of the entire range of natural and environmental resources. This re-orientation in the way in which land is perceived, while not negating the need for accelerated exploitation of Uganda's land based resources in order to support its national development aspirations, also permits taking into account a wider range of considerations, including the sustainability of such investments, and their inclusiveness, most especially of resource dependent communities whose main source of livelihood continues to depend on subsistence production. The overall re-orientation evident in NDP III is especially critical for the women in farming communities and especially in its focus on increasing and improving

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<sup>12</sup> Government of Uganda, National Planning Authority, 2020: *National Development Plan*, p. 5



production and productivity within the context of subsistence production, increasing household incomes, and improved stewardship of land and other environmental resources.

NDP III identifies three of its 18 programs as NDP and **SDG Accelerators** implying the desire to register substantive improvements and changes in areas where progress has previously been slow. Consistent with this desire, Agro-industrialization, Governance and Security and Natural Resources, Environment, Climate Change, Land and Water Management are programs which provide a great potential for transforming the high proportion of women's productive labor currently trapped in the vulnerable employment subsistence sector, increasing and improving access to justice for women and children, and enhancing women's tenure security within interventions aimed at improving and transforming rural and urban livelihood contexts.

NDP III has come into effect a decade away from the realization of the SDG targets of Agenda 2030. Effective and synergetic implementation of interventions in these areas is expected to contribute directly to the realization of SDGs: 12, 13, 14, and 15 but also have spill-over outcomes on improved health and wellbeing (SDG 3) and reduced gender inequality (SDG 5). Monitoring and evaluating development impacts, outputs and outcomes under each targeted area is expected to be done through a coordinated M&E framework in addition to the regular M&E activities undertaken by the different sectors as an integral part of their Strategic Development and Investment Plans.

## **10) The Uganda National Land Policy 2013 and its Implementation Action Plan**

Uganda approved the National Land Policy in 2013 aimed at “ensuring efficient, equitable and optimal utilization and management of Uganda's land resources for poverty reduction, wealth creation, and overall socio-economic development of the country”. Uganda's National Land Policy is an opportunity to protect and enhance the land rights of vulnerable people through provisions that expressly seek to take remedial action against historical and cultural injustices and inequality between men and women.

The Land Policy has provided an important avenue for examining the principles on the basis of which tenure rights for women are regulated and granted and the extent to which they enable or inhibit women's access to, use and control of land even though they use and dependent on land and land based environmental resources more than any other group in order to support the livelihoods of their families and communities.

The Land Policy seeks to put into effect both Constitutional provisions for gender equality and women's rights as well as its provisions on land tenure and women's rights to land within these tenure regimes which the policy is required not to lose sight of. The strategies put in place reflect this desire to change the widespread gender inequalities in land relations while also being mindful of the cultural sensibilities which shape and define women's land rights and tenure security.

Within this overall context, the Land Policy commits the State to undertaking a number of specific measures intended to enhance tenure security for women. These strategies which the Land Policy specifies to accomplish this include:

- ❖ legislation to protect the right to inheritance and ownership of land for women and children, and ensuring that both men and women enjoy equal rights to land before marriage, in marriage and after marriage and at succession without discrimination;
- ❖ modifying the rules and regulations of customary institutions to guarantee rights, gender equality and equity;
- ❖ fully integrate women in decision making structures and processes in access to and use of land; and
- ❖ mainstream gender into development planning to improve the status of women.

## **11) Land Act 1998**

Uganda's Land Act was enacted in 1998 and affirms the four tenure systems of the Constitution. The Land Act (CAP 227) introduced legal reforms to operationalize positive constitutional provisions largely through express spousal consent provisions before mortgaging and transfer of family land, and the affirmative action quotas on representation in land governance institutions.

The right of legally married women to have access to and live on family land is protected under Section 38A of the 2004 Amendment to the Land Act which provides for the enjoyment of security

of occupancy on family land by every spouse. The provision broadly defines what constitutes family land to include not just land on which the family ordinarily resides, but also land on which is located the ordinary residence of the family and from which the family derives sustenance, land which the family agrees shall be treated as family land and land which is treated as family land according to the norms, culture, customs, traditions or religion of the family.

In a bid to curtail wanton land sales by male “heads of households”, the Land (Amendment) Act of 2004 under Section 39 makes any transactions made in respect to family land conditional on written spousal consent. The section also protects the right of a spouse to lodge a caveat on the certificate of title, certificate of occupancy or certificate of customary ownership of the person who is the owner of the land to indicate that the property is subject to the requirement of consent and that such protection remains for as long as the marriage subsists.

## **12) The Registration of Titles Act 1924**

Uganda uses the Torrens system of Titles registration, which was introduced through the Registration of Titles in 1924. The Act applies to all freehold, leasehold and Mailo land, but does not recognize customary tenure rights which must first be converted to freehold tenure in order to be registered. Section 3 disclaims any intention to limit the application of laws providing for the property of married women.

## **13) The Mortgage Act, 2009**

The Mortgage Act was enacted in 2009 to consolidate the law relating to mortgages. It makes the validity of any mortgage of a matrimonial home under any land tenure conditional on informed and genuine spousal consent (Sections 5 and 6).

### **1.4.3 Institutional Frameworks**

#### **1) Land Sector Strategic Plan (2013 – 2023)**

LSSP II is the framework through which the National Land Policy is implemented. This is done through 3-year rolling National Land Policy Implementation Action Plans the most recent of which covered the period 2015/16 – 2018/19. LSSP II has put in place a number of strategies to “*remove rigidities in traditional structures and systems which discriminate against women*”<sup>13</sup>. Under its priority areas of action, it acknowledges the fact that strengthening women's land rights in law and in practice is a key strategy for advancing the objectives and purpose of the LSSP-II.

It commits itself to mainstreaming gender in its activities, which also includes making targeted interventions to improve mainstreaming women's land rights at policy level and monitoring impact on vulnerable groups. It also plans to address gender bias within the land sector, and to

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<sup>13</sup> MLHUD, *Land Sector Strategic Plan 2013 – 2023*, p. 52

undertake policy and activity related studies to inform and strengthen the development and implementation of policy. LSSP-II also indicates that it might be possible for it to support the provision of legal aid to women for land cases.

## 2) Gender Strategy for National Land Policy Implementation

A Gender Strategy for the implementation of the National Land Policy (2018) has been developed to provide a consolidated framework to guide all actors whose interventions contribute to the achievement of NLP objectives. The Strategy provides an in-depth analysis of the key gender and land issues in Uganda and highlights 16 strategies and interventions that have to be undertaken by different actors within their respective mandates and areas of focus. The Strategy also provides the overall strategic objectives to which the different strategies and interventions are expected to contribute.

The strategic objectives are: **1)** to create a level ground and equal terms upon which men and women can make, hold and enjoy legitimate land rights claims; **2)** to build the capacity of men and women to participate effectively and on equal terms in decision making processes concerning land management and administration; **3)** to build capacity of people in customary and statutory institutions to operationalize and enforce legal and policy provisions on gender equality; **4)** to strengthen and streamline the collection, analysis and use of gender disaggregated information/data in the land sector, and **5)** to promote partnerships with other stakeholders and institutions for effective implementation of the strategy<sup>14</sup>.

The fact that an overall land-sector specific Gender Strategy is in place is a commendable step in ensuring that efforts to address gender issues, ensure equality and equity in land and increase and improve women's land rights and tenure security are sustained over the long term. Significant as it is in providing the necessary strategic direction for the implementation of Land Policy, however, and in order for the Strategy to move from analysis to practice and respond to the commitment of the State in the Land Policy to mainstreaming gender in strategic land sector activities, a Gender Mainstreaming Strategy for the land sector still has to be put in place. It is this which will enable the land sector to make use of gender mainstreaming as an inclusive strategy and tool for accelerating the achievement of more gender equality and the empowerment of women over time.

The necessity to fast-track actions intended to address gender gaps in the land sector is evident in the slow progress being made to address gender and women's land rights issues and the impact this is having in slowing down the realization of national development aspirations. Vision 2040 admits that persistent gender gaps in the economy are partly responsible for this slow progress, committing itself to focusing its attention to addressing these challenges over its 30-year period. The recently launched NDP III also re-focuses its approach by putting greater emphasis on

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<sup>14</sup> MLHUD, 2018: Gender Strategy for the Implementation of the National Land Policy, p. 13

sustainable, inclusive and pro-poor strategies through which it expects to contribute Uganda's share of the targets and outcomes on gender and land within the SDG framework of 2030. By making significant progress towards achieving these commitments over the 5-year period of NDP III, Uganda will be closer to accomplishing them by the 2030 target date and on course towards Vision 2040 goals and development outcomes.

## GENDER ANALYSIS

### 2.1 Introduction

This section provides an assessment on the progress made in implementing gender responsive policies in Uganda.

### 2.2 Gender Issues

In the assessment of the performance of mainstreamed gender SOPs in Land Administration, an examination of the impact of development programs on women and men, looking at their participation as service providers and beneficiaries reveals that although various strides have been made in mainstreaming gender in the SOPs in land administration, a lot has to be done.

Whereas Uganda has a gender-sensitive legal frame work in place, a couple of factors deter possible economic transformation and development as elaborated below:

- a) Traditions and cultural practices still veto women's access to land rights and ownership. Despite several land reform processes and gender sensitive processes created by the government of Uganda, customary inheritance practices still hinder women's rights and access to land as patriarchy dictates that women acquire land through their husband or males in their families.

Consequently, much of the achievement in Uganda in this arena provides formal, but not has substantive equality, as cultural norms play a key role in defining social standards of appropriate and inappropriate behaviour, and are still highly influential in shaping individual behavior. For example, it is believed that land belongs to men and that women's access is mediated through men. Women represent one third of owners or co-owners of land, in Kampala women comprise 18% of land owners (OECD 2015). According to this study, 67% of the population in Uganda thinks that land parcels should be the responsibility of men, and almost one in three Ugandans believes that women should not have the same access to land as men; this is especially the case in the southwest (43%) and the mid-northern (54%) sub-regions. These discriminatory attitudes reinforce women's dependence on men in securing land rights, despite the existence of provisions in the Land Act (1998), which requires land transactions to have the written consent of the spouse and the Area Land Committee.

In furtherance of the cultural practices, upon the death of the man, the heir 'inherits' everything. The meaning and purpose of heir (omusika) has not been well understood in some parts of Uganda especially in the central region. In some parts the clans decide who takes over the land upon the death of the man for example in Northern Uganda.

- b) Participation of women in the labour force indicates that they are relegated to domestic labour taking upon themselves the burden of 90 % of the domestic leaving them little or no time to

participate in economic labour while their male counterpart engage in economic work and thus are able to access resource to acquire land.

- c) Traditional justice systems are headed by men with no female representation and thus in cases of disputes women are denied both economic and social justice.
- d) The compulsory Land Acquisition Act and processes do not have express provision to cater for the interest of women. For example in 2010, according to a report by Oxfarm<sup>15</sup>, a one Kabonesa whose family was displaced in 2010, to make way for oil exploration activities in the Albertine environment region was simply told by Government alongside her neighbours to leave and although she was given compensation, it was indirect as all the money was handed to her husband and it was up to him to decide how much to give o Kabonesa and his other two wives.
- e) Low ownership of land by women: Agriculture ranks amongst the highest employers of Ugandans with approximately 70 percent persons employed in the Sector, but much more overwhelmingly is that majority are on small farms. The total land cover of agricultural farms is in most cases half of all land area. Agricultural exports contribute half of all exports and one-quarter of GDP in Uganda. It is considered a leading sector for future economic growth and economic inclusion in the Third National Development Plan.

### Status of Land ownership in Uganda

**Table 1: Agricultural land**

Age Group		10 to 17	18 to 30	31 to 59	60+	Total
Male	Individually	0.0	4.6	13.8	3.9	22.3
	No	0.0	7.5	11.8	1.6	21.0
	Jointly with household member	0.0	3.8	15.4	4.3	23.6
	Jointly with non-household member	0.0	0.5	0.6	0.1	1.1
	<b>Total</b>	<b>0.1</b>	<b>16.4</b>	<b>41.6</b>	<b>10.0</b>	<b>68.0</b>
Female	Individually	0.0	0.9	8.0	5.3	14.1
	No	0.0	3.2	6.4	2.0	11.7
	Jointly with household member	0.0	0.8	2.3	0.7	3.8
	Jointly with non-household member	0.0	0.6	1.4	0.3	2.3
	<b>Total</b>	<b>0.1</b>	<b>5.5</b>	<b>18.1</b>	<b>8.3</b>	<b>32.0</b>

**UNHS, 2021**

Table 1 above shows that 68 percent of the total agricultural land is owned by men while women own approximately 32 percent of the total agricultural land. Predominantly, most land

<sup>15</sup> Locked Out – How unjust land systems are driving inequality in Uganda (November 2019)

in Uganda is either individually owned or jointly owned with a household member especially for the men.

Similarly, the land excluding agricultural land is also predominantly owned by men and individuals within the age group of 31 to 59 years. The age group of 31 to 59 is commonly known for being very productive as shown in table 2.

**Table 2: Land excluding agricultural Land**

Age Group		10 to 17	18 to 30	31 to 59	60+	Total
Male	Individually	0.0	2.9	8.2	2.5	13.6
	No	0.0	11.2	24.5	4.9	40.6
	Jointly with household member	0.0	2.1	8.7	2.5	13.3
	Jointly with non-household member	0.0	0.2	0.2	0.0	0.5
	<b>Total</b>	<b>0.1</b>	<b>16.4</b>	<b>41.6</b>	<b>10.0</b>	<b>68.0</b>
Female	Individually	0.0	0.6	4.6	2.9	8.1
	No	0.1	4.1	11.7	5.1	20.9
	Jointly with household member	0.0	0.5	1.2	0.3	1.9
	Jointly with non-household member	0.0	0.3	0.6	0.1	1.1
	<b>Total</b>	<b>0.1</b>	<b>5.5</b>	<b>18.1</b>	<b>8.3</b>	<b>32.0</b>

**UNHS, 2021**

- f) The land laws do not provide for protection of women in relationships that are not legally recognized as marriages in Uganda. i.e cohabitation. Even though the NLP of 2013, provides for strengthening women's land rights by enabling married couples to own land jointly, the current land laws do not have those legal provisions. This has been made worse by the failure of the Parliament to pass the Succession amendments which cater for these incidences.
- g) Uganda uses the Torrens system of title registration, which was introduced through the Registration of Titles Act 1924. This act applies to all freehold, leasehold, and mailo land, but does not recognize customary tenure rights, which must first be converted to freehold tenure in order to be registered. Under the section 59 of the Act, a certificate is conclusive evidence of title. The Act recognizes any person's right to own property as long as it is lawfully in his or her name.

However, titling alone, may be beneficial, but it can to the individual benefit of the men and therefore undermines women's secondary access to land rights which are provided for under customary norms. This was highlighted on the gender strategy on land for the National Land Policy, 2013.



In addition, it is important to note that women married and unmarried are the greatest beneficiaries of customary tenure as its cheap, it's usually inherited and easily accessible. The fact that customary tenure is subservient to other tenures undermines their access to land registration and its benefits.

### **2.3 Overview of the gendered Land Administration structures**

- 1) Gender mainstreaming in Land Management Institutions was designed to ensure that there is at least  $\frac{1}{3}$  women representation on these institutions. This is aimed at ensuring that the interests of the women are properly addressed and fellow women that they represent are not marginalized. The presence of women on the various land governance institutions, therefore, is not just evident in the identity of these institutions but also an accepted norm.
  - a) At the national level the Uganda Land Commission holds and manages all land vested or acquired by the government of Uganda. Section 47(4) stipulates that at least one of the members on the Commission shall be a woman.
  - b) District Land Boards hold and allocate all land at the district local government level and facilitate registration and transfer of interests in land. Section 57(3) requires one third of the membership of District Land Boards (minimum of 5 members) to be female.
  - c) Area Land Committees are located at the lower local government level (Sub-County) and play an advisory role to the District Land Boards in ascertaining land rights in the communities under their jurisdiction. Section 65(2) requires that Area Land Committees should have at least one female out of four members.
- 2) Section 16(4-b) provides persons not less than 60 percent of a group to decide to incorporate themselves into a Communal Land Association. Subsequently they can elect not more than nine nor less than three persons, of whom not less than one-third shall be women, to be the officers of the Association.
- 3) District Land Tribunal, though not a requirement of law, is in practice constituted with at least one woman out of three members.

### **2.4 Gender Analysis – Sector Interventions**

The Ministry has been able to implement gender balanced initiatives within the country in order to ensure that interests of both men and women are taken into consideration. These include: Systematic Land Adjudication and Certification (SLAAC), CCOs, CLAs and COs all intended to improve and give property rights to the women and other vulnerable persons.

SLAAC is a process by which land rights of people living in a given area are identified, ascertained, established and marked in an orderly and uniform way, boundaries marked and land rights formally recorded. SLAAC was undertaken in 5 districts of Oyam, Mbarara, Kiruhura, Ibanda and Rwampara and the Ministry was able to demarcate and survey a total of 66,148 parcels in all the 5 districts.

A total of 12,843 parcels (19.4%) belonged to women as shown in the table 1 below. It should be noted that women's interests in land ownership were taken care of under the 14,802 parcels that were jointly owned representing 22.4%.

**Table 3: Disaggregated data under SLAAC - Number of parcels**

Districts	Number				
	Male	Female	Jointly Owned	Institutions	Total demarcated
Oyam	20,148	5,165	9,244	235	<b>34,792</b>
Mbarara	8,495	4,158	2,938	125	<b>15,716</b>
Kiruhura	2,283	1,163	526	106	<b>4,078</b>
Ibanda	2,107	702	508	19	<b>3,336</b>
Rwampara	4,924	1,655	1,586	61	<b>8,226</b>
<b>Total</b>	<b>37,957</b>	<b>12,843</b>	<b>14,802</b>	<b>546</b>	<b>66,148</b>

Source: MLHUD Administrative records 2021

Further analysis of SLAAC data revealed that the average size of land held by a woman is 0.98 Hectares compared to their male counter parts who stand at 1.47 Hectares. The average size of land held under joint ownership is 1.99 Hectares. In Oyam district, which is one of the districts in the northern part of Uganda and previously possessed Customary Laws that were not women friendly, displayed more interesting results. This is because the average size of land that was held by women (0.83 hectares) was higher than that of the male counterparts (0.82 hectares).

**Table 4: Disaggregated data under SLAAC - Size of land**

Districts	Area (Ha) - Disaggregated							
	Male Owned	Average Size M	Female Owned	Average Size F	Co-Owned	Average Size CO	Institutions	Average Size I
Oyam	15,898	0.82	3,457	0.83	13,453	1.86	83	0.34
Mbarara	5,296	0.76	2,053	0.70	2,489	1.30	245	1.92
Kiruhura	8,540	4.85	2,131	2.75	1,894	5.75	495	3.64
Ibanda	559	0.27	117	0.17	151	0.30	33	1.73
Rwampara	3,289	0.67	761	0.46	1,183	0.75	77	1.01
<b>Total</b>	<b>33,583</b>	<b>1.47</b>	<b>8,518</b>	<b>0.98</b>	<b>19,170</b>	<b>1.99</b>	<b>933</b>	<b>1.73</b>

Source: MLHUD Administrative records 2021

## 2.5 Key Achievements

- Development of the National Land Policy and its approval by Cabinet in 2013. The Policy was aimed at providing a comprehensive framework for articulating the role of land in national development, land ownership, distribution, alienability, management and control of land. The Policy acknowledges the Gender gaps in access, control and use of Land. Since its approval, the policy has been disseminated to all categories of individuals including the women, the poor

and other vulnerable groups and across all regions in the Country. This is aimed at awareness creation of the provisions of the Policy amongst stakeholder and land service actors

- Development of the National Land Policy Implementation Action Plan and Gender Strategy for the National Land Policy. The strategy is aimed at creating a level ground and/or equal terms upon which men and women can make, hold and enjoy legitimate land rights claims and to build the capacity of men and women to participate effectively and on equal terms in decision making processes concerning land management and administration
- Operationalized 22 Ministry Zonal Offices in Kampala, Jinja, Mukono, Masaka, Mbarara, Wakiso-Kyadondo, Wakiso-Busiro, Lira, Kabarole, Kibaale, Arua, Gulu, Masindi, Mbale, Kabale, Mityana, Luwero, Mpigi, Tororo, Soroti, Moroto and Rukungiri) taking services closer to the vulnerable, PWDs and hard to reach areas. Reducing the distance to access land services reduces the time taken to access the services especially for women who normally have a high burden of care.
- Adjudicated and demarcated land parcels for the elderly, women, men, youths and PWDs in pilot districts under Systematic Land Adjudication and Certification (SLAAC) program to improve tenure security of their land.
- The draft National Land Acquisition and Resettlement Policy, Draft Land Acquisition Bill, 2019 and Draft Valuation Bill, 2019. The draft Policy and Bills are intended to address issues of vulnerable groups in communities during resettlement of Project Affected Persons.
- In order to operationalise Section 16-19 of the Land Act CAP 227, the Ministry in partnership with various agencies and Civil Society Organizations, has issued a number of Certificates of Customary Ownership, Certificates of Occupancy and supported the formulation of Communal Land Associations under Customary Land tenure system
- The Ministry of Lands, Housing and Urban Development developed the National Physical Development Plan. Subsequently, Regional Physical Development Plans for the Albertine Region and Northern Economic Corridor were also developed. A number of districts; Cities; municipalities and lower Local Governments have been supported to develop physical development Plans. Due to the high cost involved in the Conventionally Physical Planning method, the Rapid Physical Planning Appraisal (RAPPA) has been adopted to prepare physical development plans to reduce ton time and costs involved. Physical Planning facilitates orderly development and provides spaces for social services development which is accessible to the women and other vulnerable groups.
- The Ministry has a Gender Committee with representation from various departments and a designated gender focal person. The committee is responsible for overseeing and

mainstreaming gender issues in the interventions by the Ministry. The Gender Committee also reviews and ascertains the gender responsiveness of its policies, strategies and interventions.

- The Ministry has in place a sector-wide M&E framework which provides the basis for generating gender disaggregated data to support its planning and implementation of programs. It has had access to and benefited from the feedback, capacity building and technical back-stopping provided by the Equal Opportunities Commission, UBOS, Ministry of Gender, Labour and Social development and UN Women. With support from Uganda Bureau of Statistics, the Ministry has developed Sector Strategic Plan for Statistics, Gender Profiles for Statistics for the Ministry with the aim of increasing production, generation and dissemination of Sector Statistics.
- The Ministry has also registered improvements in gender and equity responsive planning and budgeting. The Ministry has registered a gradual positive trend in its Ministerial Policy Statements assessments over years.

**Table 5: Compliance Level to Gender and Equity Requirements 2016/17-2021/22**

Vote/Sector	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22
Ministerial Policy Statement	57	70	70	69	77.8	70
Sector BFPs	45	71	53	32	69.8	
<b>Programme BFP Compliance level to G&amp;E Requirements</b>						
Sustainable Urbanisation and Housing Programme						63
Natural Resources, Environment, Climate Change, Land and Water						76

**Source: MLHUD, 2021**

- Ministry Staff structure: Of the 476 staff on Permanent basis in the Ministry of Lands, Housing and Urban Development, approximately 46% are female and 54% are male. This shows progress in female staff establishment in the Ministry.

**Table 6: MLHUD Permanent staff**

Sex	Number	Percentage
Male	255	54%
Female	221	46%
<b>TOTAL</b>	<b>476</b>	<b>100%</b>

**MLHUD, 2021**

## 2.6 Challenges

- ❖ Uganda is largely a patriarchal society and thus gender issues are often reduced to women desiring to upset the balance of the acceptable status quo and thus gender developments are ignored.
- ❖ Low economic capacity of women to own land in their own right through purchase. Women are mostly employed in the informal sector or burden with the largest percentage of domestic work curtails women's access to finances necessary for the acquisition of land rights and ownership.
- ❖ Influence of norms, customs, traditions and practices: The influence of culture cannot be ignored especially where some cultures consider women to be chattels incapable of owning land. Further land is passed on to the women through males in their families or husbands.
- ❖ Limited gender disaggregate data on Land ownership to determine the extent of Gaps and to inform policy making
- ❖ Obsolete laws of land Administration and Management. These include; The Survey Act, the Registration of Titles Act, Land Acquisition Act among others

## 2.7 Recommendations

### 2.7.1 *Legal and Institutional recommendations*

- d) Support development and/or review of the Policy, Legal and Institutional Frameworks in order to increase responsiveness to Gender SOPs in Land Administration. These include the review of the Land Acquisition Act, finalization of the National Land Acquisition; Land Act, Resettlement and Rehabilitation Policy and Marriage and Divorce Bill.

In addition, these policies and laws will be harmonized to ensure that they are mutually reinforcing in their efforts to respect, protect and fulfil women's rights to land, including in relation to the specific areas covered in this section (e.g. land titling and registration, and access to loans and credits services)

The Marriage and Divorce Bill will take into consideration the status of women in customary or de facto unions and ensure that they enjoy the same property and inheritance rights as women married under civil law.

Land Act/Regulations should be amended to make a provision for joint tenancy or presumption of joint ownership in cases of family land. Matrimonial Land registration should be in the names of couples rather than individuals. This will protect women's land rights on Matrimonial Property.

- e) Implement the Women's Land Rights Agenda and the Gender Strategy for National Land Policy Implementation
- f) Adopt gender tools and methods for monitoring and Evaluation of Sector Activities. This will involve; review of the data collection tools, indicators and ensuring periodic data collection, analysis and information dissemination
- g) Fast track the completion and implementation of Guidelines for Informal Justice Institutions which address harmonization of formal and informal justice institutions.
- h) Fast track the National Legal Aid Bill, 2020.
- i) Strengthen formal and informal justice structures to expeditiously address land disputes
- j) Develop Guidelines for Gender Mainstreaming in Land Administration. The guidelines should guide the development of interventions and projects. The guidelines should provide guidance on Gender mainstreaming at of these basic stages of a project cycle/intervention;
- Problem Identification
  - Project Formulation/Design

- Implementation
- Monitoring and Evaluation

### **2.7.2 Other recommendations**

- d) Affirmative action finance using support of development partners to facilitate acquisition, Land registration and documentation of land rights for women.
- e) Development of capacity of land administration actors on gender matters
- f) Sensitization on gender awareness to relevant stakeholders including the state and non-state actors like the Civil Society Organization.
- g) Ascertainment of political commitment or support from top leadership so as to translate the law into a political reality.
- h) supporting the collection of data on gender inclusion indicators in land administration for progressive improvement in targeting/creation of a Gender Data Bank

### **2.8 Lessons Learnt**

- a) The major way of ensuring sustainable gender equity and gender-related impacts are training, education, information, and awareness.
- b) Mobilization and sensitization programs on land should target both men and women, but also allow for separate women-oriented sessions to create a neutral environment.
- c) Whereas there has deliberate efforts in the formulation of land policies and legislation of ensuring gender-responsive language and analysis, the assumption that the entire household would benefit equally from Government interventions when the household head was given land was a misconception. Thus, Government designed Policies, programmes and interventions geared towards enhancing women's rights to land as highlighted in the recent reform processes.
- d) Women are not homogeneous; Even amongst women groups, there exists various categories. These include: The Persons with Disabilities, the youth, the poor among others. In additions to be being under privileged as a result of being women, there situation is worsening by the extra inabilities that exist in their ways of life hence escalating their inability to access, own and utilize land. Government targeted programmes are now skewed to cater for all these categories of individuals.

### **2.9 Issues for Further research and Discussion**

A number of issues require more research and discussion and these include:



- 1) Few or none of the African countries collect gender-disaggregated data. Gender-disaggregated data is more than the number of titles bearing women's names; the data needs to capture the actual situations within the household and within the community. How can we therefore empower African States to collect gender-disaggregated data in order to inform policy formulation?
- 2) Local mediation of disputes by clan heads trained on gender sensitivity to minimize injustice; or even for special consideration to be given to women in judicial decisions during divorce as is the case in Kenya where domestic labour is quantified and considered contribution to development of marital homes in absence of strong supporting documents showing women's co-ownership of matrimonial property.
- 3) Pooling of labour and resources to support asset building; Land fund purposes could be expanded to support acquisition of land by women in rural and more impoverished areas as is the case with lawful and bonafide occupants.
- 4) Multi- sectoral interventions with regard to promotion of women's economic empowerment such that they may access resources to acquire legal and property rights

## GENDER MAINSTREAMING SOPS

### 3.1 Introduction

This section presents the proposed Gender Mainstreaming Standard Operating Procedures in Land Administration for Uganda.

Gender disparities with regard to land and other productive resources in many Ugandan communities is still linked to assumptions that men, as heads of the household, will control and manage land. In addition, there still exists implicitly reflecting ideas that women are incapable of managing productive resources such as land effectively, that productive resources given to women are “lost to another family” in the event of marriage, divorce or (male) death, and that men will provide for women’s financial security. Challenging these discriminatory ideas is critical and thus, the Ministry shall ensure that these SOPs are implemented and the following measures undertaken:

- a) Develop gender sensitive Mobilization, Sensitization and Training Manuals for all land related activities and undertake training of all Land Management Institutions and stakeholders in order to create awareness on Gender in Land Administration.
- b) Encourage cultural, traditional, customary and religious leaders to raise awareness within their own communities about women’s rights to land and other productive resources.
- a) At Ministry Zonal Office level, the Ministry will ensure the joint administration of marital property, particularly as related to immovable property, and ensure that clear consent requirements are in place for the transfer or sale of such property, requiring the informed written consent of spouses.

Therefore, the proposed SOPs recognise that women and men in the community are a heterogeneous group and thus any interventions put in place such as mobilization, sensitization and registration programs on land matters shall take into account this heterogeneity in order to achieve meaningful and substantive equality and equity.

### 3.2 Customary Land Tenure SOPs

- b) Women from marginalized groups, such as indigenous women, women living with or affected by HIV, women with disabilities and minority women, widows, have equal access to land and other productive resources as other women.
- c) Through the customary land registration programs (SLAAC, issuance of CCOs, formalization and registration of CLAs), the Ministry will ensure and recognize the default joint titling/joint registration of land, housing and property as well as productive resources, and ensure that married women and unmarried women alike are able to benefit equally from titling and registration programmes.

**Step 1:** Pay a fee of UGX. 5000 and Obtain Land Form 1 from the Sub county and /return filled in Land Form 1.

- *In case of Family land, all members including women and men, girls and boys from the various generations must record their names. An extra sheet is provided if they are more than 5 members. The Register Book should capture the names, sex, year, age, National Identification Number (NIN)*
- *In case of a Communal Land Association, in order to qualify to have a claim in interest, your name must be in the Communal Land Register Book which captures the names, sex, year, age, National Identification Number (NIN)*
- *All categories of women who are entitled to register for Claim of Interest for the Customary Land include: married women, divorced women, widows, unmarried women, barren women, Persons with Disability, Absentee Women, female youth & girl children among others*
- *Where an applicant has filed for use or occupation of the land as housing or family dwelling then the applicants must hold the land as a Family*

**Step 2:** Issue a public notice on Land Form 9

- *This is intended to inform the whole world of an impending registration so that whoever has an interest including women must attend the meeting.*
- *The location where the notice is put should be convenient for all persons including women*
- *Translations of the notice shall be emphasized as a good practice in order to assist women understand more.*

**Step 3:** Check Compliance with physical planning and produce a report/recommendation and thereafter submit the report/recommendation to the ALC

- *The common property resources that are mostly used by women must be recognised, clearly stated and mapped out*
- *The issue of access roads to these common property resources during physical planning must consider the shortest distances for example distance to access a well, market and also social amenities. This would resolve most of the women's practical gender needs.*

**Step 4:** Inspect the land

- *If disputed – Mediate*
- *If not Resolved - Refer*
- *If Resolved – Agree on boundaries and fill in Land Form 23*

*The public hearings to resolve land disputes must give opportunity to women to air their views and concerns on both issues of ownership and land use. It is important to have female mediators to provide women with options.*

**Step 5:** Write an inspection report and Fill in Land Form 1 Part B and allocate a portion number and Submit application which includes;

- *Form 1*

- *Form 9,*
- *Form 23,*
- *Physical planning Report/ Recommendation*
- *ALC inspection report,*
- *Photocopy of the national identity card,*
- *Passport photographs,*
- *Photocopy of payment receipts and*
- *And digital printout of the parcel with the coordinates*
- *Copy of the Area Land Committee minutes*

**Step 6:** Checks for Compliance and submit to the District Physical Planning Committee  
Issue a minute approving or deferring the application

- *If deferred, return to the District Land Officer (DLO)*

**Step 7:** If approved, return to DLO; Land officer technical compliance and submits to the District Land Board

- *Issue a minute approving or rejecting or differing*
- *If deferred give reasons and return to DLO; Return application to ALC*
- *If rejected give reasons for rejection to the applicant.*
- *If approved issue a minute of approval and communicate the decision to the Recorder*

*DLO checks to ensure that wherever family land has been mentioned, it has been registered with all the names of family members listed.*

**Step 8:** Land Officer forwards the application with the minutes to the Recorder. Acknowledge receipt of the application and send it to DLB

- *Lodge the application*
- *Fill in the Abstract book*
- *Create a CLIN (using a portion Number and the UBOS codes)*
- *Fill in the CLIN Allocation Book*
- *Print two copies of CCO*
- *Sign and Seal the CCO*
- *Complete the recordation by signing the Memorandum*
- *Fill in the CCO Register of Certificates*

*The District Land Board must ensure that all names as recommended by the Area Land Committee are included in the Minute number listing the owners of the land and acreage.*

**Step 9:** Pay 5000/= to the sub- Accountant. Present a receipt to the recorder

**Step 10:** Signs in the Customary Certificate of Ownership (CCO). Register in the Register Book acknowledging receipt of the CCO. Issue the CCO to the applicant. Files the parcel file in the Sub-County CCO registry

- *Women are encouraged to come and sign for the CCO at the Sub-county*
- *Women must have a tutorial on the benefits of having a CCO*

### 3.3 Freehold Land Tenure SOPs

- c) The Ministry will ensure that titling and registration programmes are accompanied by effective awareness-raising initiatives aimed at educating women and men about women's rights to access, use and control over land and other productive resources.
- d) Through the Systematic Land Adjudication and Certification (SLAAC) Program, the Ministry will ensure that women's equal right to access, use and control productive resources, including land, is specifically recognized (including equal rights with men with respect to the acquisition, administration, control, use and transfer of land).

**Step 1:** Pick a copy of Land form 4 from the District Land Office or Area Land Committee or download it directly from the Ministry website and fill it in triplicate: Application for conversion from customary tenure to freehold tenure/ grant of freehold. Attach 4 passport photos and submit to the ALC after paying the required fees.

- *Women are encouraged to register their land both as individuals or jointly*
- *Women should attach their passport photographs,*
- *Submissions should include; the location, address, mobile phone numbers and NIN*

**Step 2:** Area Land Committee receives the application and issues a notice for a public hearing using Land Form 10

- *A copy of the notice must be placed in venues where women have access to in order to enable them participate in the public hearing*
- *Women considerations should be given adequate attention during the public hearings*
- *Meetings must be present to ascertain and confirm boundaries as owners, neighbors and/or interested parties*

**Step 3:** ALC visits the site and together with neighbors fill in and sign the Demarcation Form 23. The ALC also compiles an Inspection report and submits the documents to the District Land Office.

- *Traditional institutions representatives are encouraged participate in the inspection*
- *The public hearings to resolve land disputes must give opportunity to women to air their views and concerns on both issues of ownership and land use*
- *It is important to have female mediators or legal aid service providers to provide women with guidance.*

**Step 4:** The ALC submits its findings to the District Land Board, then the Board forwards the findings the Ministry Zonal Office to issue an Instruction to Survey (IS). After survey, a Job Record Jacket (JRJ) is processed and submitted to the Board.

**Step 5:** The District Physical Planner together with the Lower PPC reviews the applications and submits them to the District Physical Planning Committee for approval based on compliance with Physical Planning requirements and protection of common property resources, easements and rights of way.

**Step 6:** The District Land Office prepares a technical report and forwards it to the District Land Board for approval. Thereafter, Form 19, the Freehold Offer is prepared and forwarded to the MZO for preparation of the Land title.

- *The DLO should review to ensure compliance with applications regarding family land*
- *In case of Communal Land Associations (CLAs), a decision must be attached from majority members approving the transaction by the Managing Committee.*

**Step 7:** The MZO receives the following: Completed Land forms 4,10,19 and 23; ALC inspection report; District Land Office technical report; Passport Photo's; Forwarding letter requesting for a Freehold title.

**Step 8:** In return, the client is issued with an Acknowledgement Note and informed when to come back. All incoming transaction documents are scanned, reviewed and validated; thereafter lodgment is automatically done by the system and forwarded to the Registrar of Titles for passing, signing and sealing. The title is then passed on to the Delivery Clerk for collection by the Client

- *The Registration process must reflect on the family land titles, the requirement of consent while transacting on such land. This should be indicated in the Conditions, Restrictions and limitations Section.*

### **3.4 Leasehold Land Tenure SOPs**

**Step 1:** Pick a copy of form 8 from the District Land Office or Area Land Committee or download it directly from the Ministry website and fill it in: Application for a leasehold. Attach 4 passport photos and submit to the ALC after paying the required fees.

- *Women are encouraged to apply for leasehold titles*

**Step 2:** Area Land Committee receives the application and issues a notice for a public hearing using Land Form 10. ALC visits the site and together with neighbors fill and sign the Demarcation Form 23. The ALC also compiles an inspection report and submits the documents to the District Land Office.

- *Women must be present in meetings to ascertain and confirm boundaries as owners, neighbors and/or interested parties*

**Step 3:** The District Physical Planner together with the Lower PPC reviews the applications and submits them to the District Physical Planning Committee for approval based on compliance with Physical Planning requirements and protection of common property resources, easements and right of way.

**Step 4:** The District Land Office prepares a technical report and forwards it to the District Land Board for approval. Thereafter, Form 18, the Lease Offer is prepared and forwarded to the MZO for preparation of the Land title.

**Step 5:** The MZO receives the following: Completed Land forms 8,10,18 and 23; ALC inspection report; District Land Office technical report; Passport Photo's; Forwarding letter; and Receipt of payment of application fees, premium and Ground rent.

- *The MZO ensures that the common property resources, easements and rights of way used by women are encumbered*

**Step 6:** In return, the client is issued with an Acknowledgement Note and informed when to come back.

**Step 7:** All incoming transaction documents are scanned, reviewed and validated; thereafter lodgment is automatically done by the system and forwarded to the Registrar of Titles for passing, signing and sealing. The title is then passed on to the Delivery Clerk for collection by the Client.

- *The Registration process must reflect on the family land titles, the requirement for consent while transacting on such land. This should be indicated on the Conditions, Restrictions and limitations Section.*

### 3.5 Mailo Land Tenure SOPs

#### A. Procedure for Transferring on Mailo Land

**Step 1:** Pick a copy of Form 6 from the District Land Office or download it directly from the Ministry's website and fill in Transfer and consent form. Attach passport photos of buyer and seller on the Transfer and Consent Form and submit to MZO for assessment of 1.5% stamp duty payable to URA

- *If women have ownership rights in their own right or joint ownership rights, then their names, national identity cards and passport photographs must appear.*

**Step 2:** Submit to the MZO the transfer form and receipts of payment. In return, the client is issued with an Acknowledgement Note and told when to come back.

**Step 3:** All incoming transaction documents are scanned, reviewed and validated; thereafter lodgment is automatically done by the system and forwarded to the Registrar of Titles for passing, signing and sealing.

**Step 4:** The title is then passed on to the Delivery Clerk for collection by the Client.



## **B. The Procedure for Acquiring a Certificate of Occupancy**

Under the Mailo land tenure, the Ministry of Lands, Housing and Urban Development started on the process of implementing the Provisions in the Land Act of issuing Certificate of Occupancy for tenants on Mailo Land.

**Step 1:** Pay Busulu to your Land Lord and be issued with a receipt

- *The names of the women must appear on the Busulu Receipt*

**Step 2:** Pick a copy of form 2 from the District Land Office or download it directly from the Ministry's website and fill in 4 copies.

**Step 3:** Submit the forms and a photocopy of your current Busulu receipt to the registered owner for filling in and onward transmission to the Area Land Committee to determine, verify and demarcate the boundaries of the Kibanja on form 24.

- *Women must attach their National Identity Cards to confirm their citizenship*

**Step 4:** The Area Land Committee appoints a day - being not less than three weeks and not more than three months from the date of the receipt of the application - when it shall meet at the place where the kibanja is situated to determine, verify and adjudicate the boundaries of the kibanja on the registered mailoland.

- *Women and their children should participate in confirming of the mapping exercise on the Registered Land*

**Step 5:** The Landlord grants consent to the applicant for a certificate of occupancy in Form 2 specified in the First Schedule to these Regulations within six weeks after receiving the decision of the committee on the boundaries of the land occupied by the tenant by occupancy.

- *In case of disputes, women should be provided with information on mediation by female mediators or Legal Aid Service providers*

**Step 6:** The application is submitted to the District Land Board, which forwards it to the Recorder for issuance of a Certificate of Occupancy to the tenant by occupancy.

**Step 7:** The tenant by occupancy is issued with a certificate of occupancy by the recorder, who also notifies the registrar of titles of the issuance of a certificate of occupancy. Every such certificate is notified as an encumbrance on the Mailo certificate of title of the owner of the land.

### Procedure for acquiring a Certificate of Customary Ownership (CCO)

Steps	Responsible office	Task to be undertaken by Women	To/From	Duration (Days)
Step 1	Applicant	Pay a fee	Sub-accountant	1
	Sub- Accountant	Issue a receipt	Applicant	1
	Applicant	Obtains Land Form 1	Chairperson Area Land Committee	1
	ALC Chairman	Provide Land Form 1	Applicant	1
	Applicant	Fill in Land Form 1 (Part A)		1
	Applicant	Submit/return filled in Land Form 1	Chairperson Area Land Committee	1
Step 2	Chairman ALC	Issue a public notice on Land Form 9	Community	14 days (two weeks)
	LPPC	Check Compliance with physical planning and produce a report/ recommendation		1
	LPPC	Submit the report/recommendation to the ALC	Area Land Committee	1
	ALC	Inspect the land		1
A	ALC	If disputed -Mediate		
B	ALC	Mediate		
C	ALC	If not resolved-Refer	Traditional institution or LCII Court	
D	ALC	If Resolved-Demarcate		1
Step 3	ALC	Demarcate the land, fill in Land Form 23		1
	ALC	Write an inspection report and Fill in Land Form 1 Part B and allocate a portion number		
Step 4	ALC	Submit application which includes i)Form 1 ii) Form 9,	Land Office	1

Steps	Responsible office	Task to be undertaken by Women	To/From	Duration (Days)
		iii) Form 23, iv) Physical planning Report/ Recommendation v) ALC inspection report, vi) Photocopy of the national identity card, vii) Passport photographs, viii) Photocopy of payment receipts and ix) And digital printout of the parcel with the coordinates x) Copy of the ALC minutes		
	Physical Planner	Checks for Compliance and submit to the DPPC	DPPC	1
	DPPC	Issue a minute approving or deferring the application		1
		If deferred, return to the DLO	DLO	1
		If approved, return to DLO	DLO	1
	DLO	Land officer technical compliance and submits to the DLB	DLB	1
	DLB	Issue a minute approving or rejecting or differing		1
		If deferred give reasons and return to DLO	DLO	1
	DLO	Return application to ALC	ALC	1
		If rejected give reasons for rejection to the applicant.	Applicant	1
	DLB	If approved issue a minute of approval and communicate the decision to the Recorder	Recorder	1
	LO	Land Officer forwards the application with the minutes to the Recorder	Recorder	1

Steps	Responsible office	Task to be undertaken by Women	To/From	Duration (Days)
	Recorder	Acknowledge receipt of the application and send it to DLB	DLB	1
	Recorder	<ol style="list-style-type: none"> <li>1. Lodge the application</li> <li>2. Fill in the Abstract book</li> <li>3. Create a CLIN (using a portion Number and the UBOS codes)</li> <li>4. Fill in the CLIN Allocation Book</li> <li>5. Print two copies of CCO</li> <li>6. Sign and Seal the CCO</li> <li>7. Complete the recordation by signing the Memorandum</li> <li>8. Fill in the CCO Register of Certificates</li> </ol>		5
	Applicant	Pay 5000/= to the sub- Accountant	Sub- Accountant	1
	Applicant	Present a receipt to the recorder	Recorder	1
	Applicant	Signs in the CCO Register book acknowledging receipt of the CCO	Applicant	1
	Recorder	Issue the CCO to the applicant	Applicant	1
	Recorder	Files the parcel file in the Sub-County CCO registry		1

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