

**CIVIL SOCIETY POSITION PAPER ON THE REVIEW OF THE 2013
UGANDA NATIONAL LAND POLICY**

Submitted To

**THE MINISTRY OF LANDS, HOUSING AND URBAN
DEVELOPMENT**

By

NATIONAL LAND COALITION UGANDA

OCTOBER, 2023.

I. INTRODUCTION:

This position paper is a product of a concerted consultative process involving civil society organisations (CSOs)-both networks, coalition and individual organisations, members of cultural institutions among others, key actors, undertaking diverse work in various land rights, administration, management and governance related spheres. The convening was hosted by the National Land Coalition Uganda, with support from International Land Coalition, Safer world Uganda and Food Rights Alliance (FRA). Over 26 organizations took part in the convening and were represented by 34 participants (17females and 17 males). The position paper contains recommendations on some of the seven operational frameworks within the 2013 Uganda National Land Policy that is up for review. Additionally, and presented concurrently, it also makes commentaries on some of the 12 priority areas underlying the Uganda National Land Policy Implementation Action Plan 1. The select priorities include capacity building & training programme for the government, the private sector, civil society, & others; land disputes & land conflicts resolution program; institutional reforms & land services delivery program; land tenure regularization & securing of land rights; legal & regulatory reform program; policy reforms programme; land rights, civic education, & public awareness; fulfilling regional & international obligations and land use & land management reforms.

The position paper was developed in response to the call for recommendations on the assessment of the NLP and its attendant implementation plan from the Ministry of Lands issued through a public letter on 11th, July, 2023. We applaud the various efforts that have been manifest emanating from the Ministry of Lands, and other relevant Ministries, Departments and Agencies (MDAs) to give breath to the National Land Policy and the attendant implementation action plan. We hope that these humble evidence-based suggestions can be considered in this fundamental review process of the policy, to guide the process of bringing the promise of the NLP to fruition and ultimately enhance land administration, land use management, protection of land rights of Ugandans among other aspects.

The position paper adopts the chapterisation format of the National Land Policy chronologically commencing with land policy framework; constitutional and legal framework; land tenure framework; land rights administration framework; land use and

land management framework; regional and international framework; and implementation framework.

I. CHAPTER I: NATIONAL LAND POLICY FRAMEWORK (4.2.9 Reforms related to the National Land Policy of the Implementation Action Plan)

a) The vision of the National Land Policy:

Emerging Concerns:

This is couched in the ethos of industrialization underpinned by the gravitation towards a market economy. Attribute III thereunder further seals this ideology when it emphasizes modernized agriculture that too seeks to engage in the transformation of the ‘peasant subsistence farmer to commercial agriculture.’ At the core of this narrative is that the large-scale farmers, propounded as the potential replacements to subsistence farmers, have the capacity to undertake large scale production, through among other avenues deploying advanced technology and its antecedents like heavy machinery and through monocropping.

Whereas the benefits of modern agriculture (largely driven by industrialism) are undeniable, the land policies that emanate from this ethos, aiming at supplanting the subsistence farmer from the production and attendant food security chain rather than equipping and uplifting them as key actors in the chain are detrimental to the land rights of the subsistence land users and by extension community food security produced by these farmers.¹ Indeed, inbuilt into this policy of ‘modernize agriculture ethos’, is the covert involuntary agricultural reform—variations in the way Uganda’s agricultural land is used and by which particular categories of individuals of groups of people, while relegating the subsistence farmer, who are mostly women, to the periphery. Undeniably, there is abundant evidence that interventions that commercialize food, also, more prominently facilitate food insecurity at household level.²

• Proposed Reform & Justification

¹ Ronald Naluwairo, *From Concept To Action; The Protection and Promotion of Farmers’ Rights in East Africa*. ACODE Policy Research Series, No. 15, at 2.

² Friedrich-Ebert-Stiftung (FES) and Makerere University Business School (MUBS), *Land, Food Security And Agriculture In Uganda*, 2017 at 6-7.

Consider the vision of the policy emphasizing the protection of peasantry subsistence farmers and their central place in sustaining the food chain supply in the country, a key component as well. Modern agriculture paradigms and its attendant interventions however critical should not disenfranchise small holder farmers of their lands.

b) The goal of the National Land Policy:

Emerging Concerns:

Whereas the NPL goal is embedded with progressive values of land resources management such as equity, and efficiency with an ultimate quest of uplifting citizenry livelihood standards, it is limited in its definition of this. It is restricted to what it describes as “overall socio-economic development.” By this, the policy goal is not wholistic in far as it omits the aspect of political and cultural development, all of which are affected by and do affect land resources management.

- **Proposed Reform & Justification**

Consider the recrafting of the goal to reflect its ultimate agenda as guiding the ‘overall socio-economic, *political and cultural development*’ of the citizenry. [Emphasis added]

c) Objectives of the National Land Policy:

Emerging Concern:

We recognize the comprehensive and diverse objectives of the policy revolving around a number of aspects necessary for the effective governance and administration of land resources in the country. However, we note that the objectives are not inclusive enough to accommodate the need for the harmonization of latest land administration *practices* of some strong institutions such as cultural institution like that of Buganda Kingdom offering ‘lease titles’ with automatic renewal rights.³ As has been evidenced by various reports, such latest initiatives such as *Kyappa Mu’ngalo* run by the Buganda Land Board, meant for tenants on Kingdom land to regularize their tenancy, have bred mixed reactions and in some instances, controversies amongst the public.⁴

- **Proposed Reform & Justification**

³ The Daily Monitor, ‘*Truth, lies about Mengo land lease*’, May 26, 2017 — updated on January 15, 2021. Accessible at <https://www.monitor.co.ug/uganda/news/national/truth-lies-about-mengo-land-lease-1703036>

⁴ Joseph Kimbowa, ‘*Buganda gives out 150 Kyapa mu Ngalo titles*’, The Observer, August 31, 2017. Accessible at <https://observer.ug/news/headlines/54702-buganda-gives-out-150-kyapa-mu-ngalo-titles>

Consider the amendment of Objective (VIII) of policy that speaks to the need for the harmonization of all ‘land-related policies and laws’ in the country to include and clarify the place, weight and legality of other cultural institutions’ land administration practices, within the national legal framework for the sustainable management of land resources.

II. CHAPTER 2: THE CONSTITUTIONAL AND LEGAL FRAMEWORK

2.2 Radical Title

Emerging Concerns:

The term radical title is ambiguous especially in light of the ongoing national discourse on the roll out of customary certificate of title. The State guarantee of title as espoused in the policy is tested not only across the various tenures but more fundamentally under the Customary land tenure system. Questions abound as to the feasibility and guarantees of the State radical title of CCO in light of the unregistered customary land and in absence of a customary land registry at the national level (as are the other three tenures of freehold, leasehold and private mailo) and inadequate funding to the relevant institutions such as the District Land Board, and Area Land Committees to operationalize this process on a wider scale beyond CSOs funded pilot projects.⁵

- **Proposed Reform & Justification**

The term ‘radical title’ in the policy needs to be defined in a precise manner so as to convey the literal meaning in policy statement 8 (a), or in the alternative the intention under Article 237(1) of the constitution. More specifically, in relation to CCOs, the policy should speak to the need for Government to increase the necessary funding to the institutions of the District Land Board (DLB) and Area Land Committees to facilitate the necessary convenings for the disposal of CCO applications.

2.3 Power of Compulsory Land Acquisition

Emerging Concerns

⁵ International Development Research Centre and Land and Equity Movement in Uganda (LEMU), *Policy Brief Comparing State and Traditional Land Justice Systems In Uganda*, 2017, at 6.

The policy emphasizes the State as a trustee for the Citizens of Uganda with the power of compulsory acquisition which must be exercised responsibly and in public interest. This corresponds with Article 26 of the Constitution that balances the need for compulsory acquisition of land to facilitate public interest projects run by the government on one hand and respecting the right to property and prior compensation for land compulsorily acquisitioned. This power has come under question of late, characterized by ambiguity in the understanding and use of the terms ‘public interest, public use or in the interest of defence, public safety, public order, public morality or public health’, which are often the basis of the compulsory acquisition.⁶ Additionally, there are so many cases across the country where there has been no ‘prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property.’⁷ Whereas the Constitution guarantees recourse to Courts of law for an aggrieved party in cases of compulsory land acquisition, the backlog that characterizes land related cases hinders access to timely justice for the affected communities.

- **Proposed Reform & Justification**

There is need to clarify in express law the meaning of ‘*public interest*’, a central term used in compulsory land acquisition by the government. This is necessary to enhance certainty of purpose in such acquisitions, to avoid the potential abuse of the ‘term’. These terms should be clarified in the proposed Compulsory Land Acquisition Act 2018 and the attendant National Land Acquisition, Resettlement and Rehabilitation Policy, 2018 due for enactment and adoption respectively, after public consultations

2.4 Public Regulation of Land Use and Development

Emerging Issues on land Taxation

Whereas the government committed, that, during the life time of this Policy, it would explore further the proposal to institute a comprehensive and appropriate framework for land taxation, based on evidence derived from technical evaluation and studies, this has remained pending. In the absence of such a framework, what is emerging is an unprecedented and heightened primitive accumulation of large chunks lands by

⁶ LASPNET-U, ‘*A Situational Analysis of Compulsory Land Acquisition In Uganda: An Inquiry Into The Legal, Institutional And Procedural Frameworks*,’ 2019.

⁷ Bashir Twesigye, ‘*Community-based monitoring of land acquisition; Lessons from the Buseruka oil refinery, Uganda*,’ International Institute for Environment and Development, 2015, at 2.

individuals and firms at the detriment of the poor who are often disenfranchised.⁸ These large chunks of land are often not used, as per the policy ethos of optimal utilization and as thus could pass for the categorization of idle, the controversy surrounding the phenomenon of ‘idle’ notwithstanding.⁹ The calls for application of fiscal policies such as taxation of non-productive land (dubbed idle) to among other goals, make land ownership more equitable, and deter speculative accumulation of land, continue to mount from various sections of the public,¹⁰ including government established commissions of inquiry into land management.¹¹

- **Proposed Reform & Justification**

Consider a taxation framework underpinned with balancing excessive accumulation of land, which partly explains the current land grabbing and attendant evictions of the poor, as against disenfranchising citizens of land.

2.5 Revenue Generation and Fiscal Functions

Emerging Issues:

The Policy progressively realized the importance of the local and community governance institutions in the raising and utilization of revenue from land sector operations and as thus called for the enhancement of their capacity. That recognition of their central role notwithstanding, the reality speaks to a disabling practice. The revenues generated are instead first sent back to the central government which later apportions it back to the local structures at district level, at times in meagre amounts.

- **Proposed Reform & Justification**

Consider a new fiscal transfer framework underpinned by equity in sharing of the national revenue collections, that allows the local structures retainence of a certain percentage of the collected revenues to help them implement some of the national land policy aspirations.

⁸ Astrid R.N. and Haas Mihaly Kopany, ‘Taxing vacant urban land in Kampala,’ Working Paper, International Growth Centre, 2018, at 2.

⁹ David Lumu, ‘Uganda: Tax idle land in urban centers, expert urges Govt,’ The New Vision, November 10th, 2016. Accessible at https://www.newvision.co.ug/new_vision/news/1439832/tax-idle-land-urban-centres-expert-urges-govt

¹⁰ Ivan Tshebeni, ‘Government asked to tax idle land,’ The New Vision, 21st, March, 2023. Accessible at https://www.newvision.co.ug/category/news/govt-asked-to-tax-idle-land-NV_156466

¹¹ The Daily Monitor, ‘Land probe wants tax on idle land,’ July 31, 2020 — updated on August 03, 2020. Accessible at <https://www.monitor.co.ug/uganda/news/national/land-probe-wants-tax-on-idle-land-1911682>

2.6 Emerging Concerns on Radical Title

The term radical title is ambiguous especially in light of the ongoing national discourse on the roll out of customary certificate of title. The State guarantee of title as espoused in the policy is tested not only across the various tenures but more fundamentally under the Customary land tenure system.¹² Questions abound as to the feasibility and guarantees of the State radical title of CCO in light of the unregistered customary land and in absence of a nationally located customary land registry to harmonize and support the activities of the District Land Boards in relation to CCO.¹³ Additionally, is the inadequate funding to the relevant institutions such as the District Land Board, and Area Land Committees to operationalize this process on a wider scale beyond CSOs funded pilot projects.¹⁴

- **Proposed Reform & Justification**

The term '*radical title*' needs to be defined in a precise manner so as to convey the literal meaning in policy statement 8 (a), or in the alternative the intention under Article 237(1) of the constitution. More specifically, in relation to CCOs, the policy should speak to the Government prioritization of guaranteeing radical title to CCOs through an increase the necessary funding to the institutions of the District Land Board (DLB) and Area Land Committees to facilitate the necessary convenings for the disposal of CCO applications.

2.7 GOVERNMENT LAND AND PUBLIC LAND

Emerging Concerns

The State commits to affirm by legislation the definition of Government Land and Public Land. The Policy does not address the critical matter of giveaway of public lands by the government and the President to the private individuals with almost no consideration of public interest. There is currently no known clear standards, rules, criteria and protocols to guide the appropriation of public land by private individuals in name of investors. Various public lands belonging to public schools have fallen prey

¹² Rose Nakayi, '*Certificate of Title: A Discussion of Contemporary Challenges to the Protection of Land Interests in Uganda*,' Journal of African Law, Volume 67, Issue 1, February 2023, pp. 23 – 43.

¹³ Judy Adoko, '*Certificates of Customary Ownership (CCOs) Are Not What They Seem on the Surface: Risks to CCOs*,' Land and Equity Movement in Uganda (LEMU), May, 2017, at 3-4.

¹⁴ OXFAM, '*Certificates of Customary Ownership yet to guarantee women's land security*,' 24, Mar, 2021. Accessible at <https://uganda.oxfam.org/latest/press-release/certificates-customary-ownership-yet-guarantee-womens-land-security>

to this malaise. This includes Kitante Primary School land,¹⁵ with attempts at Kololo Secondary School lands, and Buganda Road Primary School playgrounds¹⁶ and army barracks among others.¹⁷ Food Rights Alliance notes that these dubious giveaways have targeted various categories of land including ‘land owned by government ministries, departments and agencies (MDAs) and semiautonomous entities such as the Uganda Investment Authorities; public/government aided schools, health centers in the rural areas, wetlands, forests and forest reserves among others. More prominently, in the quest for agri-business, massive lands that are former public land, currently occupied by hundreds of people have been targeted exclusively for giveaway as was revealed in Kalangala (partly), Mubende and Amuru districts among others.’¹⁸

- **Proposed Reform & Justification**

The policy review considers directing on the establishment of guidelines or procedure to be followed by the government in giving away public land to private individuals, highlighting the public interest priority being addressed and repercussions in case the person fails to deliver on the projections.

2.8 REFUGEES AND STATELESS PEOPLE AND LAND RIGHTS IN UGANDA

Emerging Concerns

Uganda’s open-door policy to refugees has continued to contribute to massive inflows of refugees in the country leading Uganda to be one of the few countries in Africa and beyond with the largest number of displaced persons in Africa and the third-largest number in the world totaling more than 1.4 million refugees or asylum seekers. Majority of these flee from the political instabilities in South Sudan, Somalia, Burundi, and the Democratic Republic of Congo (DRC).¹⁹ Other than encamping them in refugee camps,

¹⁵ The Daily Monitor, ‘*Museveni gives out more Kitante land*,’ April 25, 2013 — updated on January 22, 2021. Accessible at <https://www.monitor.co.ug/uganda/news/national/museveni-gives-out-more-kitante-land-1541302>

¹⁶ Tom Malaba, ‘*Land Giveaways Takes Toll on Schools*,’ Uganda Radio Network, 16 May 2011.

¹⁷ The Daily Monitor, ‘*Govt gives away part of barracks land to investor*,’ Sunday, April 16, 2017 — updated on January 15, 2021. Accessible at <https://www.monitor.co.ug/uganda/news/national/govt-gives-away-part-of-barracks-land-to-investor-1697052>

¹⁸ Food Rights Alliance, ‘*LAND GIVEAWAYS IN UGANDA: Assessing Compliance with Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests and African Union Guidelines on Large Scale Land Based Investments*,’ 2020.

¹⁹ Timothy Berke and Larissa Larsen, ‘*Using Land to Promote Refugee Self-Reliance in Uganda*,’ *Land* 2022, 11(3), 410, at 415.

Uganda runs an ‘integrated settlements’ approach to foster refugee self-reliance through allowing them access and user rights over lands upon which they are settled.²⁰

But, as evidence shows, the aforementioned open-door policy has been highlighted as responsible for the increasing tension between refugees and host communities over land and surrounding natural resources.²¹ Additionally, deforestation and environmental degradation due to dense populations has become common place further increasing the frictional relations in among others, districts such as Arua, Adjumani and Lamwo in settlements like Imvepi, Rhino Camp, Boroli, Maaji, Nyumanzi, and Pagirinya.²² Similar clashes have been previously reported in Nakivale refugee settlement, southwestern Uganda.²³ These pressure points, revolving around lack of clear standard operating procedures as regards land and natural resources in settlements and refugee settlements need to be confronted before they escalate into further graver conflicts. The prevalent temperature of communal mistrust and vicious hostility within the refugee and national communities in some of these settlements counters the self-reliance of refugees’ paradigm.

Alarming, the NLP is ambiguous in its treatment of the refugee question in Uganda. In fact, the NLP laments noting that, ‘The status of land reserved for refugee settlements is not clear in policy and law. As such it is a source of conflict between the government and neighboring communities, and between the refugees and the citizens.’²⁴ At best, the NLP seems to classify refugees in the omnibus and nebulous ‘Cross-border population movements’ on the move due to conflict, ecological or environmental stress.²⁵

- **Proposed Reform & Justification**

²⁰ The World Bank, ‘Uganda: Supporting Refugees and Host Communities to Become Secure and Self-Reliant,’ October, 2019. Accessible at <https://www.worldbank.org/en/country/uganda/publication/uganda-supporting-refugees-and-host-communities-to-become-secure-and-self-reliant>; Timothy Berke and Larissa Larsen, ‘Using Land to Promote Refugee Self-Reliance in Uganda,’ *Land* 2022, 11(3), 410, at 415.

²¹ UN Women-Africa, ‘Supporting refugees and host communities in Uganda to increase agricultural productivity and build resilience to climate change risks,’ 23, December, 2022. Accessible at <https://africa.unwomen.org/en/stories/news/2022/12/supporting-refugees-and-host-communities-in-uganda>

²² The Independent, ‘Refugees, host communities’ tension could lead to major conflict- report,’ September 4, 2019. Accessible at <https://www.independent.co.ug/refugees-host-communities-tension-could-lead-to-major-conflict-report/>

²³ Emmanuel Bagenda, Angela Naggaga and Elliott Smith, ‘Land Problems In Nakivale Settlement And The Implications For Refugee Protection In Uganda,’ Refugee Law Project Working Paper No. 8, 2003.

²⁴ The National Land Policy, 2013 at 16.

²⁵ The National Land Policy, 2013 at 55.

The review considers incorporating a section in the Policy describing Uganda’s policy position on the status of land reserved for refugees, and by extension, their relations with the host communities in relation to the same lands. The policy directive should also help harmonize Uganda’s land laws in relation to non-citizens and the refugees’ governance policy and legal framework. The policy direction on this issue is more urgent considering the unrelenting influx of refugees in Uganda going by the unabating insecurity in neighboring countries of South Sudan.

III.CHAPTER 3: THE LAND TENURE FRAMEWORK

3.1 Traditional/Cultural Leaders

Emerging Concerns:

The Policy recognizes the role of the traditional institutions in land governance by committing to strengthen traditional land management and administration institutions, Government through a number of measures including among others giving judicial backing to the traditional mechanisms for dispute resolution. We note though, that most of these measures have remained mere aspirations without any concrete national programme to bring them to fruition.²⁶ Noteworthy also is the diversity of the cultural norms and values governing land that there are no State backed minimum core principles, resting in fairness, equity, justice and human rights that have been agreed upon to guide the dispute resolution mechanisms within the tradition institutions.

- **Proposed Reform & Justification**

During this NLP review, there is need to consider the documentation of the diverse cultural institutional norms, traditions and practices relating to land management including dispute resolution mechanisms. This is important to help map out and weed out potential discriminatory and unconstitutional practices especially against women, PWDs and children that manifest more so during alternative dispute resolution on land matters.

In the same vein, consider development and dissemination of uniform guidelines projecting the bear minimum values and standards required during the adjudication of

²⁶ Noel Kansime and Geoffrey Harris, ‘*Strengthening traditional approaches to community-level land disputes: An action research project in western Uganda*,’ ACCORD, June, 26, 2020. Accessible at <https://www.accord.org.za/ajcr-issues/strengthening-traditional-approaches-to-community-level-land-disputes/>

land disputes using traditional mechanisms. These uniform values should be of a human rights-based approach, in order to curb potential human abuses given the remnant patriarchal influences of traditional justice systems.

3.8 LAND RIGHTS OF ETHNIC MINORITIES

Emerging Concerns

Progressively, the NLP recognizes the injustices that have been suffered by ethnic minorities, some historical in nature, relating to their land rights. To rectify this, the government committed to recognize and protect the right to ancestral lands of ethnic minority in its use and management of natural resources. It also committed to ensuring prompt, adequate and fair compensation to ethnic minority groups displaced from their ancestral land by government action. Whereas a number of strategies are enumerated under this theme within the NLP, there is nothing proposed as a measure to bring to fruition the second policy statement concerning compensation. Thus, ethnic minorities of the Batwa, Ik in Northern Karamoja, the Babwisi, Bavonoma and Bamba in Bundibugyo District, and the Benet on the higher slopes of Mount Elgon among others continue to face land rights violations.²⁷ Even where they have managed to contest land grabbing in the Courts of law, and emerged successful, access to justice through the implementation of Court decisions remains elusive.²⁸

- **Proposed Reform & Justification**

The policy statement guaranteeing prompt, adequate and fair competition is still a relevant undertaking by the government. Consideration should be accorded to explaining the strategies/measures the government shall take to guarantee that ancestral lands lost by communities due to government action, are compensated accordingly. This is important to ensure accountability, through ascertaining and assessing the level of progression in implementing these measures.

3.9 LAND RIGHTS OF PASTORAL COMMUNITIES

Emerging Concerns

²⁷ Cross Cultural Foundation (CCFU), *The Cultural Rights of Ethnic Minorities in Uganda – A call for action*, 2016.

²⁸ Amnesty International, *13 Years in Limbo Forced Evictions of the Benet In the Name of Conservation*, 2021.

Through the NLP, the government commits to State protection and guarantee of the Land rights of pastoral communities. This was to be achieved through a two-tier approach of protecting the land rights of pastoralists, and supporting pastoral development by deploying a number of strategies.

However, despite the above commitments, there is yet to be progression at implementation of the strategies. Threats against access to pastoral resources and land rights in Karamoja have been heightened by the increasing livelihood competition between agriculture and livestock production-undertaken by sedentary communities and the pastoral livelihood, and conservation programmes of Government.²⁹ Additionally, is the state led and individual oriented (powerful international capital) mineral exploitation and mining respectively.³⁰ This has been compounded by the failure in the management of trans-boundary resources that has sparked off conflicts owing to the cross-boundary movement of animals and herds by the Karamojong adopted as a surviving approach to the intermittent climatic changes that affect their animals.³¹

• Proposed Reform & Justification

The NLP review to consider the incorporation into the policy and strategies of implementation, the urgency of establishment of relevant joint grazing policies, and protocols to manage equitably, participatively and transparently trans-boundary and shared natural resources without disenfranchising the pastoral communities while at the same time avoiding future conflicts.

Also, as part of the strategies, the Policy should direct the implementation of the Memorandum of Understanding on Cross Border Cooperation and Coordination on Animal Health and Sanitary Measures in IGAD Cluster 1 (Karamoja) signed between Uganda, Kenya, Ethiopia and South Sudan in July 2019.³² This MOU among other

²⁹ The Daily Monitor, '40% of Karamoja land owned by govt- report,' November 28, 2018 — updated on January 11, 2021. Accessible at <https://www.monitor.co.ug/uganda/news/national/40-of-karamoja-land-owned-by-govt-report-1792718>

³⁰ Human Rights Watch, 'How Can We Survive Here?: The Impact of Mining on Human Rights in Karamoja, Uganda,' 2014, Accessible at <https://www.hrw.org/report/2014/02/03/how-can-we-survive-here/impact-mining-human-rights-karamoja-uganda>; Billy Rwothungeyo, 'Extractives And Natural Resources – Uganda; The impact of mining on pastoralist livelihoods in Karamoja,' Minority Rights International, 2019.

³¹ Cyril Ferrand, 'Finding solutions to cross-border conflicts in East Africa's Karamoja region,' Food and Agriculture Organization of the United Nations (FAO) March, 2021.

³² Inter-Governmental Authority on Development (IGAD), 'The Ministers sign the Multilateral Cross-border MOU to enhance animal disease control among Ethiopia, Kenya, South Sudan and Uganda,' July, 2019. Accessible at <https://igad.int/the-ministers-signed-the-multilateral-cross-border-mou-to-enhance-animal-disease-control->

benefits, holds the promise of accentuating successful cross-border resource sharing agreements signifying long-term political commitment to ending cross border conflicts relating to land and other resources.

3.9 (A) The Youth and Land Rights

Emerging Concerns

The NLP as is now is silent on the land rights and related aspects of the biggest portion of the Ugandan population-the youth. And so, do other laws within the existing land registration, administration and governance frameworks that do not explicitly spell out definite prominence on land rights of the youth.³³ The youth, despite their massive numbers, have often suffered a peripheral and faceless role in the land management, administration and general governance. This has been traced to their being by-passed in decision making processes concerning land. Other vagaries such as the expensive judicial/justice system in cases of claims of land rights and the attendant backlog have not helped the situation youth find themselves.

- **Proposed Reform & Justification**

a) The review considers making provision for youth in the policy as a special interest group, proposing concrete steps, measures and strategies that are going to be deployed to protect and promote awareness, access and utilization of the land by the youth.

b) Additionally, within this focus on the youth, should also be addressed the youth in land dispute resolutions especially the traditional mechanisms, where very often, they are undermined in preference for the elderly men of the clan.

VI. CHAPTER 4: LAND RIGHTS ADMINISTRATION FRAMEWORK

4.3 LAND RIGHTS DELIVERY (4.2.5 Institutional Reforms Required for Delivery of Land Services of the Implementation Action Plan)

Emerging Concerns

[among-ethiopia-kenya-south-sudan-and-uganda-and-finalized-the-implementation-framework-to-operationalize-the/](#)

³³ Otim John Bosco, Itiamat George William and Ilima John, *'An Assessment On Enhancing Awareness Of Land Rights Of The Youth In Acholi Sub Region,'* Trocaire, 2017, at 6.

We recognize the efforts of the relevant actors within the government in accentuating the use of modern technology in land rights management. The policy roots for among other initiatives, the computerization of all land registries commencing with those established in urban areas. Further it provides for the enactment and amendment of all relevant laws to enable application of modern technology. The policy is silent on the notion of *'responsible technology'*, that is characterized by and grounded in a human rights-based approach.

- **Proposed Reform & Justification**

- a) The Policy considers providing for use and conceptualization of (the term) *'responsible technology'* that does not seek to supplant and displace but rather incorporate and integrate communities' traditional knowledge, skills and values in land rights management. Responsible technology propounded in a human rights-based approach is key in countering the contemporary and genuine fears of the unchecked digitalization of land rights that has shown capacity to replicate, fuse and even aggravate prevailing systems of exclusion and marginalization in land rights governance.³⁴
- b) The NLP review considers, as one of the strategies of land rights delivery, to be the periodic and consistent enhancement of the capacities of the relevant land actors within the government on the emerging technology applied within the land registration and general management processes for effectiveness and efficiency.
- c) The NLP review considers legislative reforms as a strategy to augment land rights delivery. In particular, the need to for supportive policy and legal framework that incorporates the relevant aspects of *'responsible technology'* to better anchor the technologically advancing land information system that is lacking in the contemporary laws that were focusing on manual systems.
- d) This incorporation could take the form of harmonization of laws, their review, update and amendment allowing evolution as the technology too evolves to harness and accommodate the emergence of developments such as the Global

³⁴ Priyal Bhatt, Jocelyn Chu, Ximena Mata, Yasuko Nakajima, Alexander Ro and Marleen Schreie, *'The Potential Of Ict's To Combat Land Corruption In Uganda: A Gendered Approach,'* Transparency International, 2019.

Positioning System, and Geographical Information System among others.³⁵
(4.2.7 Legal and Regulatory Reforms of the Implementation Action Plan)

4.5 LAND INFORMATION SYSTEMS

Emerging Issues:

We commend the Government's quest to establish and maintain a reliable and user-friendly Land Information System (LIS) as a public good for planning and national development. One such strategy was to procure technological infrastructure needed for the establishment of a decentralized system. These developments have not been matched with a corresponding capacity building of the necessary human resources within the Ministry of Lands to provide the necessary support to facilitate the usage of these digitalized land registrations mechanism.

- **Proposed Reform & Justification**

Consider main streaming capacity building of MLHUD and decentralized structures within the entire land administration and governance framework to handle technological advances within the digitalizing land information system. In addition to the advancing technology and digitalizing land, there are some aspects that should be looked at in the process of digitalization most especially in the aspect of security to proprietors. This is so because in many instances these systems are manipulated at the disadvantage of the proprietors who end up losing their property to fraudsters. It is the reason there are a lot of land grabs because anyone can manipulate to system and can own a chunk of property. Thus, digitalization should primarily focus on the security and data protection of the proprietors and system users. It is a system that should be built on the basis of protection and data protection of the users at each decentralized point.

4.6 LAND DISPUTE RESOLUTION (4.2.4 Measures to Manage and Resolve Land Disputes and Conflicts of the Implementation Action Plan)

Emerging Issues

³⁵ L. M. Wabineno, M. Musinguzi, P. Ekbäck, *Land Information Management in Uganda: Current Status*,³⁵ The first Conference on Advances in Geomatics Research, 2019.

Despite the express recognition and commitment to according precedence to indigenous principles and practice in dispute management institutions in respect of disputes over land held under customary land tenure, this is yet to be realized. Rather, what obtains as accentuated by various critics, is the blanket branding of these traditional norms and values as largely patriarchal and as thus periphery and unfit to be referred to in guiding dispute resolution on customary land tenure.

- **Proposed Reform & Justification**

As part of the strategies to giving credence to traditional and indigenous principles and practice in dispute management in respect of disputes over land held under customary land tenure, government to consider the adoption of the following strategies:

- a) Under take a comprehensive reform agenda of the customary land dispute mechanisms including among other initiatives, the synchronization/harmonization of customary land dispute resolution processes, procedures, proper documentation of proceedings, and overall record keeping. This could be undertaken through providing of templates with basic minimum standards that the various customary practices and mechanisms must all involve and fulfil. These must incorporate women and children rights protection, equity, equality and non-discrimination.
- b) Undertake a comprehensive documentation of customary justice system procedures, rules, regulations and practices for land dispute resolution on customary land to ensure consistency and accuracy in handling such land disputes. This kind of documentation- Principles, Practices Rights and Responsibilities (PPRR) can facilitate the formal Courts during the adjudication of cases involving customary land.
- c) Development of a comprehensive training module for traditional/cultural leaders/clan heads etc., involved in dispute resolution over customary land, in among other key aspects principles of natural justice, formal land legal framework and documentation of their procedures and ‘rulings.’
- d) Incorporate the traditional mechanisms of dispute resolution within the State justice systems chain to aid the adjudication. This could include for example

appointing the clan/traditional leaders as mediators in cases of customary land disputes as provided for under Section 89 of the Land Act, the absence of the District Land Tribunals notwithstanding. To achieve this, partly it would require a collaboration with the Judiciary to amend Rule 9 of the Judicature (Mediation) Rules of 2023, which currently restricts a mediator in formal matters to be a judge, registrar, magistrate, a person accredited by the Court, or a person certified as a mediator by CADER, excluding traditional leaders.

- e) Additionally, and related to the above, there is need to accommodate traditional leaders as amicus curie in cases involving land disputes especially under the customary land tenure holding. This can be accommodated under Rules 4 and 5 of Judicature (Amicus Curiae) Rule 2022, wherein an amicus curiae is defined to mean a person or organization that is not a party to the suit but who participates in the litigation by providing the Court with important information intended to assist the Court in making an informed decision. The traditional leaders are best qualified to be amicus curiae more so in land matters because they are in most cases equipped with relevant information that can aid the Court in reaching its final decision.
- f) Extracting the principles and values supporting customary land tenure systems from the aforementioned PPRRs that are likely to remain constant in the foreseeable future and incorporate and enact these into the State law for consistent across the various customary values in different parts of the country. In the alternative, the office of the Attorney General to provide minimum standards for the different districts to be guided in enacting and passing these PPRRs as ordinances and therefore usable within the State justice system equally.
- g) Subject customary land cases/disputes brought before the State justice system in the Courts to a mandatory check-of whether they have been adjudicated upon before in any other forum including the traditional justice mechanisms and the decisions that emerged there from such hearings and justifications for the fresh suit. This can be accommodated under the processes of scheduling conferences. In this way, decisions from local mechanism could be given weight by the State Courts.

V. CHAPTER 5: LAND USE AND LAND MANAGEMENT FRAMEWORK

5.3 Optimal Use and Management of Land Resources

Emerging Issues

In seeking to monitor and enforce land use standards in Uganda, the policy recommends for the deployment of professional land auditors at local and community government levels to undertake this task. Beyond the fact that there has been no implementation of this strategy, questions also abound as to what the terms of reference, power and authority these shall have in relation to already existent land administration and governance structures at both national and local levels.

- **Proposed Reform & Justification**

Provide further description on the role of the land auditor, his or her qualifications and their position in the national land governance structure to avoid duplication of roles, conflicts between different responsibility centers, to ensure smooth operations at land administration.

VI. CHAPTER 6: REGIONAL AND INTERNATIONAL FRAMEWORK

6.2 REGIONAL AND INTERNATIONAL INSTRUMENTS AND OBLIGATIONS (4.2.11 Fulfilling Regional and International Obligations of the Implementation Action Plan).

State Reporting on Land Rights implementation

Emerging Concerns:

Whereas the Government through the Ministry of Lands commits to domestication of the regional and international standards and laws within with such aforementioned instruments, relating to land policy, there has been a noticeable lack of progress on this front. This, ultimately affects the realization of land rights related to the land policy and other attendant land resources administration and management best practices that can be harvested from implementing the domesticated international and regional standards.

- **Proposed Reform & Justification**

Consider the policy directing for the embedment of a national feedback mechanism wherein the Ministry provides periodic reports spelling out measures and efforts undertaken towards the implementation of the ratified regional and international land related instruments in Uganda. This could be undertaken working in collaboration with

the Ministry of Gender and labour development, Ministry of Justice and Constitutional Affairs and Ministry of Foreign Affairs, that are jointly responsible for State reporting in relation to these ratified instruments under the African Human Rights and the United Nations Human Rights Systems. These include the African Commission on Human and Peoples’ Rights; the Universal Peer Review (UPR) processes; the UN Committee on the Convention on Economic, Social and Cultural Rights (ESCR) all under the UN systems. This should also allow for non-state actors to give shadow reports on the State implementation of these standards, which facilitates citizenry participation in land policy improvement and implementation.

VII. CHAPTER 7: FRAMEWORK FOR IMPLEMENTATION OF THE NATIONAL LAND POLICY

7.2 PUBLIC EDUCATION AND DISSEMINATION OF THE LAND POLICY (4.2.10 Land Rights Civic Education and Awareness Programme of the Implementation Action Plan)

Emerging Concerns

The government commitment towards dissemination of the NLP is not in contention due to the manifest efforts that have been deployed. However, due to the liberal nature through which information concerning land rights in Uganda is disseminated, there has emerged room for misinformation, disinformation and outright misleading information to the citizens. The situation has not been helped by the fact that a majority of the sections of the populace that suffer land rights injustices are not literate and informed enough to decipher through the barrage of land related information coming from the various land actors.

- **Proposed Reform & Justification**

The policy review process should consider the possibility of provision of basic minimum information concerning particular themes in the land rights sector coming from the relevant Ministry. This information, factual in nature, becomes the un-distortable uniform message upon which other stakeholders outside government such NGOs replicate by way of dissemination in their own operational constituencies.

VIII. CHAPTER 8: IMPLEMENTATION FRAMEWORK FOR THE NATIONAL POLICY

Emerging Concerns:

NLP implementation involves a number of strategies established and put into action to facilitate the conversion of policy principles, policy statements, and strategies into an all-inclusive program of land reform. Despite the call for the comprehensive costing of the Policy for implementation, there is no evidence pointing to the execution of this action. The absence of full funding for the full implementation of the policy makes it hard to assess the efficiency of the strategies proposed therein.

- **Proposed Reform & Justification**

Consider ring-fencing the monies generated from the Ministry Zonal Offices (MZOs) as funds that can be an exclusive reserve for the support of implementation of the National land Policy. This could minimize the overly manifest dependence on the stretched consolidated fund and looking up to donors for funding. Additionally, consider the establishment of the Monitoring and Evaluation framework to guide the implementation of the Policy.

OTHER RECOMMENDATIONS

- a) The Policy seeks to create an efficient land market. This focus informs the move to have freehold tenure as the single tenure for the country and as such allows for conversion from customary to freehold;
- b) The Policy should include policy statements on the amendment of the Investment Code Act. Currently the Act does not address protection of the people on the land but focuses on providing land for investment. The Act erroneously views land as an incentive to attract investment but not as a factor of production;
- c) Revise policy to provide for the repossession of all public land that was wrongfully allocated;
- d) There is need to assess the application of the principles of trusteeship of public land by the government and document findings on whether they have been good stewards.