REALISING LAND RELATED SDGs IN UGANDA

An Analysis and Recommendations

June 2018
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<tr>
<th>Acronym</th>
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<td>ASM</td>
<td>Artisanal and Small scale Mining</td>
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<td>CSO</td>
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<td>Food and Agricultural Organisation</td>
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<td>Nationally Determined Contribution</td>
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PART 1:  INTRODUCTION
IMPORTANCE OF SDGs
Uganda’s status of implementation of land related SDGs 1.4, 2.3 and 5a

1. INTRODUCTION: IMPORTANCE OF SDGs

   i. Importance of land related SDGs to Sustainable Development in Uganda

The Sustainable Development Goals (SDGs) are a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity. The goals are interconnected and the key to success on one will involve tackling issues associated with another. Also, success on one goal should not undermine progress on another. The SDGs are an inclusive agenda and tackle the root causes of poverty. They unite us to make a positive change for people and the planet. Uganda has embraced the SDGs and was among the first countries in the world to localize the 2030 Agenda for sustainable development through different policy and planning frameworks such as the National Development Plan II and the National Vision 2040. Uganda was also among the first countries to take up the challenge to provide the first national voluntary review on progress on SDGs in 2016.

According to the United Nations Development Assistance Framework, the National Development Plan II (NDP II) has integrated 76% of the SDGs. This means that NDP II is in line with the 2030 Agenda at an alignment rate of 76%. The NDP II has incorporated SDGs, targets and indicators in its planning framework. The Government has demonstrated political will to realize SDGs through development and dissemination of development-planning guidelines for sectors such as land, agriculture, water among others. Local government further facilitates the integration of SDGs in sector and local government planning frameworks.

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2. This is particularly important for targets related to land rights, which can be undermined also by ill-conceived development projects related to energy, agriculture, infrastructure or conservation.
3. Ibid.
7. Ibid.
Besides being a signatory to international human rights conventions and treaties, Uganda is also a signatory to numerous land-related policies, guidelines and frameworks such as the 2012 FAO Voluntary Guidelines on Governance of Tenure of land, fisheries and forests in the context of national food security, the AU framework and guidelines on land policy in Africa (2010), and the 2014 Malabo Declaration on accelerated agricultural growth and transformation for shared prosperity and improved livelihoods.⁶ Uganda, by signing these instruments, made global commitments to evaluate the way land rights are protected and the means by which land is used in the context of important international development objectives such as: guaranteeing food security; reducing extreme poverty and hunger; addressing the challenges posed by climate change, conserving biological diversity; resolving trans-boundary conflicts, achieving gender equality and equity, protecting human rights, preventing forced evictions and guaranteeing security of tenure.

Box 1: Relevant International and Regional Instruments and Guidelines

*Convention on the Elimination of All forms of Discrimination against Women* specifically recognises the vulnerabilities that rural women face due to cultural and traditional practices and biases.

*Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa* recognizes women’s vulnerability that is perpetuated by traditional practices and biases.

*ILo Convention 169 on Indigenous and Tribal Peoples*, among others, obliges governments to respect the special importance of cultures and spiritual values of the people concerned with their relationship with the lands or territories (Article 13).

*Convention on Biological Diversity* whose aim is to conserve biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits arising from commercial and other utilization of genetic resources.

*Paris Agreement* aims to strengthen global responses to the threat of climate change by keeping a global temperature rise below 2 degrees Celsius and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius.

*2016 Universal Periodic Review Mechanism recommended that Uganda*: (i) abolishes all discriminatory laws and practices in accordance with its international obligations under the Convention on the Elimination of All Forms of Discrimination against Women; (ii) enacts laws that enhance equal access to property rights for women; (iii) strengthens implementation of the National Agricultural Policy to ensure access to food and address malnutrition; (iv) promotes the participation of women in the process of national development; (v) deletes all discriminatory provisions against women that may exist in its national laws; (vi) promotes national efforts aiming at achieving gender equality and women’s empowerment on the political and social level; (vii) continues to improve its policies to protect the rights of women.

Therefore, realising land related SDGs, over and above other regional and international commitments, is specifically important to promote sustainable development for Uganda. The country is heavily reliant on agriculture and natural resources, which form the backbone of Uganda’s economy.\(^{10}\) Land is at the core of gender equality, impacting agriculture production and control of resources. Over 75% of Uganda’s population is dependent on agriculture and solely derives livelihood from land and its resources.\(^{11}\) Similarly, 68% of Ugandan households are engaged in the subsistence economy, while 43% of these households are engaged in subsistence farming, producing what they consume.\(^{12}\)

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This means that land plays a central role in the livelihoods of majority of Ugandans. Securing land tenure and recognising the rights of indigenous peoples such as the Batwa and Benet\textsuperscript{13} and local communities is therefore vital for meeting the SDG objective on equitable, peaceful and inclusive societies, where human rights are recognised and upheld and the environment and natural resources are protected.\textsuperscript{14} Uganda's aspirations for sustainable development rests on the continued development and viability of land and its resources, through effective governance and administration in national planning and development.

The Government has made efforts to integrate land related SDGs into its development planning. Efforts have also been made to incorporate SDGs 1.4, 2.3 and 5a across a spectrum of laws, policies, and planning strategies. Several institutions- including the National Planning Authority, Ministry of Lands, Housing and Urban Development, and the Uganda Bureau of Statistics- have been designated to implement, fast track and monitor the different initiatives aimed at realising land related SDGs.

Notwithstanding the laws, policies and structural interventions, there has been mixed progress on land reform in Uganda, which has exacerbated growing inequalities in the country. In the past decade, there as been increase in violent land conflicts perpetuated by the increased population and demand for land both at individual and commercial level. Land grabbing has increased due to the need for more land for commercial farming and industrialization. Since 2015, land related conflicts and violence have displaced the poor and vulnerable. Traditional practices and cultural biases against women also continue to impact women's access, ownership and control over land.\textsuperscript{15} The realization of land related SDGs will only be possible if collective deliberate action is taken to address the complex set of issues that constitute the 'land question' in Uganda.

\textsuperscript{12} Hon. Matia Kasaija; Budget Speech for the Fiscal Year 2018/19 (June 2018).
\textsuperscript{13} The indigenous peoples of Uganda include ancient communities of hunters and gatherers, such as Benet and Batwa, also known as Twa. They also include minority groups like the Ik, the Karamojong and the Basongora.
\textsuperscript{14} Lawyers for Community Tenure: A Global Coalition of Lawyers and Advocates for Securing Community Tenure; Joint Opinion Brief (Dec. 2015).
\textsuperscript{15} NAPE, NAWAD and Womankind; Digging Deep: The impact of Uganda’s land rush on women’s rights (2016).
ii. **Rationale for the report**

Implementation of SDGs requires states to undertake voluntary country led reviews to demonstrate the country’s progress towards realization. The country reviews should be done on a regular basis and supplemented by sub-national reviews. Uganda has undertaken two voluntary SDG reviews. The first review was done in 2016 and the second in 2017. The 2016 ‘Review Report on Uganda’s Readiness for the Implementation of the 2030 Agenda’ documented Uganda’s readiness towards implementation of the SDGs. It specifically reported on efforts made such as policy integration to link the SDGs to the National Development Plan II, Vision 2040 and other national development frameworks. The ‘Towards Zero Hunger – A Strategic Review of Sustainable Development Goal 2’ 2017 report presented a more comprehensive and detailed review on progress towards ending hunger, improving nutrition and food security.

In 2017, the CSO Core Reference Group developed the first shadow report to the 2016 national voluntary report. The CSO report limited itself to reporting on SDGs 1, 3, 5 and 17 and highlighted critical issues that are vital to the attainment of the SDG indicator targets. These included: the need for comprehensive, diverse and inclusive leadership for SDGs, the importance of local governments as drivers of change, the need to bring on board Parliament and the media to create stronger laws, allocate practical financing and amplify voices on SDGs and stronger commitment to address corruption as a governance issue. Although the 2017 report presents progress on SDGs 1, 3, 5, and 17, it does not expressly discuss progress on land related SDGs. This is because the 2017 report focused on the SDGs under review during the United Nations High-Level Political Forum. This report by Oxfam is therefore important to specifically highlight Uganda’s progress on land related SDGs.

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38 United Nations Development Group; Guidelines to support country reporting on the sustainable development goals.
36 The 2030 CSO Agenda Core Reference Group is coordinated by the Uganda National NGO Forum, which provides representation at national, regional and global levels and also plays a representational role for CSOs within the National SDG Coordination Framework. The CSO Core Reference Group brings together over 100 CSO members including women, youth, PWDs, faith based organizations, and cultural organizations committed to advancing the CSO engagements on the SDGs. http://beta.ngoforum.or.ug/agenda-2030-sdgs/
39 Ibid.
40 Ibid.
This report will analyse the two voluntary reviews of 2016 and 2017 to the extent that they report on progress made on land related SDGs. It will combine this analysis with findings on efforts by the Government and civil society organisations to implement interventions in support of realisation of land related SDGs in Uganda. The report has been developed to assess Uganda’s efforts to implement land related SDGs 1.4, 2.3 and 5a and identify gaps in policies and practices including the level of required budget allocations. It is hoped that the report will support government and civil society to engage with this process and prepare the foundation for the next national review. Since the SDGs are very integral, this review has also focused on analysing inter-linkages between land and issues such as inequality (SDG 10), climate change (SDG 13), life on land (SDG 15) and peace, justice and strong institutions (SDG 16). This report identifies and proffers policy recommendations that, if implemented, will strengthen the realisation of land related SDGs. The report was developed following a process of extensive literature review of documents including laws, policies and reports (see bibliography).

21 Whilst focusing on these Goals, we recognize that land rights are cross-cutting across basically all SDGs.

22 A multi-sector institutional approach will be used by Uganda to deliver on the SDGs – core institutions include: Office of the President, Cabinet, Parliament, Office of the Prime Minister, National Planning Authority, Ministry of Finance Planning and Economic Development, Uganda Bureau of Statistics.
PART 2: REALIZING LAND RELATED SDGS IN UGANDA
2. REALIZING LAND RELATED SDGS IN UGANDA

i. Institutional structures and Initiatives to deliver on the SDGs

Uganda has made an effort to enhance its national capacity in order to strengthen its ability to implement, monitor and determine inclusive development across the country. A number of reforms to improve institutional functionality and steer coordination and implementation of national development programs set to realise the SDGs have been effected. The National Planning Authority\(^{22}\) is the central agency charged with the production of comprehensive and integrated development plans to ensure that global commitments on the SDGs are localised and mainstreamed into the national development plans. The Government has also established the Delivery Unit in the Office of the Prime Minister, the Government Evaluation Facility, Institutional Coordination Mechanisms, the gender responsive regulatory framework and certificate of gender and equity compliance. However, it is important to note that the legal and policy frameworks are a means rather than an end to successful realization of the SDGs. The first test for actual realization of the SDGs is the actual political will to deliver on the SDGs through required budget allocation, tooling the necessary government departments and taking practical measures to address those gaps that could lead to actual realisation of land related SDGs.

Image 1: The SDGs Coordination Framework

\(^{22}\) A multi-sector institutional approach will be used by Uganda to deliver on the SDGs – core institutions include: Office of the President, Cabinet, Parliament, Office of the Prime Minister, National Planning Authority, Ministry of Finance Planning and Economic Development, Uganda Bureau of Statistics.
**Participation of civil society organizations and review mechanisms**

Civil society organisations (CSOs) play an active role in the realisation of land related SDGs through implementation of different programs, and monitoring government commitments as indicated by implementation of programs, policies and strategies and allocation of realistic or recommended sector budgets. Under the leadership of the Uganda NGO Forum, CSOs have organised themselves under ‘the 2030 CSO Agenda Core Reference Group’ to participate in engagements on the SDGs especially at the SDG coordination framework level.\(^2\) The CSO Core Reference Group brings together over 100 CSO members including women, youth, PWDs, faith based organizations, and cultural organizations committed to advancing the CSO engagements on SDGs.

As a result CSOs have contributed in various ways through strategic discussion, provision of information, data and research to the SDG National Taskforce, SDG Technical Working Groups, as well as created awareness around the SDGs through their programming, promoting domestication of the SDGs at national and local levels and monitoring of the SDGs.\(^3\) For example, CSOs have undertaken a local campaign that conforms to the ‘Leave No One Behind’ principle of the SDGs. The ‘Tondeka Mabega’ (a local slogan that means do not leave me behind) and the #EndInequalityUG campaigns aim at amplifying voices (stories, testimonies, proposals and demands) of marginalized groups and demand a fundamental shift to end inequality and poverty, which perpetuate human suffering.\(^4\)

The 2030 Agenda CSO Core Reference Group is comprised of over 100 different CSOs organised under thematic consortiums such as health, gender, agriculture and sustainable cities and communities that align broadly to the SDGs under review at the United Nations High Level Political Forums. The cross-cutting nature of land related SDGs means that the 2030 Agenda CSO Core Reference Group does not have a specific thematic group that focuses on land related SDGs. This can be interpreted in two ways:

1. **Land related SDGs are infused in the discussions under the different thematic consortiums.**

2. **No particular and purposive focus is being made to follow progress on implementation of land related SDGs.**

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\(^2\) The 2030 Agenda CSO Core Reference Group is organized under the Uganda National NGO Forum. www.ngoforum.or.ug

\(^3\) Uganda National NGO Forum; Uganda Civil Society Report on the Implementation of the SDGs (June 2017).

\(^4\) Ibid.
PART 3:
SECURE AND EQUITABLE LAND RIGHTS FOR WOMEN AND MEN IN UGANDA
3. SECURE AND EQUITABLE LAND RIGHTS FOR WOMEN AND MEN IN UGANDA

1. Uganda’s efforts to realize SDGs 1.4, 2.3 and 5a

Land and tenure security

Goal 1.4: By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate technology and financial services, including microfinance.

Indicator 1.4.2: Proportion of total adult population with secure tenure rights to land, with legally recognized documentation and who perceive their rights to land as secure, by sex and by type of tenure

Land is a critical factor to achieve and sustain development for Uganda—especially where its access, control and ownership are predictable and guaranteed. Security of tenure should guarantee access to land, control and ownership especially for poor, vulnerable and marginalized communities. The security of tenure embodies two major aspects: (i) legally recognized documentation and (iii) perception of the security of tenure. Security of tenure is the certainty that a person’s rights to land will be recognized by others and protected in cases of specific challenges. While legally recognised documentation refers to the recording and publication of information on the nature and location of land, rights and right holders in a form that is recognized by government, and therefore legal.

Land remains a critical factor of production and an essential pillar of sustainable national development and poverty reduction. The way it is used, managed, controlled and transferred has far reaching implications on economic development. This is because more than 80% of the population is employed by the agricultural sector, 69% are into subsistence farming and the agricultural sector contributes 24% to the national GDP, and 40% of export earnings. Uganda has developed a comprehensive and progressive legal and policy framework on land ownership, administration and management. This framework, which mostly pre-dates the SDGs, includes the 1995 Constitution, the 1998 Land Act, Land

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32 Francis Mwesigye (PhD); the challenges and opportunities of Uganda’s land tenure system (2016).
Acquisition Act, Registration of Titles Act, the 2007 National Land Use Policy, and the 2013 National Land Policy.

Uganda’s Constitution provides that all land is owned by the people of Uganda (Article 237) and vests attendant rights in the people in accordance with the four formally recognized land tenure systems (customary, freehold, leasehold, and mailo) (Article 237(3)). The plurality of Uganda’s land tenure system creates many competing interests, uncertainty and conflicts over land, which heavily impacts on security of tenure. For example, the mailo tenure system grants multiple rights over the same piece of land, and has been highlighted as a factor leading to large numbers of evictions and landlessness.  

The conflict around land tenure is precipitated by the fact that over 80% of land in Uganda remains un-surveyed and unregistered. For example in rural areas less than 2% of plots across northern Uganda have been registered [Burke 2014], 35% of land in Uganda is privately owned, and only one out of every five land parcel holdings had a formal title in 2015/16. Further, nearly 45.5% of parcel holdings in the country are under the customary land tenure system (UNPS 2015/16 data). It is, however, important to note that the lack of security of tenure could be the result of poor land governance and cultural barriers to land ownership and not necessarily the lack of title or formalization of land rights.

The discussion on tenure security in Uganda has largely remained limited to land registration/ownership as an assumed panacea to the complex land issues. To achieve increased security of tenure and therein increased formal land registration through titling, with support from the World Bank, the Government of Uganda in 2015 rolled out the second phase of the modernization of the land sector project with the National Land Information System (NLIS).

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25 Ibid.
The NLIS fully integrates land registration, land administration, surveying and mapping, physical planning and valuation and at the time of this assessment, 16 out of 21 Ministry Zonal Offices (MZO) were functional. The NLIS has the potential to reduce land related fraud and bring credible land registration closer to all people. The NLIS is meant to provide government with accurate and real-time indicators to strengthen land governance and monitor implementation of the SDGs.33

Stability of occupancy is also critical with regards to security of tenure. Women’s access to land is limited due to limiting legislation, traditional and cultural biases and customary practices. It is estimated that only 27% of women in Uganda own land, leaving the rest with access to land only through a male relation (father, son and husband)- even though 70% of women are engaged in agriculture.34 According to Land Watch, less than 20% of women in Uganda have control over their agricultural output, and only about 17% own land in their own right through purchase.35 This means that ultimately only about 20% of women in Uganda own their land, making it extremely difficult for women to lift themselves and their households out of poverty. Due to a lack of stability of occupancy, women do not often use land optimally. This impedes their ability to lift themselves and their households out of a life of penury. Security of tenure, especially for rural communities, enables them to engage in secure agricultural productivity and increase food productivity.

Unfortunately, most poor and rural farmers are constrained by the insecurity of tenure not knowing whether they will retain control of the land on which they make investments.36 The lack of security of tenure also affects crop choices and sustainable land management practices as individuals and communities will mostly adopt temporary land use approaches.

34 Ibid.
35 During the drafting of this report efforts to get accurate information from the NLIS on the accurate figures on the number of women who own land where not successful.
Aspects of security of tenure also extend to natural resource rights and management. The regions of Karamoja and the Albertine Graben have attracted large-scale land-based investment due to their high potential for mineral exploration but also in part due to the fact that land in these areas is held under the customary land tenure system. Most of the communities in these areas are engaged in Artisanal and Small Scale Mining (ASM) and are facing increased tenure insecurity by multinational companies involved in ASM. Multinational companies have taken advantage of insecure local land rights, inaccessible land registration procedures, legislative gaps and community ignorance to easily acquire thousands of hectares of land with the backing of the State. Government backed involuntary evictions/displacement of ASM communities in Mubende and Karamoja regions all evidence increased land insecurity for households/communities in these areas. Multiple land disputes and conflicts related to land boundaries, land use and land acquisition leading to violence were prevalent in areas of Apaa, Amuru and Kololo (Acholi sub-region), Aswa, Maru0, and Mubende. In almost all instances, the State was seen to protect the interests of the multinational companies against the rights of local communities.

Land evictions remain rampant across the country, fuelled by the influx of foreign multi-nationals, politicians and land speculators. Tenure insecurity has also impacted on the way land and natural resources are used. The 'rush to extract’ natural resources epitomises the lack of tenure security even where access to the land is backed by government forces such as police, army and para military outfits. Attempts to protect land tenure through courts of law is very costly, time consuming and furthers the lack of access to land during protracted court battles.

36 Ibid.
38 Ibid.
39 Ibid.
In 2017, Government argued that many development projects were failing or being stalled in part due to speculation over the value of the land and deliberate frustration of land acquisition processes. Consequently an amendment to Article 26 of the Constitution was introduced. It sought to give government leeway to use the land gazetted for public infrastructure development after depositing compensation money agreed to by the chief government valuer to court, pending determination by court of any dispute relating to compensation. This proposal led to a lot of public outcry over the content and implication of the proposed amendment. As a result a Commission of Inquiry into the Effectiveness of Law, Policies and Processes of Land Acquisition, Land Administration, Land Management and Land Registration in Uganda was instituted. The Commission’s work continues to unearth the complexities surrounding land tenure, land transactions and ownership of land in Uganda, especially for poor and rural communities.

The Commission was instituted by the President to analyze the challenges of land governance in the country and is expected to make recommendations advising the government on how to provide long-lasting solutions to land problems in the country. However before the Commission can finalise its inquiry and present its report, a parallel process that seeks to reintroduce the amendment to Article 26 is currently on going. If the Bill is reintroduced, this will in effect render the Commission’s work irrelevant despite the fact that billions of taxpayers’ money is being spent on the Commission. Attempts to reintroduce the proposed amendment to Article 26 therefore completely disregard the need to address the broader issues triggering land conflicts in the country.

The lack of guarantee of security of tenure means that individuals and communities are denied access to, control and ownership of land and are therefore not able to optimally use land as a resource to lift themselves out of poverty. Security of tenure, in its broad sense, is a critical driver for the realization of the SDGs. This is because security of tenure or lack thereof affects production and land investments, transactions, and ability to use land as collateral for credit. Government should continue to strengthen the legal and policy framework on land in particular the tenure system; but should also increase funding for the NLIS to improve surveying and mapping, and physical planning and valuation of land and make deliberate efforts to improve land management and administration.
Land under productive and sustainable agriculture

The National Development Plan II identifies agriculture as one of the primary growth sectors with the potential to employ 65% of the population and transform Uganda into a prosperous country in 30 years. To achieve this, Uganda needs to increase the productivity and sustainability of the agricultural sector. 75% of Uganda’s population is dependent on agriculture and solely deriving a livelihood from the close relationship they have with the land and its resources. About 69% of Ugandan households are engaged in the subsistence economy, while 43% remain engaged in subsistence agriculture producing what they consume.

According to the Food and Agricultural Organization, 80% of Uganda’s land is arable but, only 20% is productively utilized. In the last 50 years, the total arable land area has increased from 18.9 % in 1966 to 34.4 % in 2015- growing at an average annual rate of 1.25 %. This is a small margin compared to the high population growth rate and continued pressure on land and its resources. Although most Ugandans’ derive their livelihood from agriculture, less than 30% of cultivated land is under sustainable land management (SLM) approaches and this leads to low crop yields. Poor land management practices exert pressure on land resources through nutrient mining without replenishment, which has an impact on sustainable agricultural productivity and realizing SDGs. According to the Ministry of Agriculture, Animal Husbandry Industry and Fisheries, up to 80kgs of nutrients per hectare are removed from Ugandan soils annually (MAAIF, 2016).

Goal 2.3: By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment

Indicator 2.4.1: Proportion of agricultural area under productive and sustainable agriculture

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45 USAID Country profile: property rights and resource governance Uganda.
Agricultural production at the household level is still undertaken using traditional methods and gender norms still dictate which member of the household undertakes particular agricultural activities. The dominance of male ownership and control of agricultural land affects women’s involvement in both food and cash crop production. Land parcels owned by women mainly cultivate food crops and use rudimentary land management approaches, which are not sustainable and affect agricultural productivity and the quality of land. Due to limited access to cash incomes, women do not invest in sustainable land management practices, which limits their ability to get high yields and income from their agricultural production.

Low agricultural productivity has also been impacted by limited access to extension services and agricultural-enhancing technologies (such as fertilizers, improved seeds, and irrigation). Government statistics indicate that 15,500 households have been reached with seeds and grains of tea, fruit, cocoa beans, grain seeds such as maize, rice and sim-sim and improved breeding stock for poultry, goat and dairy and beef cattle* under the National Agricultural Advisory Services (NAADS) program, which is part of Operation Wealth Creation. Operation Wealth Creation and NAADS in particular have faced several challenges, including allegations of distribution of poor quality/fake seedlings and diseased animals. The government has been criticized for politicizing the programs and vesting implementation with the army as opposed to more technically competent institutions. The programmes have largely failed to deliver productive and sustainable agricultural yields, or substantially contribute to household incomes for the poorest households.

Pastoralists continue to face increased insecurity of tenure due to increased conversion of rangelands into individualized land usage caused in part due to the commercialization of land. Pastoralists dominate most rangelands in Uganda and approximately 64% of pastoralists (22% of Uganda’s population) are categorized as poor.* Uganda’s rangeland cover is 44% of the total land

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* Ibid.
* Ibid.
* Patrick Byakaga, Anthony Egeru et al; Uganda’s Rangeland Policy: Intentions, Consequences and Opportunities [March 2018].
area, sustaining 80% of the national livestock herd and 90% of the cattle. The country’s current land tenure and administration system has strengthened individualization of land in most of the rangeland region through deliberate interventions of registering individual freeholds and leases and further sub-dividing ranches into smaller blocks in an effort to commercialize and modernize the livestock industry.\textsuperscript{30}

The individualization of land has increased pastoralists’ exposure to risks by depriving them of benefits that are derived from landscape heterogeneity in consolidated landscapes such as access to common grazing land, water and dry season resources. Thus making pastoralists more vulnerable and less resilient to change in the biophysical environment.\textsuperscript{31} This has resulted into loss of rangelands by most pastoral communities and sedentarization of nomadic pastoralists and their livestock into non-mobile communities. This has affected pastoral communities enjoyment of access and user rights to rangelands and increased conflicts between pastoral and non-pastoral communities.

The continued tenure insecurity has prevented many agricultural based investors from investing in agriculture and other technologies that could improve productivity and sustainability of land use. The need to improve irrigation schemes to increase agricultural productivity cannot be emphasised. The overall irrigation coverage for Uganda is still less than 0.5%, with stark differences across regions [ATAAS, 2014]. For example, during the financial year 2016/2017, only 4,038 hectares of land in Uganda was improved for commercial irrigation.\textsuperscript{32}

Uganda has made efforts to strengthen the legal and policy framework in an effort to enhance agricultural productivity through the Land Act amendments of 2004 and 2010, the Food Safety and Animal Breeding Act and multiple policies including the 2013 National Agriculture policy, the 2015 National Agricultural Extension Services policy, the Social Protection Policy 2015, the National

\textsuperscript{31} Ibid.
\textsuperscript{32} Hon. Matia Kasaija; Budget Speech for the Fiscal Year 2018/19 (June 2018).
Fertilizer policy of 2016 and the National Policy for Disaster Preparedness and Management among others. This is due to the realization of a direct correlation between sustainable land use mechanisms, increased agricultural productivity and an enabling legal and policy environment. Land is not an infinite resource. Effective use of land for agriculture, guided by strong implementation of a robust legal and policy framework, is important for realizing SDGs. Still, government has consistently allocated a paltry percentage of the national budget to agriculture although Uganda is a signatory to the 2014 Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared Prosperity and improved livelihoods, in which State Parties including Ugandan reaffirmed their commitment to allocate 10% of public expenditure to agriculture and to ensure its efficiency and effectiveness in an effort to increase agricultural productivity.53

For the FY 2018/19, the government allocated only UGX 355.7 Billion, up from UGX 107 Billion for the FY 2017/18. The NAADS program witnessed a budget cut from current UGX 279.7 Billion it received in 2017/18 to UGX 249.98 Billion for the FY 2018/19. The National Agricultural Research Organization’s 2018/19 budget allocation reduced from UGX 85.9 Billion in 2017/18 to UGX 62 Billion. Uganda Cotton Development Organization was allocated UGX 5 Billion for FY 2018/19, while the Uganda Coffee Development Authority received UGX 73.6 Billion, and the Local Government Agriculture and Commercial Services was allocated UGX 122.97 Billion. With significant cuts in agricultural advisory and research services, it is not clear how the country will achieve the SGD targets and 2030 Agenda, since research and advisory services are critical to provide information on better seeds, progressive land use mechanisms, and projections on climate change among others.

The need to develop sustainable agricultural production measures is critical to doubling productivity, increasing household incomes, achieving food security and lifting many out of poverty, without degrading land or reducing biodiversity.

53 Malabo Declaration on Accelerated Agricultural Growth and Transformation for shared Prosperity and Improved Livelihoods (2014).
This would require an integration of varied interventions including deliberate significant budget allocations to the agricultural sector, implementing land sector laws and policies and in particular strengthening security of tenure and increasing women’s access to and control over land. There is also need to map a clear development path that reduces to the minimum the transfer of land rights away from small-holders and maintain tenure and biological diversity. In order to ensure productive land use among pastoralists, the government needs to carry out comprehensive policy, legal and administrative reforms on rangelands and pastoralists. This will require raising the status of rangelands and pastoralists on the national policy agenda.

Women’s access, ownership and control over land

Goal 5a: Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.

Gender equality is a pre-condition for sustainable development providing women and girls with access to and ownership rights over property such as land. Uganda has enacted several gender progressive legislations. The Constitution guarantees the right to property for both men and women and equality and freedom from discrimination. Specifically, the Constitution recognizes the need for affirmative action to promote the rights of women and several initiatives are in place to promote gender equality and equity.

Uganda is implementing the certificate of gender equity that assesses the gender responsiveness of sector plans and budgets. The Government also endorsed UNDP’s Gender Equality Certification Programme for public and private enterprises to promote gender equality and women’s empowerment at the work place and in the market place.

Indicator 5a1: (a) proportion of total agricultural population with ownership or secure rights over agricultural land by sex, and (b) share of women among owners or rights-bearers of agricultural land by type of tenure

Indicator 5a2: proportion of countries where the legal framework (including customary law) guarantees women’s equal rights to land ownership and/or control

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54 Section 9(6), 13 (15) (g); Public Finance and Management Act 2015.
The government in 2016 developed a gender strategy for the national land policy. This strategy is aimed at ensuring that commitments with regard to gender equity and equality are realized. The strategy also strives to ensure gender mainstreaming in the land sector, examining, questioning and transforming those institutions and norms that reinforce gender inequalities; designing mechanisms, strategies and actions which need to be adopted to improve gender equity and equality in the processes, institutions and activities of land tenure governance.\textsuperscript{56}

Gender equality with respect to land does not only depend on the legal ability to exercise ones right to property, in this case land, provided through land legislation but also on family law, regulating marriage and inheritance, which, to a large extent, determine women’s and men’s access to land. Efforts to promote gender equality with respect to land tenure through land governance reforms have to be accompanied by similar efforts with respect to statutory as well as customary family law. This is because legislation in Uganda concerning property and land is intrinsically tied to family law, marriage and divorce rights. For example, the 2004 and 2010 amendments to the Land Act provide protection for spouses by giving them the right to security of occupancy on family land. However, limited enforcement of sections 27 and 39 of the Land Act and requirement for use of land as collateral in banks to access formal credit has limited women’s ability to control land and its use. Though the Land Act is fairly progressive, it does not address the rights of widows, divorcees and women in cohabiting relationships thus leaving a disempowering legal vacuum. The situation is exacerbated by the fact that legislation to define matrimonial property, provide for equitable distribution of property in the event of divorce, and recognize the property rights of cohabiting partners has been stalled for decades.\textsuperscript{57}

The current marriage laws do not clearly spell out the property rights of married men and women. Although traditions, customs and practices which discriminate against women in matters of access, use and ownership of land have been outlawed by the Constitution, the practice does not acknowledge

\textsuperscript{56} UNDP: Promoting gender equality and women’s empowerment in Uganda [2017].
\textsuperscript{57} Ministry of Land Housing and Urban Development; the Gender Strategy for Implementation of the National Land Policy [2018].
these changes. Culture and custom continue to support the transmission of land to men through inheritance, leaving women’s inheritance rights to land tenuous and at the mercy of male relatives. The recognition of customary land tenure by the Constitution and the Land Act in the absence of a clear and robust legislation regarding joint ownership of marital property presents serious challenges.\textsuperscript{58}

Tenure initiatives that support gender equity can serve to increase women’s power in agricultural production as well as in social and political relationships, thus addressing gender and governance of tenure which is clearly essential to the achievement of SDG 5a. Although 90\% of all rural women work in agriculture, and women produce an estimated 80\% of food crops and contribute 90\% of all labour for food production. The legal deficits and traditional and cultural practices have limited the ability of women to own land which has translated into only 27\% of women owning land, leaving the rest with access to land only through a male relation (father, son and husband).\textsuperscript{59}

One of the priority areas and actions addressed in the monitoring and evaluation framework for the national land policy implementation action plan are measures to protect and improve women’s secure rights and access to land. The realization of women’s secure land rights is embedded in enforcement of the Land Act (as amended), Registration of Titles Act, and the Land Acquisition Act. Laws with sections that continue to perpetuate gender marginalisation against women’s access to and ownership of land should be repealed or amended. These include: Administrator General’s Act, Customary Marriage (Registration) Act, Divorce Act, Domestic Violence Act, 2010, Marriage Act, Marriage and Divorce of Mohammedans Act, Mortgage Act and Succession Act.

Since most of Ugandans lives in rural areas, practicing and applying traditional and cultural practices, it is important that legal reforms are undertaken and awareness created on the reformed laws. For example in April 2007 the Constitutional Court\textsuperscript{58} annulled section 27 of the Succession Act, which provides that a widow (female spouse) is granted only 15\% of an estate upon the passing

\textsuperscript{58} Oxfam: Women’s land rights in Northern Uganda (West Nile, Acholi, Lango, Teso and Karamoja) 2014.
\textsuperscript{60} Law and Advocacy for Women in Uganda VS Attorney General (Constitutional Petitions No. 13/05 & 05/06 [2007] UGCC 1 (5 April 2007).
away of her spouse, while a widower [male spouse] is granted 100% of the estate when his spouse passes away. Ten years down the road, Parliament has not amended the Succession Act to reflect this Constitutional decision, leaving many widows inadequately protected. The Succession (amendment) Bill has been in the offing since 2011 and needs to be fast tracked by Parliament.61

ii. Data and Monitoring systems for SDGs 1.4, 2.3 and 5a

Uganda produces annual periodic reports on progress on SDGs. The reports include: the Annual National Development Report, the Government Annual Report, SDG Progress Report, Annual Sector Performance Report and MDA Statistical Abstracts. CSOs contribute and participate in the development and review of these reports as members of the different SDG working groups. Periodic reports include the NDP Mid-Term Review Reports, End of Plan Evaluation Report and selected policy/programme evaluation reports. Independent assessments of different government programs are also conducted and include: the World and African Statistical Year Books, World Economic Outlook by IMF, Human Development Report by UNDP, African Union and East African Community Report, District Development Plans and Reports.

Uganda has adopted an integrated NDPII Monitoring and Evaluation Strategy, including a results framework, to coordinate and support sectors, ministries, departments, local governments and other stakeholders in undertaking monitoring and evaluation for the period 2015-2020. Uganda is also implementing its second National Strategy for Statistical Development (NSDS2), which is aligned to NDP II. It is envisioned that the information needed for monitoring Agenda 2030 will be delivered through implementation of NSDS2, as well as non-conventional data sources that include Big-data and geospatial technologies and information from private actors. Uganda is in the process of developing a National Standard Indicator (NSI) framework with national, sector and service level indicators for monitoring government operations. The framework will build on the National Monitoring and Evaluation Policy, and the Integrated NDPII Monitoring and Evaluation Strategy. The indicators in the framework will be aligned to the NDPII goals and objectives and address the broad requirements

61 CSOs are preparing a Private Members Bill to fast track the Succession (amendment) Act. A Certificate of Financial Implication for the Bill has already been obtained.
of the SDGs. There is need to fast track development of the national standard indicator framework, aligning it to the national results framework as well as finalising harmonisation of the different data sources for all the SDGs –this is critical. This is because without credible and reliable data, it will be impossible for Uganda to practically and scientifically determine actual progress on not just land related SDGs targets and indicators, but all the SDGs.

Major data sources include the Administrative data from MDAs, National Population and Housing Census, Uganda Census of Agriculture, Livestock Census, and the Uganda National Household Survey among others. Although several reports are generated on the status of SDGs, Uganda continues to grapple with limited capacity to undertake effective monitoring and evaluation. Government should therefore finalise the generation of comprehensive metadata on all indicators, especially indicators related to land. The development of a comprehensive and coordinated monitoring, evaluation and reporting system that integrates indicators and targets in all other planning and implementation documents is vital and should be prioritised. The Government should also strengthen the National Statistical System to deliver credible and responsive data on the SDGs. For land related SDGs 1.4, 2.3 and 5a, data is available for only 1.4. The data available for target 1.4 is however very limited and cannot be disaggregated by sex or age, which means it cannot be effectively used for planning purposes. Targets 2.3 and 5a have no data available.
iii. Inter-linkages with other SDGs

Inequality and land rights

Uganda has implemented numerous projects/actions aimed at reducing income inequalities. Interventions such as: the Uganda Women Entrepreneurship Programme, the Youth Livelihoods Fund, the Social Assistance Grants for Empowerment and the Special grants for persons with disabilities among others. While these different interventions exist, land in Uganda continues to perpetuate inequality, social exclusion, fragmentation of communities dispersed due to evictions and displacements and therein preventing organization and opportunity to tap into some of the government programmes.

The potential of land to drive inequality and vulnerability in Uganda is amplified by the fact that most households, nearly 70%, are engaged in land-based subsistence farming (UBOS, 2016) in the rural areas. Empirical evidence shows that vulnerability was higher, at 82%, in the rural areas compared with the urban areas at 29.2%. Land exacerbates inequality through; (i) conflicts among individuals or individuals/communities and the government; (ii) tradition, custom and cultural biases/practices; (iii) lack of enforcement of laws and policies; (iv) land grabbing; and (v) protracted court cases.

According to the Uganda Human Rights Commission report (2017), most people affected by land conflicts are orphans, other vulnerable children, and widows. These people experience high poverty levels, lack of voice in the communities, ignorance of land rights, limited social support systems and discriminative cultural practices that prohibit women from owning or inheriting property. Most land conflicts evidence gross cruelty and injustice that is directly or otherwise imposed on the poor citizens. The arbitrary use and application of land related laws, especially the Land Acquisition Act, against poor individuals
and communities, furthers inequality. The Land Acquisition Act has been applied contrary to legal procedures and processes. In 2017, the Government introduced an amendment to Article 26 of the Constitution to give room for government’s compulsory land acquisition. This proposed amendment caused public up roar and concerns galore that Government was using the proposed amendment to deprive people of their land. The proposed amendment was largely criticized as an avenue headed to withdraw the citizen’s right to fair compensation before handing over land to government projects.\textsuperscript{62} Government on the other hand maintains that the proposed amendment will help counter the delay of its projects. The proposed amendment was shelved for several months but in 2018 attempts to re-introduce the bill by Government are now currently on going.

**Box 2: Constitution (Amendment) Bill, 2017 (No.13 of 2017)**

An Act to amend article 26 of the Constitution in accordance with articles 259 and 262 of the Constitution; to enable Government or a local government to deposit with court, compensation awarded by the Government for property declared for compulsory acquisition; to empower Government or a local government to take possession of the property upon depositing the compensation awarded for the property with court, pending determination by the court of the disputed compensation amount; to give the owner of property or person having any interest in or right over the property the right to access the deposited compensation awarded at any time during the dispute resolution process and to empower Parliament to prescribe the time within which disputes arising from the process of compulsory land acquisition shall be determined.

**Date introduced:**
8 June 2017

**Sponsor of Bill:**
Minister of Justice And Constitutional Affairs

This proposed amendment was introduced at a time when the government is not offering any practical solutions on how to deal with the increasing land conflicts, instances of mass evictions and involuntary land acquisitions that continue to perpetuate inequality in access to land. For example, the evictions from areas gazetted for wild life conservation or forests and wetlands have happened with little or no compensation. In Kotido, the affected communities referred to the State as the “government of animals and not people” implying that the animals were more preferred to people. This was amplified by a senior

\textsuperscript{62}http://eizooba.co.ug/ngo-states-26-reasons-of-rejecting-the-amendment-of-article-26-of-the-constitution/
official of the Uganda Wildlife Authority who noted that “the animals provide more economic benefits through tourists who, for example, pay US$ 600 per person to visit the mountain gorillas.”

Image 2: Media report related to land matters

In instances where land valuation is done, the actual process of valuation has inherent challenges that often benefit the powerful and wealthy elites in the public and private sectors. A Budget Monitoring Unit (BMAU) of the Ministry of Finance found that the Karuma Interconnection Project had low compensation packages of UGX 2-4 million in the town council of Kigumba (Kiryandongo district) compared with the actual market price of UGX 10-15 million.

Box 3: Acquisitions with no compensation

Land has also been acquired for the 21km Northern Bypass road, 40km Entebbe Express Highway, the 90km Holma Kaiso-Tonya road, and 29.34sq km for the oil refinery in Kibaale-Holma. Families, which refused compensation in the refinery project on grounds that it was low, have not received compensation yet.

Additionally, 93 families with over 465 members, which opted for relocation, have not been relocated yet despite the cut-off date for use of land in the refinery area having been put on June 2, 2012.

(AFIEGO, 2016)
Delays in compensation further reduce the value given to the people being compensated and can be contrary to the law in case the land is taken before such payment is done. The relatively wealthier landlords are able to bargain with government and consequently raise the value of compensation. This is not possible for the poor and vulnerable communities with no bargaining capital. Traditional practices and cultural biases against women also contribute to inequality within the context of land. Most women in Uganda access customary land through their husbands, fathers or their sons. In cases where customary land is held as family or communal land, women’s ability to access such land is entirely determined by the heads of the family or clans who are predominantly male. Even then, women only have access and user rights, which may not be permanent – that user right can be withdrawn once she marries or divorces. This insecurity of land access and ownership inhibits women from using land in ways that could improve not only their income but livelihood as well.

Most of the affected individuals and communities faced with land disputes cannot afford legal representation and often resort to violence as the only remedy. Where land dispute cases are filed in the courts of law, vulnerable individuals and communities are most at risk due to the lengthy court processes and costs associated with sustaining a case in court such as legal fees, transport to the court, and supporting witnesses to court among others. This furthers the paradigm of their inequality. Similarly, the lack of effective and predictable dispute resolution mechanisms especially at community level furthers the inequality gap. Realizing the SDGs requires that ‘no one is left behind’. The current national land context, as a driver for inequality requires deliberate political shift by the government to address land related issues that perpetuate inequality. Little will be achieved on land related SDGs without addressing the issue of inequality.
Climate change and life on land

The Second National Development Plan (NDP II) and Vision 2040 both recognise that continued development through the use of natural resources will be constrained and impacted by climate change, and thus emphasise the need to integrate climate change into the development agenda. In 2015, Uganda noted in her Intended Nationally Determined Contribution that Uganda’s priority in responding to climate change was adaptation. The country committed to continue to work on reducing vulnerability and addressing adaptation in agriculture and livestock, forestry, water, and scale up sustainable land management to increase resilience at the grassroots level.

In 2015 the national climate change policy was developed, whose goal is to ensure a harmonized and coordinated approach towards a climate-resilient and low-carbon development path for sustainable development in Uganda. The policy also seeks to ensure that all stakeholders address climate change impacts and their causes through appropriate measures while promoting sustainable development and a green economy. The National Green Growth Development Strategy (2017/18-2030/31) also seeks to among others ensure that the social and economic transition is achieved through a low carbon development pathway that safeguards the integrity of the environment and natural resources. Uganda has also developed a Reducing Emissions from Deforestation and Forest degradation (REDD+) national strategy. A National Adaptation Programme of Action (NAPA) was developed and a National Climate Change Resource Centre set up. Uganda is in the process of developing a national climate change bill and through its nationally determined contributions has already committed to reducing green house gas emissions by 22% by 2030

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64 Ibid.
(including land use, land use change, and forestry), with actions focused in energy, forestry, and wetlands.\(^5\)

Although several entities have been set up to address climate change related issues, the lack of funding limits their work. Similarly, the absence of a legal and policy framework that provides legitimacy, regulates conduct and establishes sanctions that can ensure compliance remains an obstacle in translating the identified policy priorities into implementable actions with tangible climate change benefits. Government should make efforts to fast track the development of a robust legal and policy framework on climate change. There is increasing evidence of climate change through changes in rainfall patterns and increased droughts. Approximately 80% of Ugandans depend on rain fed agriculture although only 40% of local rainfall is generated from wetlands and forests yet these are being destroyed.

Land use, land use change and agricultural activities contribute about 91% of the greenhouse gases and out of these; deforestation and forest degradation is responsible for over 60%. Therefore the forestry sector is key to delivering Uganda’s climate change commitments.\(^6\) The Government should operationalize the tree fund initiative directed at regenerating Uganda’s forest cover and drying wetlands to curb greenhouse gas emissions. The increased reclamation of wetlands is affecting sustainable land use mechanisms. This is evident through over harvesting of water for domestic and commercial use, as well as over harvesting of materials for construction, handicraft and over fishing. In South Western Uganda wetlands have been reclaimed to grow vegetables and start cattle farms, while in Eastern Uganda rice growing has caused the reclamation of a big chunk of the wetlands.\(^7\) These activities present a serious consequence on efforts to mitigate climate change.

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\(^5\) NDC Country outlook Uganda (November 2017).
Land is a key strategic asset for Uganda and constitutes over half of the value of the asset basket of poor Ugandans. Therefore, managing and adapting to climate change is very important for realisation of the SDGs. Climate change continues to impact on realization of Goal 15.3 and specifically indicate 15.3.1, which focuses on proportion of land that is degraded. Due to inequitable access to land and insecure tenure rights, land is not used optimally or sustainably. Draining of wetlands, deforestation, overgrazing and erosion are causing degradation. Only about 30% of the forestland is in protected areas and parks, leaving 70% of the forests on private land. This is leading to gross deforestation as private forests are being cut down to supply construction materials and fuel, or being replaced by agriculture and urban uses. Forest cover has reduced significantly by 46.9% over a period of 20 years and between 2005 and 2010 forest cover declined by 27% reflecting an annual decline of 5.42%. According to the FAO, over 80% of Uganda will become a desert in less than 100 years if the current climate changes are not addressed. The coverage for wetlands has also drastically reduced from 16.6 hectares in 1994 to 8.2 hectares in 2016. This is in-spite of the fact that arable land as a share of land area of Uganda increased from 18.9% in 1966 to 34.4% in 2015 growing at an average annual rate of 1.25% even if only 0.1% of land in Uganda is irrigated, so rainfall and land productivity are closely linked.

The government should take deliberate measures to increase the arable land area in order to realize the SDGs. Uganda should deliberately strengthen its land use system and specifically update its land use policy taking into consideration current trends in land use.

**Rule of law and access to land justice**

Land conflicts/disputes have triggered violence and disrupted peace in many communities across the country. These land conflicts, especially those involving mass evictions of entire communities have at best left many displaced and at worst hundreds dead over time.

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89 USAID Country profile: property rights and resource governance Uganda.
In 2016 the International Consortium of Investigating Journalism in Uganda, reported that over 55,000 people had been affected through displacements and violent evictions in the 19 projects the organisation had followed between 2004 and 2013.

These conflicts are triggered by boundary disputes due to lack of proper boundary demarcation, conflicting claims over inheritance; multiple sale of the same land, conversion of land from communal to individual; selling/transfering of land without public notice, friends giving or lending of land to another and both die resulting into fights among the children, and trespass on land. Through compulsory land acquisition, government has triggered several conflicts through failure to among others make adequate compensation, low valuing of land, use of out-dated valuation rates by land boards, inability to accurately value non-permanent assets, delayed payments, evictions without compensations, lack of social impact assessment and many others.

According to Dr. Rose Nakayi (School of Law -Makerere University)70 although Uganda has a robust policy framework the legal provisions have not been able to prevent massive land evictions that are in some instances perpetuated and backed by government, politicians, and investors. This demonstrates a collapse of rule of law and deviation from international and regional best practices on land governance and observance of rule of law.

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70 Dr. Rose Nakayi; the perceived protection of tenants on registered land against evictions: an assessment of the legal challenges faced by victims of land evictions in Kampala and Wakiso districts [May 2016]. PILAC Working Paper No. 4.
Box 4: Elusive Justice for land evictees: Kigoyo and Rwamutonga Land Eviction in Hoima

In August 2014, 250 families were brutally evicted when gunshots rang out and their huts were torched to pave way for the construction of oil waste treatment plant on 700 hectares of land in Kigoyo and Rwamutonga in Hoima district. The affected families were resettled in Kakopo Internally Displaced Persons camp (IDP) with no stable source of livelihood. Several lawsuits have been filed but the delay to dispense justice has left the rivals with their own set of facts and each one an arbiter. The protracted conflict has roped in State House officials, district leaders, MPs and community leaders. While this case continued in court, on 28th February 2015, about 5000 people were evicted from 1860 hectare piece of land in Kiziranfumbi after it was leased to an investor Hoima Sugar Limited for sugarcane plantation. Records in the office the Resident District Commissioner, Hoima so far indicate over 1000 households have been affected by illegal land evictions either directly or indirectly between the year 2012 and 2016. The Resident District Commissioner for Hoima says only 30% of these victims have accessed court for justice, while others either have no access or are intimidated by their tormentors.

Most of the people affected by violent land conflicts and land grabbing are poor, with limited education, unaware of their rights and where to seek legal redress. According to the 2016 Justice Needs Report by The Hague Institute for Innovation of Law (HIIL), over a four-year period, almost 80% of Ugandans experienced one or more justice needs, the most prevalent being land. Most people, according to the HIIL report accessed Local Councils (LCs) when faced with a legal problem. This is because the LCs are accessible and familiar with the context in which the problem arises. In July 2018, LC isii elections where held after seventeen years; as the new elected leaders take office, there is expectation that they will be able to legally handle land related issues within their jurisdiction, foster dialogue and mediation especially in land related cases. Similarly, there is need to revive the land tribunals which acted as the courts of first instance in land matters but where phrased out due to inadequate funding to the judiciary leaving behind a huge case backlog.

Attempts to mitigate the increasing land disputes have led to the proliferation of different (legal, quasi and ad hoc) outfits to respond to land disputes and proffer varied justice alternatives. These entities include; (i) the Presidential Land task force, (ii) Directorate of land matters at State House, (iii) land protection unit in the Uganda Police, and (iv) the Commission of Inquiry into the Effectiveness of Law, Policies and Processes of Land Acquisition, Land Administration, Land Management and Land Registration in Uganda all operating
alongside the, (v) formal courts of law [the land division of the high court], and (vi) the Uganda land commission. These entities have led to duplication of interventions, inadequate distribution of resources to guarantee effective justice responses, and overlapping of mandates, making most of these entities ineffective, inefficient and redundant. The Uganda Human Rights Commission\(^7\) in its 2017 report also noted that many of the institutions mandated to address land disputes in some instances pursued their different interests especially in situations where powerful and wealthy individuals were conflicting with peasant communities over land.

**Box 5: Amuru Sugar project - Amuru District**

In 2008, the community of Amuru and some legislators sued the Amuru District Land Board, Madhvani Group and other parties for engaging in the transfer of about 40,000 hectares of land to Madhvani for growing of sugar cane. The community argued that this was customary land and the DLB had no authority to give it away. In February 2012, the High Court ruled against the community, saying it did not hold the land in customary ownership, and that the DLB had acted within the law. The Judge ruled that the land in question was deregistered as a game reserve in 1972 and then reclassified as “public land” under the auspices of the ULC, before being passed to the DLB. The Decision of the judge hinged on the fact that the community members could not prove to the satisfaction of court that the land was held under customary tenure and not public land. It is worth noting that the DLB did not also produce any title showing that this was public land. The community appealed to the Court of Appeal. Later, in January 2015, the government signed an agreement (in law called a Deed of Settlement\(^4\)) where amongst others, it was agreed that the appeal be withdrawn and that the land was indeed customary land. This represents a reversal of the court decision, which still remains an official record. The two parties agreed to give 10,000 hectares to Madhvani and that the boundary of the land be surveyed. However, when Government sought to survey the land\(^1\), there were protests and clashes with security. A significant section of the community still claim that the deed is illegal and does not represent their views. The lawyer for the community who witnessed the Deed of Settlement wrote to the Ministry of Lands and Attorney General cautioning against the survey since certain preconditions had not been met. These include: lack of negotiations with two respondents to the appeal, payment of costs for lawyers and filing the Deed in court as a procedural requirement.

In-spite of all the multiplicity of entities, most land cases are civil in nature and require individual/partner engagement rather than state engagement with the legal process. However, the justice system is very slow in delivering justice especially when the cases get to court. By the end of January 2017,

\(^7\) Uganda Human Rights Commission; Land Disputes and Human Rights in Selected Regions in Uganda – Tracing the nexus (2017).
the judiciary was handling 22,413 land cases, 361 were over 10 years old, while 9,328 had been filed within the previous year; and the bulk of 12,724 cases had spent between 1-10 years in court. The Uganda Human Rights Commission further notes that land has a bearing on majority of criminal cases in the courts; criminal cases like arson, criminal trespass and assault were a result of land disputes which means that land is also a trigger for many criminal cases.

According to the judiciary many people do not have faith in the justice system and as such engage in forum shopping as an alternative to quick resolution of their disputes. Land cases take much longer in the courts of law due to political interference, protracted delays by lawyers, lack of adequate judicial staff especially in the regions outside Kampala or the main towns, which makes access to justice especially for the poor and vulnerable extremely more difficult. The lack of a comprehensive legal and policy framework and programme on access to justice and legal aid makes it impossible for most Ugandans to access affordable legal services when faced with a legal problem. It should be noted that the legal aid policy and legal aid bill that seek to create an environment that will guarantee access to justice for the poor and vulnerable, have remained in draft form for over five years now.

The rule of law is vital as a component in realising the SDGs. As result it is important that government streamlines and strengthens the institutions mandated to handle land matters and dissolve those with an ad hoc and quasi mandate. This will ensure that the finite resources are focused on specific entities and guarantee close follow up and monitoring of these entities in executing their mandate. The duplication of mandates essentially dilutes accountability and creates opportunity for abuse of power and manipulation. Access to justice is also very important for the realisation of land related SDGs. Early and easy access to justice ensures that rights and interests of individuals/communities in land are protected from arbitrary violation. To guarantee easy and early access to justice government should also strengthen local justice mechanisms on the ground as equip them as first responders in land disputes.

73 Uganda Human Rights Commission (in 43 above).
PART 4: RECOMMENDATIONS
4. RECOMMENDATIONS

i. Laws and policies

- Government should finalize enactment of land related Bills including, the Survey and Mapping Bill, the Land Information and Infrastructure Bill, the Registration of Titles (Amendment) Bill, Surveyors and Registration Bill, and the Land Acquisition (Amendment Bill) and the National Land Acquisition, Resettlement and Rehabilitation Policy to inform amendments to the Land Acquisition (Amendment) Bill. Specifically, in order to strengthen women’s access to and control over land, Government should review the family and marriage laws that infringe on women’s rights and in particular enact the Succession (Amendment) Act, the Marriage Bill, and review the Mortgage Act. We encourage the Government to expedite the legal reform processes and in principle harmonize land, family and marriage legislations, to the extent possible, due to there inter relatedness in order to create a robust legal regime.

- There is need for Government to revive the land tribunals as the courts of first instance in land related matters. The capacity of informal justice mechanism such as traditional and cultural leaders and the newly elected LCs I and II should be built and/strengthened to handle land matters at mediation level. These interventions will reduce on the number of land cases clogging the justice system.

ii. Land management and administration

- Government (at central and local government level) should prioritize recruitment of land management and administration personnel such as surveyors and district land officers. Priority should be given to strengthening the lands offices and coordination with national statistical agencies across the country to deliver regular data for monitoring progress on security of land tenure indicators. Government should also strengthen land administration and management structures at local government level in part through training and capacity building. Efforts should be made to streamline the role of clan leaders/traditional
tenure stewards and cultural or customary institutions in making the rules governing land, resolving disputes, and protecting shared land rights. Targeted awareness of the traditional and cultural institutions should be done to create awareness about women’s rights to own property including land.

- Government should commit to and invest in the National Land Information System which provides a great opportunity to reduce land fraud, guarantee the sanctity of the land registry and bring land registration and land related information closer to the people as well as generate revenue.

iii. Land use and access

- There is need to strengthen sustainable land use methods that guarantee optimal use of land and the highest return. Government should invest in and allocate 10% of the national budget to the agricultural sector in line with the Malabo declaration. This will also support awareness on sustainable land management systems and productive use of land. Government should develop an effective early warning system to guide farmers on how to respond to potential climatic changes in order to devise strategies to mitigate the impact of climate change and control threats to food insecurity.

iv. Monitoring and Data collection systems

- Government should prioritize setting up and operationalizing a coordinated monitoring, evaluation and reporting system that will integrate all indicators and targets in the planning and implementation of the SDGs. This will enable clear tracking of progress made to realize land related SDG targets. The Uganda Bureau of Statistics (UBOS) should be strengthened to deliver credible and responsive survey data on land related SDGs and coordinate with land registries for administrative data. Effective investment in data generation, expansion of coverage and management will enable comprehensive tracking of critical indicators
under the following targets 1.4, 2.3 and 5a for planning and timely policy decisions.

- Government should strengthen the capacity of local governments to monitor land related interventions at the district and sub-county level. Data collection structures and frameworks should start at least at the sub-county and district level. This will ensure that local communities participate in the collection and analysis of the data for validation and quality assurance. Empowering sub-county and district local governments will also ensure that they sensitize local communities about government programmes related to land to mitigate and manage conflicts arising from, among others, lack of information.

- Civil society organisations working on land issues should strategically organise themselves either as a consortium under the 2030 Agenda CSO Core Reference Group or as an independent coalition in order to generate and document data on land related SDGs. This will ensure that land related information on the SDGs, especially CSO contribution to the sector is available, credible and accessible.
PART 5: CONCLUSION
5. CONCLUSION

Land is increasingly regarded as a finite resource and in Uganda this has led to a myriad of land conflicts and tensions that vary from sibling rivalry over a few decimals of land to thousands of poor, disadvantaged communities being brutally evicted/displaced from thousands of acres they collectively call home by multinationals, politicians, and land speculators. The ‘land question’ in Uganda is undoubtedly one of the biggest political and development questions that needs to be strategically answered in order for Uganda to meet its global targets on development but also its internal aspirations to move to a middle income status by 2040.

The 2030 agenda for attaining the SDGs mainly considers land-related targets and indicators under SDGs 1, 2, 5, 11 and 15. However, land remains a very significant resource in realising the SDGs and is both cross-cutting and critical to achieving almost all the SDGs. The indicators that should provide a basis to track the status of implementation of land related SDGs are barely established for measurable data to be produced, or where they have been established there is no regular data collection strategy in place, and those institutions that have made progress still lack a coordinated methodology. The absence of reliable data on land related SDGs means that Government has on basis on which to prioritise efforts for progress towards land related SDGs.

The role of predictable and reliable land use, land access and ownership cannot be over estimated in any efforts to realise sustainable development. Therefore deliberate efforts need to be made to recognise the challenges around land access, use, ownership, management and administration and address all of them.
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