

NATIONAL GENDER ASSESSMENT OF THE LAND SECTOR



PEACE, PROSPERITY AND REGIONAL INTEGRATION



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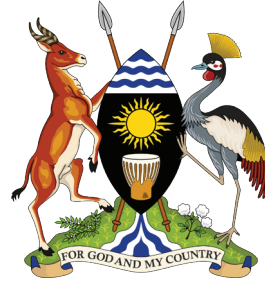
This Gender assessment of the land sector in Uganda was commissioned by IGAD under its Improving Land Governance in IGAD Member States project as envisaged in its Business Plan (2019 – 2023). The assessment was done to generate evidence which supports IGAD's programs as it carries out its facilitative role in increasing awareness and the capacities of IGAD Member States. to address barriers to women's land rights and promote and safeguard their voice and participation in decision making on land. The assessment examined a broad range of components which constitute Uganda's land sector, with specific attention paid to its legal and policy frameworks and its institutional arrangements for land governance and administration.

This assessment was undertaken through an inclusive and participatory process involving key stakeholders in the land sector at the national level. It was done through an extensive review of official land sector documents and publications and relevant primary and secondary data accessed largely through internet search. The first draft of the outcome of the review was a Draft Background Document which was reviewed and feedback incorporated and used to refine subsequent drafts. The refined draft of the document was presented at a National Validation Workshop attended by key stakeholders in the land sector in Uganda including land and gender subject matter specialists from the Ministries of Lands Housing and Urban Development, Gender, Labour and Social Development, the Justice Law and Order Sector, Development Partners and national and international Civil Society Organizations. Feedback from the Validation Workshop also informed the writing of this Final Gender Assessment Report.

The final outcome of this assessment would not have been possible without the support and input of all stakeholders whose contribution is hereby acknowledged. Specific appreciation is extended to the IGAD Land Governance Unit team: Ms Esther Obaikol, Coordinator of the Land Governance Unit and Ms Joselyn Bigirwa, the Gender and Land Expert for their overall guidance, supervision and technical backstopping. The Gender Focal Point in the Ministry of Lands Housing and Urban Development, Ms Grace Murengezi, Principal Economist, who was outgoing Gender Focal Point, and Ms Peace Nabakembo, Senior Policy Analyst and in-coming Gender Focal Point, provided invaluable support in organizing internal consultations and the holding of the Validation Workshop.

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While the final product of this Gender Assessment was informed by the insights gained from the above wide range of stakeholders the author takes full responsibility for the views, analysis and final contents of this Report.



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Uganda



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EXECUTIVE SUMMARY

a) Overview

Uganda's 1995 Constitution set the country on an unprecedented governance path because of its explicit provisions on gender equality and women's rights, its declaration that land belongs to the citizens of Uganda, and its provisions for a participatory, decentralized system of government. Two and a half decades later, Uganda has undertaken various legal, policy, and institutional reforms that have created an enabling environment for deepening and even accelerating its efforts to reduce gender gaps in land, one of the areas where structural causes of gender inequality are deeply embedded. This gender assessment was undertaken to establish the current status of gender issues in land in light of Uganda's evolving policy reform processes to realize its national development aspirations towards becoming a modern middle-income country by 2040.

The importance of gender and land issues in the Ugandan context stems from the fact that a large proportion of the country's population is still heavily dependent on land as a productive resource to sustain their livelihoods. Women's access to land is especially important because they make up an even higher percentage of land users, and yet they have the weakest rights of access and control of land. This situation for women is further compounded by the fact that they play a central role in rural economies, generally, and in food production, specifically, and yet their decision making on the use of land where they invest their most productive labor is minimal.

Uganda has registered some progress in its efforts to give effect to the various Constitutional provisions, including its provisions on gender equality and women's land rights. Land policy reform processes have sought to achieve these through the existing land tenure systems, which are steeped in traditional norms and practices on the basis of which the land rights of women and girls are determined and regulated. Even though these processes have resulted in a wide array of legal and policy instruments, their impact on significantly reducing gender gaps in access, control, and ownership of land and associated benefits and opportunities are discernible but quite modest.

The change in narrowing gender gaps and promoting women's empowerment in Uganda is slow despite its enabling policy environment. The importance of accelerating these changes is an area of focus over the next five years of NDP III, which expects to enlist significant structural transformations in Uganda's socio-economic structures in order to accelerate its pace of development towards Vision 2040. The changes envisaged by NDP III cannot be achieved without addressing gender issues in the land sector.

This gender assessment has highlighted some of the key areas that have to be addressed in order to register more substantive changes to narrow current gender gaps in Uganda's land sector.

b) Status of gender and land – why the persistent challenges

- Gender inequality in ownership, control, and access to land under all tenure systems;
- Inadequate protection and enforcement of statutory provisions and guaranteed land rights to women under customary tenure;
- Policy ambiguity and lack of explicit support to women's land rights for food production, which still caters for at least a half of the food consumed by the majority of households in Uganda;
- Policy ambiguity and lack of explicit strategy to address current challenges faced by women in land-scarce areas, conflict, and post-conflict situations, or refugee women and internally displaced communities to access land for food production;
- High prevalence of gender-based violence associated with women's unequal and limited control over land and property and the pervasive high tolerance level of this violence as a result of traditions and norms associated with male authority over land and property;
- Gender gaps in economic participation including access to land for investment and affordable finances.

c) Existing land related legal and policy frameworks with key gender equality provisions

The range of legal and policy instruments which Uganda currently has in place have provisions for gender equality to cover the following gender-specific key elements: a) Elimination of gender-based discrimination in the Constitution, b) Recognition of women's legal capacity, c) Gender equality of rights with respect to Nationality, d) Gender equality in property rights, e) Gender equality in inheritance, e) Gender-equitable implementation, dispute resolution mechanisms and access to justice, and f) Women's participation in national and local institutions enforcing land legislation.

Slow or inadequate enforcement and implementation of existing enabling legal and policy instruments for a variety of reasons, including but not limited to sensitivity to cultural norms and traditions associated with women's rights to land, has slowed down the realization of greater gender equality in the land sector.

d) From policy to practice – promoting gender equality in land matters

Institutional opportunities

The MLHUD, as the agency responsible for the land sector, has undertaken steps to:

1. enforce the constitutional 1/3 minimum representation by women on land governance structures at all levels,
2. initiated new legislation and taken measures to enforce existing statutory provisions for women's land rights, and
3. collaborated with other institutions to mainstream gender-specific interventions

Key institutional gaps and challenges

Even though the strategies so far adopted have resulted in many positive achievements, they have not coalesced into substantive reductions in gender gaps within the land sector nor led to significant transformations in the overall culture of land governance institutions. This has curtailed institutional responses to more challenging and complex gender issues as they have emerged over time. The fact that gender issues in

the land sector have also tended to be viewed as "add-ons" to other land sector programs has also greatly limited the capacity of the land sector to design and implement strategies that build on initial successful interventions.

The Ministry' recently launched a Gender Strategy for the implementation of the Land Policy. It presents an important starting point for a robust, sector-wide Gender Mainstreaming Strategy, based on an analysis of gender issues as they manifest themselves across the different components that make up the land sector. It also establishes baseline information, identifies strategic gender mainstreaming actions and entry-points, and sets benchmarks to be monitored for desired gender-specific impacts and results in the short, medium, and long term. A comprehensive assessment of the institutional capacity for the effective implementation of a Gender Mainstreaming Strategy will be essential in this regard.

e) Gender opportunities, gaps, and challenges in land sector service delivery

Women's leadership and participation in land governance reforms and land use planning

Uganda's land governance, use, and planning have evolved over time, creating an enabling environment in which gender equality and equity in land governance and land use planning can be pursued and realized. Many opportunities also exist for strengthening capacities for gender analysis and mainstreaming in all sectors, including the land. This provides opportunities for enhancing the participation of women in land governance and land use planning reforms and increasing the pace for reducing gender gaps in the land sector in all the tenure systems through strategic policy interventions.

New strategies for promoting gender equality in the land sector will also build on the progress already made, including the current implementation of the mandatory 1/3 representation of women on land governance institutions and the land sector's positive gains due to its involvement in gender and equity budgeting processes. The recent expansion of efforts to formalize the registration of Communal Land Associations and issuance of CCOs have also dramatically increased the participation of women both as members of CLAs and as registered landholders of CCOs.

Gender and Land conflict resolution mechanisms

Dispute resolution mechanisms are an integral part of land governance and have significant implications for securing equitable access to justice in the administration of land rights.

Even though the 1995 Constitution provided for the enactment of a law to establish land tribunals, these have not taken off for various reasons. Local council courts for every village, parish, town, division, and sub-county, as provided for by the Local Council Courts Act 2006, stalled for a while due to LCI Councils not being elected but are now in place following these elections in 2018. However, their coming into place has just made them one of many institutions involved in resolving land disputes at the local level.

This has meant that multiple dispute resolution institutions co-exist at the local with no clear coordination mechanisms and created uncertainty and an atmosphere in which violations of the land and human rights of women, children, and other vulnerable groups is rampant, with their situation being more dire in post-conflict situations across the country and in communities which are experiencing high demand for land to accommodate large scale national investments projects.

Gender and Land-based investment

Land is essential for any meaningful investment beyond the subsistence level to occur. The fact that gender is a key determinant of how land is accessed and controlled in Uganda means that the constraints women face in their access to and control over land extend to their ability to invest in land. Land-based investments by women, therefore, vary and range from the very small to medium and large scale enterprises, encompassing investments a variety of enterprises which at the initial stage may be in the typical activities in which women dominate but also expanding beyond these into what are not typically women known to be women's" enterprises. A key factor in enabling all women to invest in whatever enterprise they engage in is their secure access to land and the autonomy they are able to exercise in determining the investment and controlling its outcomes.

Women face gender-specific challenges which inhibit their capacities to expand the investments they may have on land. These include an insufficient

understanding and biases, which leads to policy distortions resulting in policy support interventions by-passing women entrepreneurs, women's lack of access to affordable capital to expand enterprises, women's low education levels compounded by their more limited mobility and exposure which leads to their inability to access information and take advantage of available opportunities for affordable credit to invest and expand their enterprises.

Gender, Land, Property, and Housing

Uganda has in place a Housing Policy that has set a goal of increasing Uganda's stock of adequate housing from 60,000 to 200,000 per annum the national housing need by 2022. The policy commits the government to create an enabling environment to stimulate increased investments in the housing sector. Like any other area of investment, the potential for most women engaging in housing and property development as an area of investment is constrained by the same challenges they face in their secure access, ownership, and control of land. This means that even though the Housing Policy itself is gender-neutral, it is, in fact, distinctly biased against the ability of the majority of women to invest in housing and property development.

Creating an enabling environment for women investors in housing, therefore, requires an explicit acknowledgment of the gender gaps in land rights and specific strategies aimed at creating a conducive environment and incentives to attract women investors in the housing and property development sector.

NDP III framework as an opportunity for gendered and results-oriented action

NDP III focuses on inclusive and sustainable growth, increasing household incomes, reducing the number of households trapped in subsistence production, and promotion of value addition and linkages through the value chain of small-, micro-and medium-scale enterprises, NDP III is designed as a framework through which concrete actions will be undertaken to achieve concrete development results.

The areas where women and youth can be directly involved to achieve the desired results include efforts to achieve: a) reduced poverty rates from 21.4% to 18.87%, b) increased growth of the agricultural sector from 3.8% to 7%, c) reduction in the percentage of households dependent on subsistence agriculture as

the main source of livelihood from 68.9% to 55%, d) 513,000 annual jobs created to provide employment for youth, and e) reduced youth unemployment as a result of an increase in jobs created from 12.3% to 9.7%.

The action- and results-oriented nature of the NDP III framework is expected to be the mechanism through which Uganda will accelerate the achievement of its national Vision 2040, regional Agenda 2063, and its global SDGs commitments by 2030. This alignment with other development frameworks is critical for Uganda to leverage the opportunities that exist for resource mobilization to achieve shared regional and global time-bound development targets.

f) Priority recommendations to enhance gender equality in land governance

Gender and land key issues and trends

- Consolidate current initiatives to promote gender and women's land rights as the baseline for a coherent sector-wide strategy with benchmarks progress in promoting gender equality in access, ownership, and control of land across the four tenure systems in the short, medium, and land term;
- Re-align the land sector's strategies, programs, and investment plans to contribute towards achieving NDP III results,
- Set gender-specific baseline information, benchmarks, and desired outcomes to be achieved in the short, medium, and long term within the context of NDP III objectives, which are also aligned to SDG targets.
- Secure women's rights to land for food production, common property environmental resources, and public urban spaces.

Gender opportunities in land sector service delivery

- Support women's land rights in access, control, and ownership of land for their small, micro, and medium scale investments, especially in the informal sector;
- Create a supportive and enabling environment and provide incentives for women entrepreneurs

to take advantage of the opportunities which exist in the current policy emphasis on promoting decent housing and property development.

Land related legal and policy frameworks

Ratification of human rights instruments CEDAW, ACHPR, and the Maputo Protocol

- Scale-up implementation, raise awareness, allocate adequate resources, increase awareness and provide timely reporting to the CEDAW, ACHPR, and the Maputo Protocol;
- Implement CEDAW Committee recommendations at the national level;

Elimination of gender-based discrimination in the Constitution

- Increase coordination among actors in preventing and responding to GBV
- Increase public resource allocation to priority sectors for women, which include: Health, Education, and Agriculture, among others
- Increase awareness of non-progressive cultural norms and practices in communities.
- Conduct a nationwide assessment of the Land Acquisition Bill and Customary Land Titling processes; and their impact on women and vulnerable communities.
- Harmonize the Sharia law provisions, which still contradict legal frameworks.
- Apply provisions for affirmative action to promote the rights of women and girls, especially for household food production
- Government should implement the recommendations of the various Commissions of Inquiry in land management to promote justice for vulnerable communities.

Recognition of women's legal capacity

- Increase awareness of non-progressive cultural norms and practices in communities.

- Conduct a nationwide assessment of the Land Acquisition Bill and Customary Land Titling processes; and their impact on women and vulnerable communities.

Gender equality in property rights

- Implement existing legal and progressive legal frameworks
- Increase enforcement and awareness on spousal consent provisions under the law
- Courts of law should uphold compensation in joint land ownership and sale.

Gender equality in inheritance

- Subject to the enactment of proposals for law reform (Succession Amendment) Bill 2019
- Increase awareness of women and girls' land and property rights as part and parcel of their rights to economic and social justice.
- Subject to Parliament enacting the Succession Amendment Bill proposals in the distribution of matrimonial property
- Courts of law must uphold restrictions on land transfer by family members provided for by the Land Act.

Gender-equitable implementation, dispute resolution mechanisms, and access to justice

- Strengthen the capacities of district and sub-county land administration structures to ensure improved quality of services to women and vulnerable groups.
- Strengthen the implementation of existing progressive legal frameworks
- Strengthening the Justice Law and Order Sector to deliver justice to women and vulnerable groups is critical.
- The Judiciary, Courts of Law, LC 1 Courts capacities need to be strengthened to deliver justice for women and vulnerable groups;
- Reduce red tape and technicalities in land management with regards to common disputes faced by women and vulnerable groups, e.g., boundary opening and visiting the locus;

Women's participation in national and local institutions enforcing land legislation

- Strengthen implementation, capacity, quality, and effectiveness of women's participation at all levels.

INTRODUCTION

Agenda 2063 is Africa's shared vision and set of aspirations for 50 years of Africa's social, economic, and political transformation over 50 years through the concerted effort of its people, institutions, and governments. It provides a framework within which Africa's endowments represented in its people, history, cultures, natural resources, and institutions will be harnessed to effect inclusive and sustainable growth and development that benefits all Africans. Confidence that Africa's turn-around as the protagonist for its own development and actor on the global stage has occurred and that the aspirations contained in Agenda 2063 are achievable stems from the lessons drawn from the continent's history, its accumulated pan-African experiences, and initiatives such as NEPAD and APRM, and now evident increased capacities most especially of Africa's young population and the existence of well-functioning political, economic and development groupings (RECs) across Africa.

Agenda 2063 aspirations will be pursued in full recognition of the fact Africa's economies are still heavily dependent on agriculture and natural resources for significant proportions of their GDP, national food needs, incomes, and export revenue, and that land, as the principal source of livelihood and the basis for economic development will persist for the foreseeable future¹. Given this reality, the emergence of a regional vision and policy framework guidelines for regulation and management of land and natural resources to ensure their equitable and sustainable access by all land users in addition to their optimal exploitation to support national development efforts was an important step. The AU **Declaration on Land Issues and Challenges in Africa**², and the **Background Document on Land Policy in Africa: A framework to strengthen land rights, enhance productivity and secure livelihoods** and **Framework and Guidelines on Land Policy in Africa**³ represent this regional vision, analytical framework, and guidelines

to inform land policy formulation within the context of different national realities.

IGAD is implementing a project **Improving land governance in IGAD** under its **Business Plan (2019 - 2023)**. The project aims to facilitate the implementation of the AU Declaration on Land Issues and in accordance with Framework Guidelines. The project's specific focus is on **facilitating access to land and security of land rights for all land users, especially the vulnerable groups such as pastoralists, women, and youth**. IGAD commissioned this Gender assessment to generate evidence to support its roll-out of gender-responsive programs and reforms as it embarks on its land reform programs. The assessment considered different aspects of land governance to support IGAD's efforts to increase awareness and strengthen the capacities of member states to safeguard and promote women's rights, voice, and participation in decision making, increase the participation of grassroots women through movement-building in partnership with CSOs, and provide support and guidance to member states in developing and/or amending their land governance instruments.

This report presents the outcome of a broad gender assessment of the land sector in Uganda as one of the IGAD member states. The assessment was undertaken through an extensive review and gender analysis of primary and secondary data, official documents and publications, researches, and studies by different agencies, including CSOs and development partners, accessed predominantly through an internet search, including the IGAD land portal. Drafts of the report were reviewed with a team of subject matter specialists, and their feedback was incorporated in subsequent drafts. A revised draft was presented at a national validation workshop, and the feedback was incorporated into this final draft.

- 1 AU-ECA-AfDB Consortium, 2011: Background Document, Land Policy in Africa and Framework and Guidelines on Land Policy in Africa to Strengthen Land Rights, Enhance Productivity and Secure Livelihoods, p.1
- 2 Declaration on Land Issues and Challenges in Africa; Assembly/AU/Decl.I(XXIII) Rev.I
- 3 AU-ECA-AfDB Consortium, 2011: Background Document, Land Policy in Africa and Framework and Guidelines on Land Policy in Africa to Strengthen Land Rights, Enhance Productivity and Secure Livelihoods

The specific objectives of the gender assessment were to:

1. Assess the status of gender and land at the country level
2. Undertake an assessment on the protection of women's land rights in policy, legal, and action plans in the IGAD Member States; and
3. Build consensus around priority recommendations amongst key stakeholders that enhance gender equality in land governance at the country level.

This report is divided into five sections. Following this introduction, section 1 presents an overview of the land sector in Uganda, covering key issues and an overview

of the key actors and development partners, and land sector stakeholders. Section 2 presents an analysis of gender issues, relations, and land in Uganda. It highlights the significant trends regarding ownership, control, and access to land, women's customary and statutory land tenure rights, gender-based violence, economic participation, and the convergence of custom and modernity. Section 3 presents an overview of existing gender and land legal and policy frameworks highlighting women's rights to land provisions for gender equality. Section 4 presents an assessment of Uganda's efforts to move from policy analysis to practice and the institutional arrangements for addressing gender issues in the land sector. Section 5 presents the overall conclusions and recommendations based on all key assessment areas.



SECTION 1: OVERVIEW OF THE LAND SECTOR IN UGANDA

1.1 The importance of land and land rights for Uganda's development

Land is an essential resource for Uganda's social and economic development. Having secure land rights is an enabling factor for any individual to actively participate in the economy and development processes. Uganda's development is still largely dependent on agriculture and the exploitation of environmental and other natural resources to sustain livelihoods and to realize national development goals and objectives. Agriculture and livestock production in Uganda is still largely done at the subsistence level by smallholder farmers, the majority of who are women. Uganda also experiences challenges associated with increased pressure on land due to various reasons, including high population growth rates and limited employment opportunities outside the agriculture sector. Because the largest proportion of Uganda's landholding is also under the customary tenure system and tends to be unregistered also presents challenges.

Uganda's 1995 Constitution set the country on a new path in terms of its constitutional order, governance, and development. The Constitution initiated and has continued to provide the impetus for the evolving land sector policy and institutional reforms. The Constitution declared that land belongs to the citizens of Uganda (Article 237)⁴. It also provides a mandatory minimum representation of women in all public institutions, including land governance institutions at all levels. These provisions were further enhanced by the specific provisions for the protection and promotion of fundamental human rights (Chapter 4), its explicit recognition of the key role played by women in society (Objective XV), and women's rights to equal opportunities and the full and equal dignity of the person with men (Article 33). The Constitution also provided the

right to affirmative action in favor of women and other marginalized groups (Article 32).

Uganda has now had two and a half decades of policy reforms intended to give effect to the provisions of its new Constitution. This period has also overlapped with Africa-wide processes that have resulted not only in Agenda 2063 as a shared vision on Africa's new development trajectory but also the important role played by the land policy in pursuing its aspirations. Uganda has been an active participant in these processes and not only shared its own experiences for others to benefit from but also drawn from integrated new insights into its own policy formulation and reform processes.

1.2 NDP III – a nexus for Uganda's inclusive and sustainable growth

Uganda launched its Vision 2040 in 2010 at the country's national vision and agenda to becoming a middle-income country. Vision 2040 identifies land and land-based resources among the **fundamentals** required to support the national vision. Vision 2040 acknowledges the multiple needs which land as a resource serves and makes specific mention of the fact 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. Those disparities persist in access to and control over land, wage employment in non-agriculture sectors, sexual and gender-based violence, and household and community decision-making over land⁵.

In June 2020, Uganda launched its 3rd 5-year National Development Plan⁶ in the series of plans meant to guide sector policy plans and programs to achieve the objectives of Vision 2040. Thus the priorities and areas of focus set by NDP III are intended to guide policy

⁴ This bold declaration has been acclaimed by other countries which have hailed Uganda for being the first by an African country to do so (MLHUD: The Uganda National Land Policy, p 6).

⁵ Government of Uganda: Vision 2040, p. 96

⁶ Government of Uganda, 2020: Third National Development Plan (NDP III) 2020/21 – 2024/25

action for public sectors institutions over the next five years. The overall development goal to be realized over the NDP III period is **increased household incomes and improved quality of life of Ugandans** through **inclusive growth, employment, and sustainable wealth creation**. As a significant departure from previous NDPs, NDP III adopts a programmatic approach to its implementation, requiring different stakeholders to coordinate to contribute to achieving shared development objectives and outcomes. Regarding land and the land sector, NDP III emphasizes its improved use and management, which also encompasses the sustainable use of land-based natural resources, specifically water, wetlands, and forests.

NDP III's overall outlook has direct implications from a gender and land rights perspective as its intentions to transform subsistence production and modernize agriculture are closely linked to having secure access to land and to make decisions on the use of that land and the products which result from its use. Increased productivity in agriculture is also the basis for increased household income. The NDP III expects Government to pay attention to the informal sector, generally, but with the specific intention to support domestic firms small and medium enterprises to grow. They should also be enabled to access export markets and opens up opportunities for reaching poor women who are highly represented in the informal sector and tend to concentrate in micro and medium-sized enterprises. Women's tenure security, particularly in the expanding urban areas, will be an essential part of the issues to receive specific attention over the five years of NDP III.

1.3 Land tenure systems in Uganda

Land in Uganda is constitutionally accessed, owned, and administered under four tenure systems: Freehold, Customary, Mailo land, and Leasehold.

Freehold tenure

This tenure system involves registered land rights and enables the holder to exercise full powers of land ownership, including the right to use, develop, and exercise full control over its products, the right to enter

any transaction over the land, and pledge, sell, and sell mortgage and bequeath it.

Customary land tenure

Customary tenure as a land governance system and the principles which underpin it are unregistered and based on social norms, traditions, and practices that individuals acquire and internalize as members of their social groups. This reality continues to be the norm even though since the coming into effect of the National Land Policy, the effort has been devoted towards increasing understanding of the variations, which include a distinction between what is customary and communal land as well as individual and family landholdings under the same tenure system. Women's access to land under customary tenure is largely mediated through their relationship to men or through the land they hold in trust for their children.

The duties associated with women's land rights under customary tenure include their production of food for the sustenance of their families and making their labor available to the male members through whom they gain access to land which belongs to a clan. Due to their being explicitly discriminatory and at odds with the principles of equality and non-discrimination, which underpin the 1995 Constitution, a measure was put in place to safeguard the legitimate tenure rights of women and girls. This is the requirement that customary tenure decisions are to be subject to section 27 of the Land Act, which declares as null and void decisions that deny women, children, or persons with disability ownership, occupation, or use of any land or imposes conditions that violate articles 33, 34 and 35 of the Constitution⁷.

Mailo land tenure

Under Mailo land tenure, land ownership is separated from occupancy or ownership of developments by lawful or bonafide occupants guaranteed by the Land Act 1998. The Land Act guarantees statutory protection to the kibanja holder and his or her successors against any eviction as long as the prescribed nominal ground rent is paid to the landowner.

⁷ MLHUD: Land Act, 1998: Section 27.

Leasehold tenure

Under Leasehold tenure, a lessee enjoys exclusive possession of the land of the lessor for a specified period. Private leases granted by a landowner often require the payment of rent. In contrast, statutory leases issued by the Uganda Land Commission (ULC) on public land are accompanied by conditions of land use and payment of ground rent. Leases give rights on condition that certain developments will be made, such as constructing specific structures and the payment of annual rates to the lessor.

Even though land belongs to all the citizens of Uganda as declared by its Constitution, gaining access by individuals, communities, and others is regulated through the above four tenure systems. These systems determine the grounds on which specific individuals have access and can use which pieces of land and land-based resources, for how long, and under what specific conditions. The duties associated with particular tenure rights under each system are also defined and generally understood whether these are recorded or not.

1.4 Overview of land sector stakeholders

A 2019 regional inventory of actors in the land sector in the IGAD region found that Uganda had the largest number of national and international actors working on different land issues⁸. The diverse range of stakeholders in Uganda is, therefore, extensive, and includes **a**) Ministries, Departments, and Agencies of both central and local government level with Constitutional mandates for policy design and implementation; **b**) national, regional, and community level private, traditional, and public institutions, research, religious, CSOs and CBOs working on different land sector issues on behalf of a wide range of constituencies, and **c**) international, bilateral and multilateral agencies and development partners, which either directly or through financial support and in partnership with national-level actors work on different sector issues.

The following table provides an overview of the key stakeholders in gender and land sector issues and their respective areas focus⁹:

| Agency | Areas of focus |
|---|---|
| National Planning Authority | Vision 2040 outcomes Development of 5-year National Development Plans (6) Ensures development and issues certificate of compliance to Local Government Development Plans |
| Uganda Human Rights Commission | Overall human rights observance |
| Parliament of Uganda | Compliance approvals and budgetary allocations |
| Ministry of Lands Housing and Urban Development and all its component parts | Policy formulation, programs, and investment plans Responsibility for gender-responsive delivery of land sector and mainstreaming gender Responsible for overall sector goals and objectives Oversight and Compliance to professional standards and decentralized responsibilities for policy delivery |

⁸ International Land Coalition (ILC) Africa, 2019:IGAD Land Sector CSO Mapping Report : at the time of the mapping there were up to 108 national actors and 19 international actors working on land issues across the country.

⁹ This overview is indicative not exhaustive and attempts to capture some of the actors whose interventions have the potential for directly reducing gender gaps in the land sector and promoting and strengthening tenure security for women.

| Agency | Areas of focus |
|---|--|
| Ministry of Finance, Planning, and Economic Development | Resources mobilization, budgetary approvals, and allocations |
| Ministry of Local Government | Policy, program, and strategic investment in local governments, Responsibility for devolved policy, programs, and strategic plan including gender mainstreaming, gender responsiveness, and empowerment of women at LG level Capacity building for decentralized institutions in the context of decentralization |
| Ministry of Agriculture, Animal Industry and Fisheries | The basis for a transformation of rural livelihood, baseline asset accumulation, and economic activity The basis for transformation from informal to formal income sources and wage labor, Transformation of subsistence production to modern commercial agriculture |
| Ministry of Water and Environment | Access to water for consumption and production, access to common property environmental resources Transformation from informal to formal and wage labor |
| Ministry of Justice (Justice Law and Order Sector) | Equal access to justice through 13 JLOS regions, 39.02% magisterial areas with access to state-funded legal aid services ¹⁰ Deliberate strategic direction of the sector to promote gender equality and equitable access to justice, particularly on “steeper barriers” faced by women in accessing justice Capacity building for LCI and II on their executive and judicial functions Alternative Dispute Resolution mechanisms grounded in sector practice |
| Ministry of Gender, Labour and Social Development | Gender policy, equality, equity and the empowerment of communities, addressing vulnerability and provision of social protection; |
| Equal Opportunities Commission | The mandate for the elimination of discrimination and inequalities, including arising from gender and created by tradition or custom, Gender Budgeting, Gender Equity Compact for the Agriculture Sector, women’s equitable and inclusive access to land. |
| Academic and Research Institutions | |
| Makerere University School of Women and Gender Studies | Researches on women, gender, land tenure Academic courses on gender mainstreaming for national and local government public servants Partnerships and M&E tools for monitoring SDG 5 targets |
| Centre for Basic Research | Decentralized land governance and women’s land rights |

| Agency | Areas of focus |
|--|---|
| Civil Society, Private Sector | |
| Uganda Association of Women Entrepreneurs | Networking Capacity building and mentorship Lobby and advocacy Policy advocacy |
| National Association of Professional Environmentalists, National Association for Women's Action in Development | Lobby and advocacy for sustainable solutions to development Training and capacity building for women activists in epicenters for land acquisition for large scale development projects – Hoima, Amuru, and Kalangala |
| Land Equity Movement of Uganda | Customary Tenure Documentation of CT practices Partnership and Capacity building for CT Institutions |
| Uganda Community Based Association for Women and Children's Welfare (UCOBAC) | Piloting registration of communal land rights and issuance of CCAs Women's land rights in communal land registration |
| Uganda Land Alliance | Policy advocacy highlighting gender and women's land rights issues |
| International NGOs | |
| Action Aid Uganda | Gender and Equity Budgeting |
| Oxfam Uganda | Women's land rights, research, and advocacy |
| International Institute for Rural Reconstruction (IIRR) | Secure Land Tenure for improved food security through the issuance of CCOs to 2,600 farming households in South Western Region (Kabale District) and Elgon Region (Mbale District) of Uganda |
| TROCAIRE-Uganda | Communal land rights, research, and advocacy |
| GOAL Uganda | District Local Government capacity building Traditional structures capacity building Dispute resolution and mediation |
| CARITAS Uganda | Land titling Land rights awareness |
| ZOA | Food security Strengthening land security of the rural poor and vulnerable people |
| Regional Partnerships | |
| AU Commission AfDB, ECA | Africa Agenda 2063 Land policy in Africa: A framework to strengthen land rights, enhance productivity, and secure livelihoods Framework and Guidelines on Land Policy in Africa |
| RECs – IGAD | Mechanism for the implementation of AU, AfDB, ECA Agenda, and land policy frameworks |

| Bilateral and Multilateral Partners | Areas of focus |
|--|---|
| FAO | <p>Donor Working Group on Land</p> <p>Initiated VGGT-informed forestry tenure assessment</p> <p>Identification of priority actions for strengthening forest tenure in line with VGGT principles</p> <p>Land Governance program Phase II (2017 – 2020) – mainstreaming VGGT, capacity building, documentation, and dissemination of lessons learned.</p> |
| GIZ Uganda | <p>Responsible land policy – special initiative “One World no Hunger” (2015 – 2021)</p> <p>Responsible Land Policy in Uganda, facilitating demarcation and issuing of certificates of land ownership targeting smallholders in Katakwi, Soroti, Mubende, and Mityana District (2016 – 2021),</p> <p>Raising awareness of large-scale agriculture investors in Voluntary Guidelines on Responsible Governance of Tenure</p> |
| UNDP and family | <p>Overall responsibility for supporting GoU on achievement of all the SDGs by 2030</p> |
| UN Women Africa, Uganda | <p>Supports Uganda’s achievement of SDG 5: to achieve gender equality and empower all women and girls</p> <p>Women’s economic empowerment in agriculture;</p> <p>Supported EOC in the development of the Gender Equity Compact for the Agriculture Sector.</p> |
| UN-Habitat/IGNT | <p>Supported MLHUD in the development of its Gender Strategy for National Land Policy Implementation (2018)</p> <p>Supports Uganda’s achievement of SDG 11; inclusive, safe, resilient, and sustainable cities and human settlements</p> |
| World Bank/IDA | <p>Long-standing support to the land sector including:</p> <p>Municipal Infrastructure of several towns in Uganda;</p> <p>Integrated Physical Development Plan for the Albertine region</p> |
| Uganda Capital Development Fund (UCDF) | <p>Primary contributions are to SDG 1, which focuses on reaching the last mile and addressing exclusion and inequalities of access, and SDG 17, focusing on unlocking public and private finance for the poor at the local level. Identifies market segments where innovative financing models can have a transformational impact in helping to reach the last mile, also contributes to other SDGs.</p> |
| Democratic Governance Facility (DGF) | <p>Funded by seven international development partners: Austria, EU, Denmark, Ireland, the Netherlands, Norway, and Sweden. Works in partnership with diverse state and non-state actors providing both financial and technical support; DGF's work aligned to National Gender Policy; the Constitution of Uganda; and commitments to Human Rights; NDPs and SDGs, particularly SDG 5 (gender equality) and SDG 16 (peace, justice, and strong institutions)</p> |
| European Union | <p>Supports Uganda’s agenda for growth, sustainable development through improved governance, and strengthened economic growth. Focuses on transport infrastructure, food security, and agriculture by promoting resilience in the fragile regions, value chains, and green economy and strengthening the state's financial, democratic, and social accountability.</p> |

Bilateral and Multilateral Partners

Areas of focus

Netherlands Embassy

Land disputes and conflicts
Land rights of women and other vulnerable groups
Legal and regulatory reforms
Physical planning
Research to inform policy reform and implementation

GIZ Uganda

Responsible Land Policy in Uganda, facilitating demarcation and issuing of certificates of land ownership targeting smallholders in Katakwi, Soroti, Mubende, and Mityana District (2016 – 2021),
Raising awareness of large-scale agriculture investors in Voluntary Guidelines on Responsible Governance of Tenure



SECTION 2: GENDER AND LAND IN UGANDA – KEY ISSUES AND TRENDS

The issue of women's weaker and unequal land rights and the discriminatory nature of the traditions and customs under which women's rights to land have been raised as key advocacy issues since the coming into force of the country's 1995 Constitution and the legal and policy processes to put its provisions into effect¹¹. The apparent anomaly between the principles of gender equality, non-discrimination, and the empowerment of women guaranteed by the Constitution and the discriminatory norms and practices which underpin land tenure practices, most especially customary tenure, has for a long time been problematized by numerous gender and land rights advocacy groups¹², pointing to the fact that land is a resource which women use more than any other population group in Uganda.

How and whether aspirations for promoting gender equality and the empowerment of women can be reconciled with the customs and traditions which revere land as a symbol of power, status, and identity, and whose control as a productive asset is a preserve of men is the anomaly which is as yet to be fully resolved. The gender and land issues discussed below are highlighted in light of the challenges they are likely to present given the current development outlook represented by Vision 2040 and NDP III unless deliberate efforts are taken to address them. Addressing these issues will also be essential if Uganda is to achieve the aspirations in other sub-regional (EAC Vision 2050), regional (AU Agenda 2063), and global (UN Agenda 2030) frameworks.

2.1 Gender inequality in ownership, control, and access to land

Land continues to be an essential resource in sustaining livelihoods for the still significantly high rural population in Uganda. Its access, ownership, and control are key factors in enabling individuals to get a foothold 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 the rights of women and girls limited to access and mediated through male relations.

Evidence from different official documents and sources confirms that there are clear gender gaps in ownership and control of land under all four tenure systems. A higher percentage of men than women are registered landowners. A UBOS study commissioned by MGLSD covering the period 2012/13 – 2016/17¹³ puts these figures at 62% for men and 11% for women, while NDP II (2015/16 – 2019/20) puts the percentages slightly higher at 72% for men and 28% for women¹⁴. A more detailed breakdown of these percentages is now beginning to emerge from the information being captured due to the establishment of zonal offices, as illustrated in the following table.

11 The most dramatic of these moments was during the amendment of the Land Act 1998 in 2003 when the so-called "Matembe Clause" for co-ownership of land by spouses failed to be passed by Parliament under circumstances which have remained unclear.

12 See, for instance: UWONET, 1997: Women and Land Rights in Uganda – A Documentation of Women's Views and Suggestions on Land Issues in Uganda and the Proposed Land Bill; Uganda Land Alliance and Action Aid Uganda: Included Yet Excluded – A Study of Women's Land Rights in the Districts of Pallisa and Kapchorwa; EASSI 2002: Women's Land Rights in Uganda.

13 UBOS, 2019: Gender issues in Uganda: an analysis of Gender Based Violence, Asset Ownership and Employment Status, p. 18

14 Republic of Uganda, 2015: Second National Development Plan, p. 53

Land ownership by gender – data from selected MZOs

| MZO | Leasehold | | | Freehold | | | Mailo | | |
|---------|-----------------|------------------|-------|----------------|----------------|-------|-----------------|-----------------|--------|
| | M | F | U | M | F | U | M | F | U |
| Kampala | 4,061 (67%) | 1,030 (17.2%) | 892 | 917 (58%) | 187 (11%) | 469 | 30,012 (48%) | 14,547 (22%) | 19,281 |
| Jinja | 2,270 (38%) | 738 (12%) | 2,967 | 8,686 (61%) | 2,848 (20%) | 2,616 | | | |
| Masaka | 10,599 (91%) | 717 (6%) | 317 | 4,043 (83%) | 674 (13%) | 160 | 33,264 (64%) | 7,654 (14%) | 10,489 |

Source: MLHUD Beijing +25 Report; key: M- male, F- Female, U – Unknown

The most significant changes which are happening with regards to strengthening women's land rights are occurring in Customary Tenure as a result of the steps taken by MLHUD to effect the constitutional provisions for communities, families, and individual landholders under customary tenure registering their Communal Land Associations (CLAs) and issuance of Certificates of Customary Ownership (CCOs). The preliminary evidence emerging from these processes indicates that communities have enthusiastically responded to the opportunities these processes have opened up to acquiring legal titles to their land. The majority of the participants and beneficiaries of CLA and CCO processes are, in fact, women¹⁵.

These initiatives provide an important starting point for understanding the extent to which women's land rights and tenure security can be promoted within the context of customary tenure systems. What still has to be further understood is whether women's membership on CLAs and their being holders of CCOs translates into their increased decision making and a bundle of rights over land as owners or co-owners of their titled land. An increase in women's autonomy and decision-making on their registered land is key to their ability to make strategic decisions on utilizing the land, including using their land titles to access credit and other services to increase and expand their investments. This also enables women to exercise greater control over their labor and the products of their labour.

2.2 Women roles under customary tenure as justification of their tenure security

Even though the provisions of the Constitution on citizenship, human rights, and women's rights provide more than enough justification for women's land rights and tenure security, the most prevalent justification of women having certain land rights, even by the women themselves, is the key role they play in household food production. This is to be expected not only because of the social and cultural perceptions that ascribe gender-specific roles and responsibilities but also because of the prevalence of Customary Tenure systems as the main systems through which most women in farming communities are in farming communities Uganda access and exercise their land rights. Strengthening the land rights that women already have under customary tenure is critical because these are the rights they already have. Still, it is also through this right of access that women can fulfill their socially ascribed roles and responsibilities for ensuring that there is household food production.

To appreciate the significance of women's contribution and labor input into household food production, it is worth emphasizing that this labor input is given during their most productive years. It is provided as "free family labor" in the unattractive subsistence production system yet estimated to be contributing up to 50% of the total food consumed by Uganda's rural and

¹⁵ An official of the MLHUD estimated that women beneficiaries and participants in CCO processes is as high as 60%

urban poor households¹⁶. The fact that women in rural Uganda are said to be contributing as high as 70% of their productive labor in subsistence production vividly highlights the high opportunity cost to the economy of trapping such a high proportion of women's productive labor in un-remunerated subsistence production. Enhancing women's current land rights and increasing their productivity and income-earning opportunities are essential for increasing their income earning potential and sustaining or increasing their household food production.

Women's land rights under customary tenure also tend to be justified on the basis of their holding land in trust for their children. It was partly due to this consideration that the requirement that women have to give their consent to their husband's sale of family land was considered less controversial than "co-ownership" and included as a specific provision for enhancing women's rights to land by the Land Act 1998. Enforcement of this provision, particularly under the ongoing Communal Land Associations (CLAs), Certificates of Customary Ownership (CCOs), and Systematic Land Adjudication and Certification (SLAAC) processes, has registered an

increased number of women acquiring titles to their land.

These various initiatives provide concrete examples of how to give formal recognition to the rights already guaranteed to women through the issuance of CCOs and joint ownership titles of family land. . However, as important as these initiatives are, their overall impact in narrowing gender gaps in registered land is not yet evident with the current trend of available data indicating the prevalence of male-However. As important as these initiatives are, their overall impact in narrowing gender gaps in registered land is not yet evident with the current trend of available data indicating the prevalence of male-headed households as registered landowners compared to women-headed households. The data also further confirms the fact that the majority of women register their land rights jointly with their male partners.

A trend that is emerging from the gender-disaggregated data which the MLHUD has gathered confirms gender gaps in the ongoing CCO registration processes with higher numbers and the prevalence of joint registration by women. The following table illustrates this pattern.

Land registration by gender of selected CCO/SLAAC projects

| District | Project MLHUD & Partners | Mailo & Customary Tenure | % Gender/other |
|---------------------------|--|--|---|
| Soroti | GIZ: Responsible Land Policy in Uganda (RELAPU) | Issued 3,486 parcels | M/MHH: 77 F/FHH: 17.5 PWD: 2.2 ELDERLY: 11.9 |
| Mityana, Kasanda, Mubende | GIZ: Improvement of Land Governance in Uganda (IGLU) | Mapped: 55,409 bibanja | M/MHH: 64 F/FHH: 32 JOINT: 4.3 PWD: 1.8 ELDERLY: 11.9 |
| Kabale, Mbale | GLNT, IIRR, Makerere University: Enhanced Agricultural Productivity through registration of Customary Tenure | Issued: KABALE – Over 1,048 MBALE – 1,364 | M: 22 F: 5 JOINT: 73 M: 15 F: 9 JOINT: 76 |
| Nwoya | | Demarcated: 3,473.22 hectares | M: 8.1 F: 3.3 JOINT M&F: 74.5 JOINT M&M: 13.3 JOINT F&F: 0.71 |

Source: MLHUD: Beijing +25 Report, MLHUD Report to EOC FY 2019/2020

Therefore, the real test of the policy commitment to women's land rights and tenure security will become evident with time and with the supportive interventions they devise beyond the current initiatives aimed at issuance of CCOs and Certificates of Occupancy (COs).

2.3 Gender-based violence and the exercise of male authority over land

Gender-based violence has received considerable attention in the recent past due to increased publicity and media coverage of GBV incidents and the policy attention it has started to attract. Because women's land rights still tend to be determined and influenced by cultural norms and traditions, efforts to promote

greater gender equality in access to and ownership of land touch on deeply entrenched cultural attitudes towards women and girls, which often result in violence against them. Understanding the extent to which cultural norms and traditions can be drivers of GBV is important in ensuring that efforts to promote greater gender equality and tenure security for women do not cause greater harm to them.

The land rights of women and girls under customary tenure systems are based on the presupposition of the exercise of male authority over women and girls at all stages of their lifecycle. During a marriage, male authority at the household level controls women's productive labor both for household food production and production on the enterprises of household heads. This authority also extends to control over the products of women's labour. Even though these production

arrangements are premised on the guaranteed rights to land by male heads of household, the exercise of male authority over women's labour and its products persist even when their guaranteed rights to land are not availed. These and similar circumstances that result in rising tensions within rural households and gender-based violence are now reported to have reached chronic levels¹⁷.

Even though Uganda's long history of promoting gender equality and women's rights has resulted in increased awareness and greater respect for these rights, the cultural norms and practices associated with women's land rights persist and include condoning the use of violence by men as a way of disciplining and exercising authority over "their errant" women. Women questioning the injustice of taking on what should be men's responsibilities, resisting unfair demands on their labour, or making decisions on the products of their labour can be considered errant behavior on their part, which is likely to attract violence against them.

Whereas the use of violence by individuals within the context of households tends to be taken as normal and as isolated incidents, the new dimensions of the use of violence on women have been witnessed in regions where land is required for large-scale investments. In a report based on their study covering four districts of Uganda¹⁸, Chiara Capraro, and Jessica Woodroffe document the shared stories of poor rural women as they faced the combined intimidation and violence within the household and outside in order for their families to vacate their lands in order to make way for investments. The experiences shared by women also indicated that even sharing the fear and trauma of their experiences required them to have courage as they risked further violence against them.

2.4 Gender, land, and economic participation

Sustainable and inclusive growth cannot be achieved without active participation in the labour market.

Uganda's economy is typical of a low-income African country with a still limited industrial base, limited opportunities for formal employment, high unemployment, and underemployment, most especially amongst a growing youth population and high concentration of labor in the agricultural sector. Even though this reality affects both men and women as well as male and female youth, the current profile of Uganda's labour market nonetheless confirms that there are gender disparities in the limited paid employment which exists.

Reports indicate that not only is there a higher male labour-force in paid employment but that this is also increasing at a faster pace than that of female employment. A recent UBOS/MGLSD study, for instance, reported that over four years (2012/13 – 2016/17), the male share of paid employment doubled that of females – 67.1% compared to 32.9%¹⁹. Also, as reported in NDP II, employed women are more likely to be engaged in less decent work than men, and that this is as high as 50% of the women employed who are in the lowest sector jobs compared to 30% men²⁰. Not surprisingly, therefore, Uganda's economy is still largely characterized by rural economies dominated by subsistence production and the informal sector associated with its expanding urban economy engaged mostly by women and youth. Both sectors are also typically dominated by the poor, who survive at the subsistence level.

Confirming this broad reality in reference to Kampala, Uganda's capital city, which attracts to itself the population seeking employment opportunities from all parts of the country, a 2017 World Bank study noted that the informal sector accounted for 57% of the city's employment, with 95% of these earning below USD 1.90/day²¹. The study also revealed that in Kampala, women account for 60% of firm owners in the informal sector and are largely concentrated in the lowest category of the businesses with less than five employees. They typically experience lower performance rates than male-owned firms²². Women were also found to tend to have less capital of their own, fewer assets,

17 UNBS & MGLSD, 2019: Gender Issues in Uganda: An analysis of Gender Based Violence, Asset Ownership and Employment Status, p. 5

18 NAPE, et al, 2018: Digging Deep – the impact of Uganda's land rush on women's rights

19 UBOS & MGLSD, Gender issues in Uganda: An analysis of Gender Based Violence, Asset Ownership and Employment Status, p. 26

20 Republic of Uganda, 2nd National Development Plan (NDPII) 2015/16 – 209/20, P. 74

21 Hobson, Emma Sameh Wadie; Kathage, Angus Morgan. 2017: Uganda – From regulators to enablers – the role of city governments in economic development of Greater Kampala, <http://documents.worldbank.org/curated/en/860311505816462189>

22 Ibid, p. 23

with the majority of them relying on credit to start and run their enterprises.

Margaret Snyder's study in which she profiled 74 Ugandan women's small- micro-, and medium-sized enterprises, which covered both rural and urban contexts across the country, also provided helpful insights into the dynamics within the informal sector and how these experiences by women provided not just useful role models for aspiring business persons for the establishment and expansion of business, but also the additional significance for policymakers as indicators of ways of making wealth more widespread and equitable. Snyder concluded, among other things: *"..women's micro and small businesses augment GDP while they enhance individual and family well-being – the means and goal of development."*²³

These examples indicate that even in contexts of generally limited economic opportunities, gender gaps exist. It requires specific attention to not only ensure that both genders benefit from interventions intended to increase income but also to avoid widening gender gaps. It is also evident that in a country like Uganda, whose economic base is still narrow, there is a high concentration of labour in subsistence production in rural and urban contexts. The population groups most engaged in these basic economic activities are women and youth. Focusing policy interventions only on the employment needs of youth, therefore, will still leave out of any meaningful economic activity a large proportion of women's labor in subsistence production both in the rural and urban informal sectors.



23 Margaret Snyder, 2000, p.15

SECTION 3: EXISTING LAND RELATED LEGAL AND POLICY FRAMEWORK HIGHLIGHTING KEY GENDER EQUALITY PROVISIONS

3.1 National-level policy and legal frameworks

1. Constitution of Uganda 1995

The 1995 Constitution of Uganda marked a significant turning point in the country's turbulent post-independence history. It represented a new consensus by the people of Uganda, who committed themselves to build a better future through a new and durable constitutional order based on unity, peace, equality, democracy, and social justice (Preamble). The National Objectives and Directive Principles of State Policy oblige all organs and agencies of the state in their actions, and policy decisions are directed towards "...the establishment and promotion of a just, free and democratic society" (Objective I (i)).

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).

The Constitution commits the state to ensure gender balance and fair representation of marginalized groups on all constitutional bodies (Objective VI). It recognizes the significant role women play in society. It also requires the state to take affirmative action in favor of groups marginalized based on gender, age, and disability, including marginalization as a result of history, tradition, and custom (Chapter 32), to reverse the imbalances which exist. The Constitution further accords women full and equal dignity with men and their right to equal treatment. This right would include

equal opportunities in political, **economic**, and social activities (Chapter 33).

2. 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 period²⁴. 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, labour, 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 are included among the fundamentals which need to be strengthened.

Projections of the kind of transformation to the 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 the Upper Middle Income Country category by 2030, attaining its target of Middle-Income status in 2040²⁵.

Vision 2040 recognizes that gender equality and women's empowerment are essential prerequisites for achieving sustainable socio-economic transformation it envisages. It commits itself to paying specific attention to ensuring that its policies, programmes, and

24 Republic of Uganda, 2010: National Planning Authority, *Vision 2040*.

25 Republic of Uganda, *Vision 2040*, p. 13

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.

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). Therefore over the Vision 2040 period, gender-responsive policies, programs, and actions will be undertaken, including the commitment to treating women and men as equal partners. (para: 286).

3. 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 is on inclusive and sustainable growth, modernization of rural livelihood production systems, and transformation of subsistence production. The framework is also based on a **programmatic approach** that emphasizes integrated, as opposed to “silo,” approaches to planning, budgeting, and delivery of services to achieve concrete development 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 five years. NDP III builds on the progress Uganda was able to register over the five years 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 production²⁶.

Unlike in the previous NDPs, land in NDP III is viewed within the context of the entire range of natural and environmental resources. This re-orientation in how land is perceived 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 primary source of livelihood still depends on subsistence production. The overall thrust and focus of NDP III especially critical to the women, generally, and women in both farming and informal subsistence production, specifically because of its focus on increasing and improving food production and productivity, modernizing and transforming subsistence production, increasing household incomes, and improving the 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 programmes that provide great potential for transforming the high proportion of women's productive labour. The women are currently trapped in the vulnerable employment subsistence sector. Therefore increasing and improving access to justice for women and children and enhancing women's security of tenure within interventions aimed at improving and transforming rural and urban livelihood contexts is critical.

NDP III has come into effect a decade away from realizing the SDG targets of Agenda 2030. Effective and synergistic implementation of interventions in these areas is expected to contribute directly to the completion of SDGs: 12, 13, 14, and 15 and 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.

26 Government of Uganda, National Planning Authority, 2020: *National Development Plan*, p. 5

4. Gender Policy 2007

Uganda's first Gender Policy was put in place in 1997, and its second Gender Policy a decade later in 2007. The Gender Policies are intended to provide a framework to guide all stakeholders to apply a gender perspective in their respective policy interventions and strategies in order to ensure that gender equality and the empowerment of women. The *Gender Policy* draws attention to women's lack of effective land rights largely due to patriarchal land inheritance and access norms and practices that discriminate against women and girls, highlighting the negative implications this has for national development.

5. The Uganda National Land Policy 2013

Uganda launched its National Land Policy in 2013 to provide a rational overarching policy framework with a harmonized and integrated management and regulation of land use which permits the identification of effective linkages between land use and other productive sectors. With specific regard to gender equality on land and women's tenure security under the four constitutionally recognized tenure regimes in Uganda, the Land Policy has provided an important avenue for examining the principles based on 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 effect both Constitutional provisions for gender equality and women's rights and 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 Land Policy **acknowledges the inevitable challenge it faces in trying to "blend" tradition and modernity in its efforts to ensure that women have equal and secure land rights within tenure systems whose principles are explicitly discriminatory based on gender.** 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 undertake several specific measures intended to enhance tenure security for women. These strategies which the Land Policy specifies to accomplish this include **a)** 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; **b)** modifying the rules and regulations of customary institutions to guarantee rights, gender equality, and equity; **c)** fully integrate women in decision making structures and processes in access to and use of land; **d)** mainstream gender into development planning to improve the status of women.

6. 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."* Under its priority areas of action, it acknowledges that strengthening women's land rights in law and practice is a key strategy for advancing the objectives and purpose of the LSSP-II.

It commits itself to mainstream gender in its activities, including making targeted interventions to improve mainstreaming women's land rights at the policy level and monitoring the impact on vulnerable groups. It also plans to address gender bias within the land sector and 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 to support the provision of legal aid to women for land cases.

7. 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. It 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 various 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 the 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 strategy²⁷.

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 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. This will enable the land sector to use gender mainstreaming as an inclusive strategy and tool for accelerating the achievement of more gender equality and women's empowerment 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 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 focus its attention on addressing these challenges over its 30-year period. The recently launched NDP III also re-focuses its approach by putting greater emphasis on 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 five years 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.

8. Land Act 1998

Uganda's Land Act was enacted in 1998. It affirms the four tenure systems of the Constitution. It defines customary land tenure as one which 'inter alia' applies "*local customary regulation and management to individual and household ownership, use and occupation of, and transactions in, land*" (Section 4(1) (e)).

Aware that the principles and norms which underpin customary tenure regimes throughout Uganda tend to infringe on the rights of women and girls, the Land Act under section 27 declares any decision which denies women access to ownership, occupation, or use of any land or imposes conditions which violate the Constitutional rights of women on any ownership, occupation or use of any land, null and void in respect to land held under customary tenure.

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; It includes 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 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. The aim is to indicate that

27 MLHUD, 2018: Gender Strategy for the Implementation of the National Land Policy, p. 13

the property is subject to the requirement of consent and that such protection remains for as long as the marriage subsists.

9. The Registration of Titles Act 1924

Uganda uses the Torrens system of Titles registration, 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 to be registered. Section 3 disclaims any intention to limit the application of laws providing for the property of married women.

10. The Mortgage Act, 2009

The Mortgage Act was enacted in 2009 to consolidate the law in relation 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).

11. 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 exclude 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 the deceased male's estate to his surviving wife or wives.

12. 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 the 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 town²⁸. One of the two youth representatives and one of the two representatives of persons with disability in each of the councils shall also be a woman. Furthermore, at least one of the five secretaries in the district executive committee²⁹, as well as lower local government councils, shall be a woman³⁰.

13. 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 the 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 is not registered, constraining their access to credit. Regarding 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 that lack of protection of women's land rights and their secure access to and control of productive resources has adverse implications for

28 Section 23

29 Section 16(3)

30 Section 25

investments in agriculture and efforts to promote agricultural productivity.

Among the priority areas of focus for the policy is gender. It commits to ensuring access, control, and enjoyment of benefits from resources and services by both men and women. It promotes awareness of gender roles and responsibilities and sensitizes communities on negative cultural practices that 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. It seeks to promote the representation of marginalized groups at all levels of decision-making in planning, monitoring, and evaluation.

14. The National Equal Opportunities Commission Act, 2007

Article 32 of the Constitution provides for the 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 based on 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, programmes, 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 based on 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.” 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.

15. 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.” 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.

The importance the Act attaches to gender equity in budgeting is evident because it stipulates that the Minister “shall, in consultation with the Equal Opportunities Commission, 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.” The certificate is one of the documents that accompany the annual budget when it is presented to Parliament³¹. A similar certificate accompanies the policy statement 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.

3.2 Global and Regional Frameworks

1. UN 2030 Agenda for Sustainable Development

The Sustainable Development Goals (SDGs) provide a common global platform for achieving specific development objectives and targets by 2030. Uganda's overarching policy frameworks are aligned and designed to be achieved within a 30-year and 15-year time frame for Vision 2040 and NDP III, respectively. NDP IV will coincide with the 2030 end of the UN 2030 Agenda. With the land sector policy and institutional reforms now in place, and with a more concerted effort to achieve greater coherence and alignment of its strategies, the land sector has the potential to contribute towards Uganda's achievement of targets of the following SDGs by 2030:

Goal 1: End poverty in all its forms everywhere; **Goal 2:** End hunger, achieve food security and improved nutrition and promote sustainable agriculture; **Goal 5:** Achieve gender equality and empower all women and girls; **Goal 8:** Promote sustained, inclusive, and sustainable economic growth, full and productive employment and decent work for all; **Goal 9:** Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation; **Goal 11:** Make cities and human settlements inclusive, safe, resilient and sustainable; **Goal 17:** Strengthen the means of implementation and revitalize the global partnership for sustainable development

2. AU Agenda 2063

Agenda 2063 was adopted by the 24th Session of the Assembly of Heads of State and Government of AU held in Addis Ababa in January 2015 as Africa's shared strategic framework for inclusive growth and sustainable development in the 50 years leading to the first centenary of the founding of the Organization of African Unity (OAU). It also 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 the Africa of 2063 "will reflect the benefits of fully empowered women with equal access and opportunity in all spheres of life, including their human rights, meaning that "the African woman will have equal economic rights, including the rights to own and inherit property, sign a contract, register and manage a business, access to land, agricultural supports, financial and banking services, while recognizing, valuing unpaid care work and domestic work." Specifically, "over 95 per cent of rural women will have access to productive assets, including land, credit, inputs and financial and insurance services". (p.41).

3. African Charter on Human and Peoples' Rights

The ACHPR, which was concluded in June 1981 and came into force in October 1986. It commits the signatory Member States to recognize the rights, duties, and freedoms enshrined in it and adopt legislative and other measures to give effect to the same.

Article 2 of the Charter asserts the right of every individual to enjoy all the rights enshrined in the Charter "without distinction of any kind such as race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or another status." Article 18 of the Charter calls on States Parties to eliminate discrimination against women and ensure the protection of women's rights as stipulated in international declarations and conventions.

4. The Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (Maputo Protocol)

The Protocol was adopted in Maputo, Mozambique, on 11th July 2003 by the 2nd Ordinary Session of the Assembly of the Heads of State and Government. It commits Member States of the AU to combat all forms of discrimination against women through appropriate legislative, institutional, and other measures, including through the integration of "a gender perspective in policy decisions, legislation, development plans, programs and activities and in all other spheres of life" (Art. 1(c)).

Article 19 of the Protocol guarantees women's right to sustainable development and enjoins the Member States to take measures to, among other things, introduce a gender perspective in the national development planning procedures; ensure their participation

at all levels of planning and implementation of development policies and programs; promote their access to and control over productive resources such as land and guarantee their right to property. It promotes women's access to credit, training, skills development, and extension services at rural and urban levels to improve their quality of life and reduce poverty.

The Third Ordinary Session of the Assembly of Heads of State and Government of AU Member States held in Addis Ababa, Ethiopia, in July 2004 adopted the Solemn Declaration on Gender Equity in Africa, by which they undertook to sign and ratify the Maputo Protocol by the end that year, and to ensure that it comes into force by 2005.

5. AU Gender Policy 2009

The Policy was adopted in 2009 by the AU member states. It derives its mandate from and operationalizes **AU commitments to gender equality and empowerment of women and the commitments made in response to the aspirations and achievements of the African women's movement.** The Policy provides an Africa-wide framework for accelerating gender equality, fairness, non-discrimination, and fundamental rights in Africa. 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.

Its overall goal is to adopt a rights-based approach to development through evidence-based decision-making and use of sex-disaggregated data, performance indicators for the achievement of gender equality, and women's empowerment at all levels – in member states, regional and international.

Among its specific objectives to establish standards and criteria for the region to monitor, evaluate and ensure follow-up of progress made in mainstreaming gender equality, and to promote equitable access to both women and men to resources, knowledge, information, services, including basic needs and facilitate the application of corrective measures to address existing inequalities with regards to access to and control over resources and employment opportunities.

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

6. Framework and Guidelines on Land Policy in Africa

Adopted in 2009 as a framework to strengthen land rights, enhance productivity, and secure livelihoods, the F&G acknowledges that "the system of patriarchy which dominates social organization has tended to discriminate against women when it comes to ownership and control of land resources" and calls for land policies and laws in Africa to redress gender imbalances in landholding and use³² (p.8).

To underscore the critical role of women in agriculture, the F&G links the achievement of better and more productive land use with the strengthening of women's land rights. In this connection, it calls for laws that allow women to enforce documented claims to land within and outside marriage, equal rights for women to inherit and bequeath land, co-ownership of registered land by spouses, and the promotion of women's participation in land administration structures. This, it notes, entails adopting an ideology that removes issues regarding the land rights of women from the private sphere of marriage and family and places them in the public domain of human rights³³.

The Declaration on Land Issues and Challenges in Africa was adopted by the AU Assembly Heads of State and Government in July 2009. It committed them to implement the F&G and made a specific resolution on strengthening of security of tenure for women.

3.3 Alignment of NDP III to related legal and policy frameworks at regional and global levels

The National Development Plan (NDP III) has been designed as the national mechanism for localizing the global, regional and sub-regional policy frameworks and development obligations to which Uganda is a signatory. Accordingly, the 18 development

32 African Union, *Framework and Guidelines on Land Policy in Africa*, p. 8

33 Ibid p. 15

plans it intends to implement over the NDP III period are aligned to achieve corresponding targets in the respective frameworks. The following table provides this alignment regarding the three NDP III and SDG

accelerators. Rural farming communities, most especially rural women, can be included both as the key protagonists and beneficiaries of NDP III interventions.

| NDP goals and targets | Vision 2040 | Agenda 2030 | Agenda 2063 |
|--|--|---|--|
| <p>Agro-industrialization</p> <ul style="list-style-type: none"> • Reduce % of households dependent on subsistence production; • Increase % of food-secure households | <ul style="list-style-type: none"> • Increased agricultural productivity, • Agro-based industries driving productivity | <ul style="list-style-type: none"> • End hunger, achieve food security (SDG 2) • Sustained, sustainable, and inclusive economic growth (SDG 8) • Promote inclusive and sustainable industrialization (SDG 9) • Expected “spill-over” on SDG 3: promote good health and wellbeing and SDG 5: Gender equality | <ul style="list-style-type: none"> • Modern agriculture for increased production; • End hunger, achieve food security, promote sustainable agriculture |
| <p>Natural resources, environment, climate change, land, and water management</p> <ul style="list-style-type: none"> • Reduce environmental degradation and adverse effects of climate change • Improve utilization of natural resources for sustainable growth and livelihood security <ul style="list-style-type: none"> — Increase % of titled land from 21% – 40% — Reduce land-related conflicts by 30% | <ul style="list-style-type: none"> • Climate change adaptation and mitigation • Sustainable land use and management | <ul style="list-style-type: none"> • SDG 16: Peaceful, inclusive societies, access to justice for all, effective accountable, and inclusive institutions at all levels | <ul style="list-style-type: none"> • Environmentally sustainable, resilient economies and communities |
| <p>Governance and Security</p> <ul style="list-style-type: none"> • Improve adherence to the rule of law <ul style="list-style-type: none"> — Increase rate of case disposal from 60% to 75% — Increase % of districts with one-stop JLOS service points from 67.5% to 90% | <ul style="list-style-type: none"> • Human rights observance critical feature of good governance and the rule of law | <ul style="list-style-type: none"> • SDG 16: Peaceful, inclusive societies, access to justice for all, effective accountable, and inclusive institutions at all levels | <ul style="list-style-type: none"> • Aspiration 3: good governance, democracy, respect for human rights, justice, and the rule of law |

SECTION 4: FROM POLICY TO PRACTICE: ACHIEVING GENDER EQUALITY IN THE LAND SECTOR.

4.1 Institutional opportunities, gaps, and challenges

a) Institutional arrangements for delivery of land sector services

The **Ministry of Lands, Housing, and Urban Development** is the agency responsible for providing overall policy direction and ensuring that the land sector is managed rationally, equitably, and sustainably and contributes towards achieving national development goals. The ministry ensures the effective use and management of land, orderly development of urban and rural areas, and safe, planned, and adequate housing for socio-economic development. It oversees the design and effective implementation of policies and coordinates all matters concerning land, housing, and urban development, including initiating laws.

The Ministry has three Directorates: the **Directorate of Land Management** is headed by a Director and is in charge of the overall land sector management, coordination, and supervision. The Directorate comprises the Office of Director, Department of Land Registration, Department of Land Administration, and the Department of Surveys and Mapping. The **Directorate of Physical Planning and Urban Development** comprises the office of the Director and the Departments of Physical Planning, Urban Development, and Land Use Regulations and Compliance. The **Directorate of Housing** is responsible for co-coordinating the functions of Housing and Human Settlement in the country.

The Ministry has established a modern, status-of-the-art **National Land Information System (NLIS)**, which houses its fully integrated systems and records of land registration, administration, surveying and mapping, physical planning, property valuation functions, and land-related records³⁴. The establishment of NLIS

is a major step forward for the land sector in Uganda as it has already led to significant improvements in the cost-effectiveness and efficiency of the delivery of land services, marked increases in revenue collection, reduction in “backdoor” transactions, forgeries, and graft and challenges associated with missing land records.

The Ministry mapped the country into 21 geographical zones. It established **22 zonal offices** catering for a cluster of districts within a region to bring services closer to the grassroots communities. The Ministry Zonal Offices (MZOs) provide a decentralized function of the services previously offered at the central government level by the Ministry. The MZOs work with the **District Land Offices (DLOs)**, **District Land Boards (DLBs)**, and **Area Land Committees (ALCs)**.

b) Gender architecture for the land sector

Uganda’s Gender Policy (2007) anticipates that the responsibility for ensuring the gender responsiveness of the different public sector policies, programmes, and investment plans lies within the mandates of the respective sector agencies. As the agency responsible for the land sector generally, and for ensuring that gender-responsive policy outcomes which are consistent with the overall national development objectives are achieved, the MLHUD, does this at least through three main strategies: **i)** enforcing the constitutional 1/3 minimum representation by women on land governance structures at all level, **ii)** through legislation and interventions to enforce statutory provisions for women’s land rights through land registration processes, and **iii)** collaboration with other institutions with gender mainstreaming expertise.

Accordingly, the Ministry enforced the 1/3 minimum number of women on land governance institutions had to be enforced early on as the different institutions were being constituted in accordance with the

³⁴ MLHUD, 2019: The National Land Information System (NLIS) in Uganda: Support to improvements in land governance and transparency. A presentation at the Conference on Land Policy in Africa, CLPA-2019.

Constitution. Therefore, for a long time, women's presence on the various land governance institutions, right from the national to the community level, has become accepted as the norm and identity of these institutions – the Uganda Land Commission, the District Land Boards, and the Area Land Committees. At the Ministry itself, a Gender Committee made up of representatives from the various departments has been established. The Committee works closely with a designated **gender focal person** to oversee, review and ascertain the gender responsiveness of the Ministry's policies, strategies, and interventions.

The Ministry has recently developed its Land Sector Gender Strategy for the implementation of the National Land Policy. The Ministry has also registered a positive trend in its Ministerial Policy Statements assessments for gender and equity responsive planning and budgeting a three consecutive Financial Years 2016/17, 2017/18, and 2018/19 from 57% to 60% and 70.7%, respectively³⁵. This success, however, has largely been as a result of the back-stopping which the Ministry receives from other agencies, including the Equal Opportunities Commission, UBOS, Ministry of Gender, Labour and Social Development, and UN Women. The Ministry's sector-wide M&E framework and its integrated data collection systems linked to its zonal offices have also increased its capacity to track, monitor, and generate gender-disaggregated land sector data to support gender-responsive policy decisions and programmes.

c) Gaps and Challenges

Turning representation into effective participation in land governance

Even though these arrangements have resulted in addressing a number of gender issues in land, gender inequality in the land sector is bound to persist largely because of the deeply rooted cultural attitudes and norms associated with land and women's rights to it in which even women themselves are socialized in. Perceptions that land is a "taboo" or "sensitive" matter which only men can engage in are, for instance, still quite pervasive in current Uganda. The importance

of having had a minimum representation and participation of women in land governance institutions and structures enabled them to effectively participate in the decisions made by these institutions as key stakeholders. This potential has not been fully realized.

A study on Decentralized Land Administration³⁶ found out that women attended meetings less regularly than men. At times, their absence was due to the fact that meetings were organized without their being informed. Even though women's mandatory 1/3 membership in these institutions has been fulfilled, therefore, there is no requirement for them to be represented before a quorum for any meeting is realized. As a result, meetings were often held and decisions taken without the knowledge, and in the absence, of the women representatives. An analysis of Land Board meetings of Lira and Mukono by the same study also found out that women attended 3 of the nine meetings held and 14 of the 36 meetings held in Mukono, respectively³⁷.

These findings indicate that beyond enforcing the mandatory presence of women in these institutions, deliberate efforts to create a supportive environment for them to effectively participate are also essential. Because land issues are still deeply rooted in gendered family relations, cultural norms, and inhibitions that are biased against women's rights to land, whether individually or collectively, addressing the challenges which women carry with them or experience within these institutions is a gradual process that requires time and deliberate attention.

The necessity of in-house institutional capacities for sector-wide gender mainstreaming

Even though the recently launched Gender Strategy is a welcome development, it falls short of being the tool for gender mainstreaming, which is needed in order to address the underlying causes of gender inequality in the land sector. As the overall national policy orientation starts to move from intention to practice, gender issues will also need to move from analysis to meaningful interventions to realize measurable gender-specific results and outcomes. This shift will especially be critical under the NDP III 5-year period because of its

35 Equal Opportunities Commission, 2018: Assessment Report of Compliance of Ministerial Policy Statements with Gender Equity Requirements, FY 2018/2019, p. 24

36 Nakirunda Maureen, 2011: *Decentralized Land Administration and Women's Land Rights in Uganda: an analysis of the legal regime, state institutional arrangement and practice*

37 Ibid, p.35

focus on achieving concrete structural changes and transforming subsistence production and rural livelihoods. It stands to benefit women most because of their predominance in subsistence production and rural economies across Uganda.

The fact that internal capacities for land sector-wide gender mainstreaming are essential, it is also apparent that the positive initiatives which the land sector is implementing need to be sustained and scaled up. Its success, however, will depend on the support currently provided by other agencies. The current positive trend associated with gender and equity budgeting processes, for instance, is heavily dependent on the back-stopping the Ministry is getting from the EOC and other agencies. The need for internal capacities to draw out key lessons and strategies for addressing gender gaps is also likely to become more self-evident due to the current massive roll-out of the land registration processes.

All these developments point to the need for a robust, sector-wide gender mainstreaming strategy to ensure that gender issues across the entire spectrum of land sector interventions are understood and strategic interventions are designed, implemented, and monitored for their gender-specific impacts and outcomes. Mainstreaming gender in any sector requires both human and financial resources. Therefore, the necessity to put in place a land sector-wide Gender Mainstreaming Strategy will have to take into account the human and financial costs which will be required for it to be effectively implemented, monitored, and evaluated for its impacts and development outcomes.

d) Coordination with other relevant sectors

There is coordination between the Ministry of Lands, Housing, and Urban Development and Gender, Labour, and Social Development through the ministry's designated focal person for gender. This collaboration is largely historic, having been put in place when both expertise for gender analysis and institutional capacities for mainstreaming gender issues were limited. These capacities have since significantly increased. The Ministry of Lands also has active linkage and coordination with national and international agencies such as EOC, UBOS, and UN Women. It is receiving back-stopping for gender and equity budgeting. The support given by EOC is meant to be for a limited time beyond which the

Ministry is expected to take full responsibility for the gender and equity budgeting and reporting processes.

Greater coordination between the land sector and other related productive sectors is expected as the norm by NDP III, whose design explicitly emphasizes integration and indicates its opposition to "silo" approaches to planning, budgeting, and delivery of services to achieve common results. It is in light of this shift in approach that the land sector under NDP III is conceived as part of its overall program **Natural Resources, Environment, Climate Change, Land and Water Management**. The fact that NDP III anticipates realizing not only its own development objectives but also other global, regional and sub-regional goals and targets to which Uganda is a party makes collaborative with other agencies in planning for shared development outcomes even more critical. Effective collaboration between land and productive sectors where women are key players and gender gaps must be narrowed, such as agriculture and water, will especially be critical.

4.2 Gender opportunities, gaps, and challenges in land sector service delivery

a) Women's leadership and participation in land governance reforms and land use planning

Uganda's land governance, use, and planning have continued to evolve to reflect the overall governance principles of representation and participation in all public institutions by different categories of citizens and the requirement for decentralized systems of government. Uganda therefore provides an enabling environment for continued increased awareness of gender and women's rights issues, and one in which gender equality and equity in land governance and land use planning. Over the years, and following the coming into effect of its 1995 Constitution, Uganda has also witnessed a significant increase in the number of institutions, including academic, independent research, and CSOs, which provide capacity building for gender mainstreaming, generally and for policymakers at all levels and in different sectors, specifically.

Many opportunities exist not only for strengthening the capacities for gender analysis and gender mainstreaming expertise in all public sector institutions, including the land, but also to continually enhance participation

of women in land governance and land use planning reforms in order to enlist the necessary structural changes in the institutional cultures of these institutions. These opportunities are further augmented by the growing number of women professionals in fields previously dominated by the male gender, including physical planning, surveying, economists, statisticians, etc. These professional women currently occupy high positions in decentralized land management institutions such as the MZOs and district offices across the country.

Implementation of the mandatory 1/3 representation of women on land governance institutions at all levels has already changed the face and normalized women's presence in these institutions. The recent expansion of the MLHUD efforts to formalize and register Communal Land Associations has also witnessed a marked increase in women as registered members of CLAs. All these developments point to the opportunities which exist for expanding and increasing the effective participation of women in land governance reforms and land use planning, which take into account their gender-specific needs and interests.

b) Gender and Land Conflict resolution mechanisms

Dispute resolution mechanisms are an integral part of land governance and have significant implications for securing equitable access to justice in the administration of land rights. The National Land Policy underscores the importance of "access to timely, efficient and affordable dispute resolution mechanisms" as being imperative to the realization of its objectives of ensuring that the land sector provides an environment that supports an efficient land market, tenure security, and investment stability" (5.6: 114)³⁸.

Even though the 1995 Constitution provided for the enactment of a law to establish land tribunals, these have never taken off for various reasons. At the local level, the Local Council Courts Act 2006 established local council courts for every village, parish, town, division, and sub-county. The Act mandated the local council

courts to hear and determine disputes in respect of land held under customary tenure³⁹. The failure to hold local council elections between 2001 and 2018 meant there was no basis for constituting the local council courts. Following the LC1 elections in 2018, LC1 courts have now just become one of the many institutions involved in resolving land disputes at the local level.

This has created a multiplicity⁴⁰ of dispute resolution institutions that co-exist and operate with no clear coordination mechanisms. These institutions include the judicial such as the chief magistrates' courts, LC II and III courts, and non-judicial ones including families and clans, RDCs, and District Land Boards. Lack of clarity on which institutions are supposed to deal with dispute resolution has created uncertainty and an atmosphere in which violations of human rights, especially the rights of women, children, and other vulnerable groups, occur without recourse⁴¹. This situation has been stark in post-conflict northern Uganda and the communities which have been affected by oil exploration and large-scale agriculture investments in Hoima, Amuru, and Kalangala⁴².

c) Gender and land-based investment

Land in Uganda continues to be an essential resource to have access to for investment into any gainful activity to occur. The fact that gender is a key determinant of how land is accessed and controlled in Uganda, therefore, means that it is also a key determinant of the extent and nature of women's investments in land and largely depend on the extent of the decision making power they enjoy and can exercise of the land they have access to. Land-based investments by women, therefore, vary and range from the very small to medium and large scale enterprises, encompassing investments, initially even at the level of investing their labor in subsistence production in farming enterprises, to a variety of informal enterprises in urban centers, to large enterprises ventures and enterprises in the formal economy.

The key factor which enables women to invest in whatever enterprise they engage in is their secure access to

38 National Land Policy, p.36

39 Section 10 and the Third Schedule to the Act

40 Maureen Nakirunda, 2011: *Decentralized land administration and women's land rights in Uganda: an analysis of the legal regime, state institutional arrangements and practice.*

41 See, for instance: Fredrick Immanuel Kindi, 2010: *Challenges and Opportunities for Women's Land Rights in Post-Conflict Northern Uganda*; Irene Anying, 2012: *Re-envisioning Gender Justice in Access and Use of Land Through Traditional Institutions.*

42 NAPE, et al, 2018: *Digging Deep – the impact of Uganda's land rush on women's rights*

land as their starting point. Henry Manyike highlights this fact in his study of gender and housing in the low-income suburbs of Jinja describes how the starting point for the women who engaged in housing development was securing land through purchase and inheritance, as land was the most expensive component in housing development⁴³. Manyike noted that the women who were the focus of his study were able to expand their housing projects unit-by-unit over time and that they did this by using and re-investing the rental income they earned.

The women profiled in Margaret Snyder's study of Ugandan women entrepreneurs⁴⁴ also underscores the importance of women's secure access to land as one of the key determinants of the success of the enterprises profiled whose survival rate averaged 14 years⁴⁵. The fact these enterprises ranged from the most micro-level to large SMEs. They spanned enterprises typically associated with women's work, such as farming, tailoring, trading in foodstuffs in formal and informal markets, and more non-traditional and high-end enterprises, also confirms the potential there is for women's significant contribution to the overall economy once their and rights are secured.

Snyder underscores the fact that the resilience and success of women's enterprises at all levels was realized through enormous challenges key among them: insufficient knowledge and biases against women's work which trigger a chain of distortions and blockages in the design and implementation of policies that present obstacles rather than enable women's entrepreneurship. This policy neglect includes a failure to create an enabling environment for women entrepreneurs to access affordable capital to expand their enterprises. Pointing to some of the underlying constraints faced by women entrepreneurs includes their lower levels of education, information about available opportunities and how to access them, and more limited exposure, which make it difficult for them to access the capital they need to expand their otherwise successful enterprises.

Other gender-specific challenges associated with an investment in land highlighted by the different studies

also point to the generally more limited access to information by women on available investment opportunities, including opportunities for contracts with the government and avenues for accessing long-term and cheaper credit. It is noteworthy, therefore, that over the past two decades the **Uganda Women Entrepreneurs Association**, has grown into a full-fledged and country-wide network of women entrepreneurs which not only supports and offers capacity building, business training, and mentorship to its members but also engages in policy advocacy on behalf of its members.

d) Gender, Land, Property, and Housing

Uganda's Housing Policy takes as one of its key principles provision of adequate housing as a fundamental right. It has set itself to increase the stock of adequate housing from 60,000 to 200,000 per annum to meet the national housing need by 2022. The policy is premised on the understanding that it is an individual responsibility to provide adequate housing. The government's commitment is to create an enabling environment to stimulate increased investments in the housing sector. The policy objectives and specific interventions to be undertaken are thus gender-neutral.

Land is an essential asset for the development of housing and property in Uganda. It is, therefore, not surprising to find the gender gaps associated with land ownership and access mirrored in Uganda's housing and property ownership. The women who either own property or are engaged in housing development will have had to overcome the first hurdle of owning land. Henry Manyike's study found no significant gap between men and women who acquired their land through inheritance except that men had inherited their land as a birthright while women had done so through marriage.

Despite this, he also noted that gendered social processes permeated the interrelated components of housing, land, finance, building materials, construction technology, and labour. Women owners relied more on their own savings and underutilized housing development institutions even when they did not discriminate against women. The patterns of legalization of

43 Henry Manyike, *Gender and Housing Development in the Low Income Suburbs of Jinja Municipality*, Uganda; Organisation for Social Science Research in Eastern and Southern Africa (OSSREA) Gender Issues Research Report Series – No 17

44 Margaret Snyder, 2000: *Women in African Economies – From Burning Sun to Board Rooms*

45 Margaret Snyder, 2000, p.75

land and property ownership also revealed gendered social perceptions. While most men (56.3%) registered their land titles in their own names, 23.1% of women property owners did the same, while 46.2 couples who had joint ownership registered the property in the names of the male spouse. These findings were consistent with those of the ICRC Gender Land and Asset Survey for Uganda, carried out in Masaka, which found that the women who had joint ownership of land and housing, 15% of them registered their titles in the names of their husbands⁴⁶.

Both male and female property owners cited a lack of adequate finance as a major constraint; however, women owners tended to utilize their resources, savings,

and rental income to gradually expand their property. Manyike's study also indicated that the number of women who owned property in the urban centres was three times more than men. At the same time, the land has as they inherited and their preference for property development were in rural areas. Women's acquisition of land either through inheritance or through the purchase was an important enabler for them to develop their houses as land tends to be the most expensive component in housing development.

4.3 Performance assessment of Land sector using a Legal Assessment Tool

| Key element 1: Ratification of human rights instruments | | Yes/No | Legal basis |
|---|---|--------|--|
| 1 | The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is ratified. | 4 | |
| 2 | The African Charter on Human and Peoples' Rights (ACH-PR) is ratified. | 4 | |
| 3 | The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) is ratified. | 4 | |
| Key element 2: Elimination of gender-based discrimination in the Constitution | | Yes/No | Legal basis |
| 4 | The Constitution recognizes customary law but states that gender-based discrimination in customary law is superseded by the principle of non-discrimination in the Constitution | 4 | Constitution article 5, clause 7 |
| 5 | The Constitution recognizes religious law but states that gender-based discrimination in religious law is superseded by the principle of non-discrimination in the Constitution | 4 | Article 237 of the Constitution defining the different land tenure systems |
| 6 | The Constitution recognizes religious law but states that gender-based discrimination in religious law is superseded by the principle of non-discrimination in the Constitution | 4 | |
| 7 | The Constitution promotes the adoption of special measures for the advancement of women. | 4 | Art 32 of the Constitution provides for affirmative action in favor of marginalized groups by gender, age, disability, etc |

46 International Centre for Research on Women: *Gender Land and Asset Survey*.

| Key element 3: Recognition of women's legal capacity | | Yes/ No | Legal basis |
|---|--|--------------------|--|
| 8 | Men and women have the ability to conclude contracts under the same basic conditions, rights, and obligations. | 2 | Contract Act Cap Land Act Cap 227(Amendment Act) provides for land ownership |
| Key element 4: Gender equality of rights with respect to Nationality | | Yes/ No | Legal basis |
| 9 | Men and women are able to apply for identity documents under the same conditions. | 4 | |
| 10 | A female national can confer citizenship to her non-national spouse under the same conditions as a male national | 4 | Immigration & Citizenship Act Article 12 ,2 (a) of the Constitution of Uganda |
| 11 | Women can confer citizenship to their children under the same conditions as men. | 4 | Chapter three of the Constitution of Uganda Article 10 |
| Key element 5: Gender equality in property rights | | Yes/ No | Legal basis |
| 12 | The law recognizes gender equality in the right to own or control property regardless of the type of marriage | 4 | Constitution |
| 13 | The law recognizes the full or partial community of property as the default marital property regime | 0 | |
| 14 | Spousal consent is mandatory for any transaction involving the matrimonial property. | 3 | |
| 15 | The law establishes a presumption of joint ownership of property in consensual unions | 4 | Constitution Marriage Act |
| 16 | The legal framework includes special measures to guarantee women's equal rights to land ownership and/or control | 4 | Constitution Marriage Act |
| Key element 6: Gender equality in inheritance | | Yes/ No | Legal basis |
| 17 | The surviving spouse is granted user rights to the matrimonial house for life. | 4 | |
| 18 | Under the law of succession, the surviving spouse is entitled to a minimum share of matrimonial property. | 4 | |
| 19 | The law allows partners living in the consensual union to inherit from each other | 4 | |
| 20 | Brothers and sisters have an equal right to inherit. | 4 | |
| 21 | Brothers and sisters receive an equal share of the inheritance. | 4 | Article 21 and 26 of the Constitution |
| 22 | Brothers and sisters receive an equal share of the inheritance. | 4 | Land Act section 39 |

| Key element 7: Gender-equitable implementation, dispute resolution mechanisms, and access to justice | | Yes/ No | Legal basis |
|---|--|----------------|--|
| 23 | Decentralization of land administration services is effected through recognized customary land institutions. | 4 | |
| 24 | Decentralization of land administration services is effected through formal land institutions. | 4 | |
| 25 | The law guarantees equality before the law. | 4 | Constitution Land Act Contract Act |
| 26 | The law guarantees equal access to judicial systems and statutory or customary dispute resolution mechanisms to resolve disputes over tenure rights. | 4 | |
| 27 | The law makes provision for legal support in civil procedures. | 4 | |
| 28 | A human rights commission or gender-specific institution is in place. | 4 | |
| Key element 8: Women's participation in national and local institutions enforcing land legislation | | Yes/ No | Legal basis |
| 29 | The law sets quotas for the appointment of women in land management and administration committees. | 4 | Land Act Constitution Land Registration Ac |
| 30 | The law sets quotas for the appointment of women in land dispute resolution committees. | 4 | |

KEY

| Rationale | Stage |
|--|--------------|
| Absence of the indicator in the legal framework | 0 |
| A policy is being developed | 1 |
| A policy is in place | 1.5 |
| Draft legislation is to be submitted for deliberations | 2 |
| The indicator appears in primary law | 3 |
| The indicator appears in multiple legal instruments | 4 |
| Not applicable | N/A |

SECTION 5: CONCLUSION AND RECOMMENDATIONS BASED ON ALL KEY ASSESSMENT AREAS

5.1 Conclusions

a) Status of gender vis-à-vis land – persistent challenges

Even though Uganda has made significant progress in reducing gender gaps in sectors such as political participation and education, gender gaps have persisted in economic participation, generally, and the land sector as a key resource, specifically. Evidence of this wide gap is in the disproportionate representation of women among registered landholders under all the tenure systems recognized by the Constitution of Uganda and in the high concentration of women's productive labor in subsistence production, the informal sector, and low-paying indecent employment in the formal sector.

Land and agriculture are the essential sectors for transforming subsistence production, which also entails shifting productive labor out of this vulnerable form of employment to more gainful income-earning and productive economic activities. Women's productive labour is "trapped" in subsistence production due to a variety of underlying gender-specific factors which have to be addressed.

The current status and trends pertaining to gender with a direct link to land as a resource include the following:

- Gender inequality in ownership, control, and access to land under all tenure systems;
- Inadequate protection and enforcement of statutory provisions and guaranteed land rights to women under customary tenure;
- Policy ambiguity and lack of explicit support to women's land rights for food production, which still caters for at least a half of the food consumed by the majority of households in Uganda;

- Policy ambiguity and lack of explicit strategy to address current challenges faced by women in land-scarce areas, conflict, and post-conflict situations, or refugee women and internally displaced communities to access land for food production;
- High prevalence of gender-based violence associated with women's unequal and limited control over land and property and the pervasive high tolerance level of this violence as a result of traditions and norms associated with male authority over land and property;
- Gender gaps in economic participation including access to land for investment and affordable finances.

b) Existing land related legal and policy frameworks with key gender equality provisions

Uganda has had close to two decades of legal, policy, and institutional reforms and now has in place a comprehensive range of legal and policy instruments which support the promotion of gender equality in land and land-related activities. Uganda has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), which have specific provisions for gender equality and women's rights to land and livelihood resources.

The range of legal and policy instruments which Uganda currently has in place now have provisions for gender equality to cover the following gender-specific key elements: a) Elimination of gender-based discrimination in the Constitution, b) Recognition of women's legal capacity, c) Gender equality of rights with respect to Nationality, d) Gender equality in property rights, e) Gender equality in inheritance, e) Gender-equitable implementation, dispute resolution mechanisms and

access to justice, and f) Women's participation in national and local institutions enforcing land legislation.

c) From policy to practice – promoting gender equality in land matters

Institutional opportunities

The set up of public sector agencies anticipates each agency to have the required expertise and capacities to address gender issues related to their respective policy frameworks, programs, and investment plans. As the agency responsible for the land sector generally and for ensuring that gender-responsive policy outcomes which are consistent with the overall national development objectives are achieved, the MLHUD does this at least through three main strategies:

1. enforcing the constitutional 1/3 minimum representation by women on land governance structures at all levels,
2. through initiating new legislation and enforcing existing statutory provisions for women's land rights, and
3. collaborating with other institutions to mainstream gender-specific interventions

Key institutional gaps and challenges

Even though these arrangements have resulted in some positive achievement in addressing gender issues, their full potential for enlisting deeper gender outcomes within the land sector has not been realized largely because the current strategies for addressing gender in the land sector largely depend on the historical "gender focal point" initiatives with the support of other staff members for whom gender issues are an add-on to their regular responsibilities. The inadequacy of this strategy is further evident in the fact gender activities are not specifically resourced and have to piggyback on other activities which are resourced.

The Ministry's recently launched Gender Strategy for the implementation of the Land Policy, therefore, presents an important starting point for putting in place a robust, sector-wide Gender Mainstreaming Strategy based on a land sector-wide analysis of the gender issues, establishes base-line information, and data, identifies strategic gender mainstreaming actions and

entry-points and sets bench-marks which are monitored for desired gender-specific impacts and outcomes over a specified time. A review of the institutional capacity for the effective implementation of the Gender Mainstreaming Strategy is critical, and that adequate financial resources are budgeted for and mobilized for this purpose.

d) Gender opportunities, gaps, and challenges in land sector service delivery

Women's leadership and participation in land governance reforms and land use planning

Uganda's land governance, use, and planning have continued to evolve to reflect the overall governance principles of representation and participation in all public institutions by citizens and the requirement for decentralized government systems. Uganda therefore provides an enabling environment for continued increased awareness of gender and women's rights issues, and one in which gender equality and equity in land governance and land use planning.

Many opportunities exist not only for strengthening the capacities for gender analysis and gender mainstreaming expertise in all public sector institutions, including the land, but also to continually enhance participation of women in land governance and land use planning reforms in order to enlist the necessary structural changes in the institutional cultures of these institutions.

Implementation of the mandatory 1/3 representation of women on land governance institutions at all levels has already changed the face and normalized women's presence in these institutions. The recent expansion of the MLHUD efforts to formalize and register Communal Land Associations has also witnessed a marked increase in women as registered members of CLAs.

Gender and Land conflict resolution mechanisms

Dispute resolution mechanisms are an integral part of land governance and have significant implications for securing equitable access to justice in administration. The National Land Policy underscores the importance of "access to timely, efficient and affordable dispute resolution mechanisms" as being imperative to the realization of its objectives of ensuring that the land sector provides an environment which supports an

efficient land market, tenure security and investment stability” (5.6: 114)⁴⁷.

Even though the 1995 Constitution provided for the enactment of a law to establish land tribunals, these have never taken off for various reasons. At the local level, the Local Council Courts Act 2006 established local council courts for every village, parish, town, division, sub-county. Following the LC1 elections in 2018, LC1 courts have now just become one of the many institutions involved in resolving land disputes at the local level.

As a result, multiple dispute resolution institutions co-exist at the local with no clear coordination mechanisms. This has created uncertainty and an atmosphere in which gross violations of women's land and human rights, children, and other vulnerable groups occur without recourse. This situation has been stark in post-conflict northern Uganda and the communities which have been affected by oil exploration and large-scale agriculture investments in Hoima, Amuru, and Kalangala⁴⁸.

Gender and Land-based investment

Land in Uganda continues to be an essential resource to have access to for investment into any gainful activity to occur. The fact that gender is a key determinant of how land is accessed and controlled in Uganda, therefore, means that it is also a key determinant of the extent and nature of women's investments in land and largely depend on the extent of the decision making power they enjoy and can exercise of the land they have access to. Land-based investments by women, therefore, vary and range from the very small to medium and large scale enterprises, encompassing investments, initially even at the level of investing their labor in subsistence production in farming enterprises, to a variety of informal enterprises in urban centers, to large enterprises ventures and enterprises in the formal economy. A key factor in enabling women to invest in whatever enterprise they engage in is their initial secure access to land.

Women face gender-specific challenges which inhibit their capacities to expand the investments they may have on land. These include insufficient knowledge and

biases against women's work which results in policy distortions and the tendency to hinder rather than support women's entrepreneurship, lack of access to affordable capital to expand enterprises, low education levels of the majority of women entrepreneurs compounded by their more limited mobility and exposure and access to information about available opportunities and how to access them.

The emergence of the **Uganda Women Entrepreneurs Association** as a full-fledged, country-wide network of women entrepreneurs that not only supports and offers capacity building, business training, and mentorship to its members but also engages in policy advocacy on behalf of its members is a very important opportunity which needs continued support, expansion, and replication.

Gender, Land, Property, and Housing

According to Uganda's Housing Policy, one of its key principles is the provision of adequate housing as a basic right and has set a goal of increasing its stock of adequate housing from 60,000 to 200,000 per annum for it to meet its national housing need by 2022. The policy commits the government to creating an enabling environment to stimulate increased investments in the housing sector. As with any other investments, land is an essential asset for investments in housing and property to occur.

Without addressing the gender-specific constraints which women in Uganda face to access, own, and control land, therefore, the gender-neutral stance of the Housing Policy is, in fact, distinctly biased against the women's investment in housing and property development. Creating an enabling environment for women investors in housing, therefore, would require not only an explicit acknowledgment of the unique obstacles they face starting with women's unequal rights to land, but also putting in place specific strategies aimed at creating that conducive environment, including incentives to attract women investors in the sector.

47 National Land Policy, p.36

48 NAPE, et al, 2018: Digging Deep – the impact of Uganda's land rush on women's rights

NDP III framework as an opportunity for gendered and results-oriented action

NDP III focuses on inclusive and sustainable growth, increasing household incomes, reducing the number of households trapped in subsistence production, and promotion of value addition and linkages through the value chain of small-, micro- and medium-scale enterprises, NDP III is designed as a framework through which concrete actions will be undertaken to achieve concrete development results.

The areas where women and youth can be directly involved to achieve the desired results include efforts to achieve: a) reduced poverty rates from 21.4% to 18.87%, b) increased growth of the agricultural sector from 3.8% to 7%, c) reduction in the percentage of households dependent on subsistence agriculture as the main source of livelihood from 68.9% to 55%, d) 513,000 annual jobs created to provide employment for youth, and e) reduced youth unemployment as a result of an increase in jobs created from 12.3% to 9.7%.

The action- and results-oriented nature of the NDP III framework is also expected to be the mechanism through which Uganda expects to accelerate the achievement of its national Vision 2040, regional Agenda 2063, and its global SDGs commitments by 2030. This alignment to other development frameworks is critical for Uganda to be able to leverage the opportunities which exist for resource mobilization to achieve shared regional and global time-bound development targets.

5.2 Priority recommendations to enhance gender equality in land governance

a) Gender and land issues

- Consolidate current initiatives to promote gender and women's land rights as the baseline for a coherent sector-wide strategy with benchmarks and indicators of progress in promoting gender equality in access, ownership, and control of land across the four tenure systems in the short, medium, and long term;
- Re-align the land sector's strategies, programs, and investment plans to contribute towards achieving

NDP III results, and set gender-specific baseline information, benchmarks, and desired outcomes to be achieved in this regard over the short, medium, and long term.

- Secure women's rights to land for food production, common property environmental resources, and public urban spaces.

b) Gender opportunities

- Support women's land rights in access, control, and ownership of land for their small, micro, and medium scale investments, especially in the informal sector;
- Create a supportive and enabling environment and provide incentives for women entrepreneurs to take advantage of the opportunities which exist in the current policy emphasis on promoting decent housing and property development.

c) Land related legal and policy frameworks

Key Element: Ratification of human rights instruments: Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the African Charter on Human and Peoples' Rights (ACHPR), and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)

- Scale-up implementation, resources, and timely reporting to the CEDAW Committee;
- Government reporting on CEDAW should reflect the context and commitments made at the national level;
- Implementation of the CEDAW Committee recommendations at the national level;
- Increase awareness of the CEDAW at the national and community level.

Elimination of gender-based discrimination in the Constitution

- Increase coordination among actors in preventing and responding to GBV

- Increase public resource allocation to priority sectors for women, which include: Health, Education, and Agriculture, among others
- Increase awareness of non-progressive cultural norms and practices in communities.
- Conduct a nationwide assessment of the Land Acquisition Bill and Customary Land Titling processes; and their impact on women and vulnerable communities.
- Harmonise the Sharia law provisions, which still contradict legal frameworks.
- Apply provisions for affirmative action to promote the rights of women and girls, especially for household food production
- Government should implement the recommendations of the various Commissions of Inquiry in land management to promote justice for vulnerable communities.

Recognition of women's legal capacity

- Increase awareness of non-progressive cultural norms and practices in communities.
- Conduct a nationwide assessment of the Land Acquisition Bill and Customary Land Titling processes; and their impact on women and vulnerable communities.

Gender equality in property rights

- Implement existing legal and progressive legal frameworks
- Increase enforcement and awareness on spousal consent provisions under the law
- Courts of law should uphold compensation in joint land ownership and sale.

Gender equality in inheritance

- Subject to the enactment of proposals for law reform "Succession Amendment) Bill 2019
- Increase awareness on land and property rights of women and girls as part and parcel of their rights of access to economic and social justice.
- Subject to Parliament enacting the Succession Amendment Bill proposals in the distribution of matrimonial property
- Courts of law must uphold restrictions on land transfer by family members provided for by the Land Act.

Gender-equitable implementation, dispute resolution mechanisms, and access to justice

- Strengthen the capacities of district and sub-county land administration structures to ensure improved quality of services to women and vulnerable groups.
- Strengthen the implementation of existing progressive legal frameworks
- Strengthening the Justice Law and Order Sector to deliver justice to women and vulnerable groups as it remains critical
- The Judiciary, Courts of Law, LC 1 Courts capacities need to be strengthened to deliver justice for women and vulnerable groups;
- Reduce red tape and technicalities in land management with regards to common disputes faced by women and vulnerable groups, e.g., boundary opening and visiting the locus;

Women's participation in national and local institutions enforcing land legislation

- Strengthen implementation, capacity, quality, and effectiveness of participation at all levels.

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