

LEGAL FRAMEWORK GOVERNING TENURE SECURITY, OVERALL LAND MANAGEMENT & ADMINISTRATION STRUCTURES AND THE CURRENT/CONTEMPORARY INNOVATIONS OR INTERVENTIONS CONCERNING THE LAND QUESTION.

A PAPER PRESENTED AT THE KAMPALA LAND MANAGEMENT AND ADMINISTRATION CONFERENCE ON THE 27TH DAY OF SEPTEMBER, 2023, AT MESTIL HOTEL, KAMPALA



BY: NAOME KABANDA

AG. DIRECTOR LAND MANAGEMENT

MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT

PRESENTATION OUTLINE

- ▶ Introduction
- ▶ Uganda's demographics
- ▶ Definitions, elements and principles of tenure security and good land governance
- ▶ Legal Framework and policies governing tenure security in Land Administration
- ▶ Structures for Land Administration and Management
- ▶ Innovations/ Interventions on the land questions in Uganda
- ▶ Challenges faced by Land Administration Structures in Uganda
- ▶ Conclusion



DEMOGRAPHICS

- ❑ The size of Uganda's Land is **248,000 square kilometers**.
- ❑ Currently, the total population of Uganda stands at approximately **48 million** people.
- ❑ The population growth rate is at **3.2% per annum** (one of the highest in the world)
- ❑ **Women constitute 51% while 48.79% constitute male.**
- ❑ **Population for youth, men and girls**
- ❑ By the year **2035**, Uganda's population will be over **60 million** people with approximately **18.2 percent** of the population urbanized.
- ❑ **Majority of the population is employed in agriculture.**
- ❑ **Women contribute to over 75%** in labor and food production

DEFINITIONS AND ELEMENTS OF TENURE SECURITY AND GOOD LAND GOVERNANCE

Tenure security, according to the VGGTs, refers to the **assurance and protection of land rights for individuals and communities.**

Involves **legal recognition, documentation, and enforcement of these rights to ensure secure and stable access to and control over land resources.**

Key elements of tenure security highlighted by the VGGTs include

- ▶ **Legal recognition of land rights,**
- ▶ **Protection against arbitrary eviction,**
- ▶ **Non-discrimination in land rights,**
- ▶ **Duration and transferability of land rights,** and
- ▶ **Accessible dispute resolution mechanisms.**

By ensuring tenure security, countries can promote social equity, economic development, and sustainable land management

Tenure security and good land governance cont'd

- ▶ Good land governance refers to the **effective and equitable management of land resources**, (VGGTs).

Key Principles:

1. **Legality:** Clear and enforceable laws and regulations governing land tenure and use.
2. **Accessibility:** Equal opportunities for all individuals and communities to access and use land resources.
3. **Tenure Security:** Legal recognition and protection of land rights for everyone, including marginalized groups.
4. **Sustainability:** Promotion of responsible and sustainable land use considering environmental, social, and economic factors.
5. **Participatory Decision-making:** Involvement of all stakeholders in land-related decision-making processes for inclusivity and transparency.
6. **Accountability:** Holding responsible parties accountable and establishing effective mechanisms for resolving land-related disputes.
7. **Conflict Resolution:** Fair and accessible mechanisms for resolving conflicts related to land tenure and use.

Benefits: Adhering to these principles leads to social stability, economic development, and environmental sustainability.

Policy Principles enshrined in the Constitution for the management of land

- ▶ **ART. 237** Land is vested in the Citizens of Uganda
- ▶ State guarantees **title to land** on behalf of the citizenry
- ▶ **Art 26** ... every one has the right to own property and gives exceptions under which government can acquire land in public interest for defence, public safety, public order, health, and morality....,
- ▶ The Taking must be with compensation prior, promptly and adequately.
- ▶ **Art 27** right to privacy
- ▶ **Art. 28** right to a fair hearing in courts of law
- ▶ Rights of women in owning of property is equally enshrined in **art. 31(2)**
- ▶ **Art.32** affirmative action in favour of marginalised groups
- ▶ **Art.33** rights of women in treatment and equal opportunities in economic , social and political activities

Constitutional provisions cont'd

- ▶ District Land Boards to hold and allocate land in trust for citizens which is not owned by anybody or authority (Art. 240-241)
- ▶ Uganda land commission responsible for the management of government land (Art.238-239)
- ▶ Art 237 (1)(B) of the constitution vests natural lakes, rivers, wetlands, forest reserves, game reserves, national parks and any land reserved for ecological and tourist purposes in the state
- ▶ **Art.242** Government to regulate the land use
- ▶ **Art 244** vests petroleum and minerals in government as a trustee on behalf of the citizens
- ▶ **Art.243** established land tribunals
- ▶ **Art.245 preservation and** protection of the environment

Policy principles for tenure security in the administration and management of land

- ▶ Reflected clearly in the **vision** and **goal** of the NLP
- ▶ The vision of the policy is **'a transformed Ugandan society through optimal use and management of land resources for a prosperous and industrialized economy with a developed services sector'**
- ▶ The goal of the National Land Policy is **'to ensure efficient, equitable and optimal utilization and management of Uganda's land resources for poverty reduction, wealth creation and overall socio-economic development'**.
- ▶ The principles that underpin and guide this national land policy include:
 - ▶
 - ▶ Equitable access to land for all Citizens of Uganda to hold, own, enjoy, use and develop either individually or in association with others;
 - ▶ Equity and justice in access to land irrespective of gender, age, disability or any other reason created by history, tradition or custom;
 - ▶ Effective regulation of land use and land development;
 - ▶ Optimal land use and sustainable management for economic productivity and commercial competitiveness;
 - ▶ Transparency and accountability in democratic land governance;
 - ▶ Reverse the decline in soil and land quality and mitigate environmental effects;
 - ▶ Acquisition of land by non-citizens;
 - ▶ Land as the central factor to leveraging other productive sectors.

UGANDA'S MACRO INSTRUMENTS AND FRAMEWORKS GOVERNING THE LAND SECTOR.

- ▶ The Sector of Lands, Housing and Urban Development is guided by other Macro instruments and frameworks, namely; **Vision 2040, NDP III, NRM Manifesto 2021-2026 and Social Development Goals (SDGs)** all of which recognize that secure tenure and equitable rights to land and natural resources are central to sustainable development and key to strengthening **Uganda's competitiveness for sustainable wealth creation, employment, and inclusive growth.**
- ▶ The instruments represent the **impact of public investment on growth** through the implementation of policies that foster efficiency in public investment, increased domestic revenue mobilization efforts, and maintenance of price stability.

UGANDA'S MACRO INSTRUMENTS CONT'D.

Vision 2040

- ▶ ***A transformed Ugandan Society from a Peasant to a Modern and Prosperous Country within 30 years:***” The Vision aims at **transforming Uganda from a predominantly peasant and low-income country** to a competitive upper-middle-income country by 2030.
- ▶ **The Vision points to some key strategies and policy reforms that must take place to achieve the aspirations and improve the national economy-** key among these is *“make land reforms to facilitate the faster acquisition of land for planned urbanization, infrastructure development, and agricultural commercialization among other developments.*
- ▶ The Vision further states that: *“Land as a factor of production, is a critical resource for transformation through various business venues and provision of public utilities.”* the vision makes a serious commitment that *“to ensure that land ownership facilitates development, Government needs to roll out a systematic land demarcation and survey of the entire country over the Vision period.*

The National Development Plan III

- ▶ The National Development Plan III seeks ***“to increase household incomes and improve quality of life of Ugandans through strengthening Uganda’s competitiveness for sustainable wealth creation, employment, and inclusive growth of the lives of Ugandans”***
- ▶ The NDP III emphasizes that land is the ***main facilitative resource*** for orderly urbanization, commercial agriculture, access to land for **investment and infrastructure development, acquisition of surface rights to support sub-surface extraction of minerals, oil, and gas.**

Role of Land Sector in National Development

- ❖ Land Sector to facilitate reforms outlined within the framework of the Constitution 1995 and National Land Policy 2013 (NLP) whose goal is to;
 - ❑ **Ensure efficient, equitable, and optimal utilization and management of Uganda's land resources for poverty reduction, wealth creation and overall social economic development.**
 - ❑ **Re-engineering land administration towards having an efficient and effective land delivery system for poverty reduction**
 - ❑ **Restructuring the land rights administration system to enhance efficiency, ease of access and cost effectiveness**
 - ❑ **To Promote and facilitate the Registration of customary land through designing and implementing the land registry for customary land.**
 - ❑ **To promote the land rights for women ownership of land through legislation (right to inheritance and succession)**
 - ❑ **Promote Alternative Dispute Resolution(ADR) as a mechanism for dispute resolution.**
 - ❑ Provide for faster acquisition of land for Government projects and infrastructure development.
 - ❑ **Access to investment.**

Role of land sector cont'd

- ▶ Restructure the land rights administration system to enhance efficiency, ease of access and cost effectiveness.
- ▶ Introduce modern technology I land rights management including computerisation of all land registries.
- ▶ Review all land related laws.
- ▶ Sensitization and awareness creation on land rights.\
- ▶ Integrate Land use and physical planning into land administration.
- ▶ Protection of the environment and sensitive eco-systems and ensure that they are integrated into the land management.
- ▶ Enhance revenue generation in the land sector.



Role of Land sector cont'd

The NRM Manifesto 2021-2026

- ▶ The NRM manifesto recognises that *land is the biggest factor of production for most Ugandans and as such must have significant securities and guarantees for use, access and ownership.*
- ▶ The Manifesto states that Government is mindful of the *need to address urbanization and physical planning* for the mushrooming unplanned urban centers to address the increasing urban sprawl.
- ▶ The NRM Manifesto 2021-2026 *aims to take Uganda into modernity through job creation and inclusive development..*

LEGAL AND POLCY FRAME WORK IN THE LAND SECTOR

POLICY

- The National Land Policy 2013 (under review)
- Oil and Gas 2018
- National Land Use Policy 2007 (under review)
- Gender Strategy
- Fit-for –Purpose Strategy 2019
- Urban Policy
- Draft Land Acquisition, Resettlement and Rehabilitation Policy

LAWS

- 1995 Constitution of Uganda
- Land Act Cap 227 (as amended)
- Physical Planning Act 2010
- Registration of Titles Act Cap 230
- Land Acquisition Act cap 226 (under review)
- Mortgage Act 2009
- Survey Act Cap 232 (under Review)
- Petroleum(Exploration, Development and Production) Act 2013
- Condominium Property Act 2001
- Registration of Titles Act (Under Review)
- Succession Amendment Act 2022
- Surveyors Registration Act
- The Administrator General's Act Cap 157 (as amended)
- Public Finance Management Act

- Proposed New laws
- Valuation law
- Uganda Land Commission Law
- Real Estate law

REGULATION/ GUIDELINES

- Land Regulations 2004
- Physical Planning Standards and Guidelines 2011
- Land Administration guidelines 2005
- Physical Planning Standard 2011
- Land Eviction Guidelines 2019
- Public Finance Management Guidelines
- Frame work Guidelines on Oil and Gas
- World Bank guidelines on land acquisition

OTHER GLOBAL FRAMEWORKS/POLICIES /AGENDAS

Objective: to promote and acceralate reforms of the land sector by fostering global, regional and National discourse on responsible land governance and transformative land policies.

Objective 2: Institutionalise inclusive, gender-responsive and fit for purpose land tools to scale up tenure security interventions.

Objective 3: Share and develop capacities, knowledge, research and resources on land tenure security.

Objective 4: Promote transparency and accountability, access onland use and land resources especially youth and vulnerable especially women.

Objective 5: Promote access to land justice through Alternative Dispute Resolution mechanisms

Sustainable Development Goals (SDGs)

Frame Works and Guidelines on Land Policy In Africa

Voluntary Guidelines on the Responsible Governance of Tenure (VGGTs)

New Urban Agenda (Smart Cities)

Land reforms under the National Land Policy

Institutional Reforms	Districts
Creation of 22 Ministry Zonal offices for registration of land services.	Wakiso (Busiro and Kyadondo), Kampala, Mpigi , Arua, Mbale, Gulu, Masaka, Mityana, Lira, Arua, Kabale, Mbarara, Kibale, Moroto, Mukono, Fortportal, Jinja, Soroti, Bukalasa.
Computerisation of the Land Registry through Uganda National Land Information System.	
Programmes	
Systematic land Adjudication and Demarcation (SLAAC)	Kabale, Kamwenge, Kisoro, Iganga among others
Issuance of certificates of customary ownership and Communal Land Associations	Adjumani, Lira, Soroti, Katakwi, Yumbe, Padel
Issuance of Certificates of Occupancy	Mityana, Mubende and Kassanda

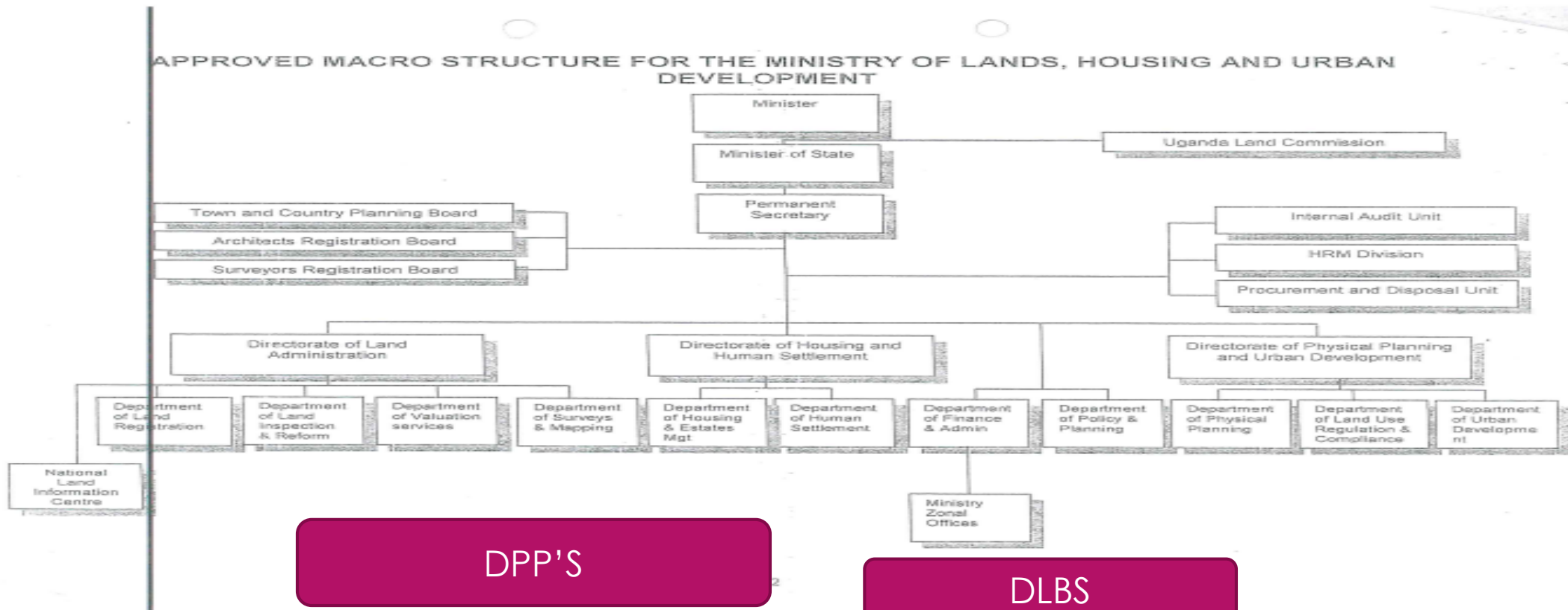
Structures for Land Administration and Management in Uganda

The 1995 Constitution and 1998 Land Act ushered in a new regime of Land Administration in Uganda through introduction of a number of land management institutions.

The institutions introduced included;

- ▶ Ministry of Lands, Housing and Urban Development overall mandate Policy and overseeing the management of land at all levels
- ▶ 22 Ministry Zonal Offices in the districts of Kampala, Mukono, Jinja, Tororo, Mbale, Soroti, Moroto, Kyadondo, Busiro, Mityana, Bukalaasa, Rukungiri, Masaka, Mbarara, Masindi, Gulu, Arua, Lira, Kabarole, Kibale, Mpigi and Kabale.
- ▶ Uganda Land Commission for management of government land,
- ▶ National Physical Planning Board,
- ▶ District Land Board & City Land Board charged with the management of land not owned by anybody at district and land formerly held by former vesting bodies,
- ▶ District Land Office
- ▶ District Land Tribunals however their jurisdiction was transferred Magistrate Courts
- ▶ District Physical Planning Committees,
- ▶ Subcounty Physical Planning Committees
- ▶ Area Land Committees ascertaining boundaries,
- ▶ Office of Recorder

MLHUD ORGANOGRAM



DPP'S

DLBS

SPPC

ALC'S

Structures for Land Administration and Management in Uganda Cont'd

Administrative level	Institution	Roles/ functions
National level	Ministry of Lands, Housing and Urban Development (MLHUD)	<ul style="list-style-type: none"> ➤ Vision “Sustainable Land Use, Land Tenure Security, Affordable, Decent Housing, and Organized Urban Development. “ ➤ Mission “To ensure Sustainable Land Management, Orderly Development and Adequate Housing for all”. ➤ Mandate: “to ensure rational and sustainable use, effective management of land and orderly development of urban and rural areas as well as safe, planned and adequate housing for socio-economic development”. <i>(Lands, Housing And Urban Development, Sector Development Plan, 2020/21 – 2024/25)</i>
	Uganda Land Commission <i>(Article 238 and Section 49 Land Act)</i>	<ul style="list-style-type: none"> ➤ To hold and manage any land in Uganda and abroad which is vested in or acquired by the Government in ➤ To hold and manage any land acquired by the Government abroad, except that the ➤ Procure certificates of title for any land vested in or acquired by the Government;
	National Physical Planning Board 2020. <i>(Section 6 of the Physical Planning Act 2020)</i>	<ul style="list-style-type: none"> ➤ To develop both the national and regional physical development plan for the country’s orderly sustainable development
District Level	District Land Boards (DLBs). <i>(Article 240 and Section 59 Land Act)</i>	<ul style="list-style-type: none"> ➤ Hold and allocate land in the district which doesn’t belong to any person or authority, ➤ Facilitate the registration and transfer of interests in land ➤ Take over the role of the lessor on land leased by former controlling authorities; ➤ Cause surveys, plans, maps, drawings and estimates to be made by or through its officers or agents; ➤ Compile and maintain a list of compensation rates of crops and non permanent buildings, and;

Structures for Land Administration and Management in Uganda Cont'd

Administrative level	Institution	Roles/ functions
Sub County Level	Area Land Committees (<i>See Section 65, 66 and 67 of the Land Act</i>)	<ul style="list-style-type: none"> ➤ The Committee assists the District Land Board in an advisory capacity, ➤ Carrying out inspection and issuing inspection reports ➤ The Area Land Committee may act as a Mediator.
	Office of the Recorder (<i>See Section 68 of the Land Act</i>)	<ul style="list-style-type: none"> ➤ The office of the Recorder is established at every sub county, each gazette area and each division in the case of a city. ➤ In a rural area, the sub county chief is the Recorder; ➤ In a gazetted urban area, the town clerk is the Recorder; and. ➤ In a division of a city, the assistant town clerk in charge of the division is the Recorder ➤ The Recorder is responsible for keeping records relating to certificates of customary ownership ➤ and certificates of occupancy,

Innovations/ Interventions on the land question in Uganda.

Land Questions	Government Interventions
Mainstreaming gender in land administration	<ul style="list-style-type: none">➤ Ensured that At least 1/3 of membership on all Land Management Institutions should be women (ULC,DLB and ALC).➤ Ensured that Communal Land Association should have at least one-third women representation as members of the Association.➤ Issued land titles in names of women to ease access to finance from financial institutions.➤ Carried out sensitization and awareness creation on the importance of registration of land by women.➤ Developed the Gender Strategy on Land.
Review, re-engineering, and computerizing of SOP in land administration	<ul style="list-style-type: none">➤ Established the Land Information System (LIS) in the 22 Ministry Zonal Offices to bring land registration services closer to the public.➤ Rehabilitation and digitization of land records and cadastral maps➤ Established a one-stop center and public portals to ease access to land related information by the public.➤ Integrated land information with other user departments like URA, NITAU, Administrator General Office, NIRA to ease and boost revenue collection by government.

Innovations or interventions on the land question in Uganda Cont'd.

SOPs in Land Administration	Government Interventions
Systematic Registration of Land.	<ul style="list-style-type: none">➤ Adopted Fit for Purpose strategies like Systematic Land Adjudication and Certification (SLAAC) program to issue freehold titles in rural areas in the district of;<ul style="list-style-type: none">i. Rwampala,ii. Oyam, and;iii. Kamwenge➤ Put in place the Fit for Purpose Land Administration approaches to reduce the cost of survey and registration.➤ Carried out mass public and awareness creation of the public on the importance of registration of land rights in rural areas.➤ Issued out Certificates of Customary Ownership in the districts of Apac, Butaleja, Terego among others.
Managing land disputes and the rampant land evictions	<ul style="list-style-type: none">➤ Put in place measures to resolve overlapping rights on <i>Mailo</i> land (Landlord- tenant) through developing and implementing the four (4) options these include;<ul style="list-style-type: none">i. Capitalized the land fund interests of a landlord on tenanted land.ii. Buy-out option where a tenant agree to buy his or her interests on land from the landlord.iii. Lease option where a landlord agree to lease out the land to a tenant.iv. Land sharing where a landlord agrees to share land with tenant who in turn acquires a Certificate of Title.➤ Issued out Certificates of Occupancy in the districts of Mubende, Kasanda, Lyantode and Mityana.➤ Put in place the Constitutional (Land Eviction) (Practice) Directions 2021 to regulate all evictions on land.➤ Established the Dispute Resolution Desk in MLHUD with the mandate to hold public hearings and resolve disputes

Innovations or interventions on the land question in Uganda Cont'd.

SOPs in Land Administration	Government Interventions
<p>Systematic Registration of Land.</p>	<ul style="list-style-type: none"> ➤ Adopted Fit for Purpose strategies like Systematic Land Adjudication and Certification (SLAAC) program to issue freehold titles in rural areas in the district of; <ol style="list-style-type: none"> i. Rwampala, ii. Oyam, and; iii. Kamwenge ➤ Put in place the Fit for Purpose Land Administration approaches to reduce the cost of survey and registration. ➤ Carried out mass public and awareness creation of the public on the importance of registration of land rights in rural areas. ➤ Issued out Certificates of Customary Ownership in the districts of Apac, Butaleja, Terego among others.
<p>Managing land disputes and the rampant land evictions</p>	<ul style="list-style-type: none"> ➤ Put in place measures to resolve overlapping rights on <i>Mailo</i> land (Landlord- tenant) through developing and implementing the four (4) options these include; <ol style="list-style-type: none"> i. Capitalized the land fund interests of a landlord on tenanted land. ii. Buy-out option where a tenant agree to buy his or her interests on land from the landlord. iii. Lease option where a landlord agree to lease out the land to a tenant. iv. Land sharing where a landlord agrees to share land with tenant who in turn acquires a Certificate of Title. ➤ Issued out Certificates of Occupancy in the districts of Mubende, Kasanda, Lyantode and Mityana. ➤ Put in place the Constitutional (Land Eviction) (Practice) Directions 2021 to regulate all evictions on land. ➤ Established the Dispute Resolution Desk in MLHUD with the mandate to hold public hearings and resolve disputes

Challenges faced by the Land Administration Structures

District and City Land Boards

- ▶ The Land they manage isn't fully defined. The law provides for land not owned by any person or authority.
- ▶ No retainer fees unlike other constitutional bodies & only attract allowances which are very inadequate.
- ▶ Appointment is political which can be seen as biased.
- ▶ Qualifications UCE and membership is non professional as opposed to PPC whose management is purely professional.
- ▶ Allowances not prioritised by council so very few sittings and backlog of applications.
- ▶ Allocation of land in Freehold in cities **(What is the best way to manage urban land)**
- ▶ **What about condominium properties? Shouldn't there be regulation of the development of condominium properties**
- ▶ **Extension and renewal of leases. Should this be automatic for the sitting tenant or applications should be made?**

District Land Tribunals

- ▶ shelved by judiciary and their jurisdiction moved Grade1 Magistrate Courts through the Practice Direction No. 1 of 2006. This has led to case backlog due to formal and bureaucratic nature of the formal justice system.
- ▶ Increased incidences of fora shopping with complainants reporting land disputes to the RDCs who in some instances don't handle them conclusively.
- ▶ ADR which is the alternative to the formal justice system isn't very effective due to lack of a comprehensive policy. (Kenya has approved ADR policy as part of their dispute resolution system)

Challenges faced by the Land Administration Structures

Physical Planning Committees

This is an integral part of land administration after the amendment that declared the whole of Uganda as a planning area. (DPPC and SPPC) However they face the following Challenges;

- ▶ Most urban areas do not have Physical Development Plans.
- ▶ Plans not accompanied with opening of roads and other infrastructures like utility corridors.
- ▶ The recent creation of cities with out adequate funding for infrastructure development.
- ▶ Compensation of PAPs in urban areas leads to delays in project implementation.
- ▶ No clear program for slum upgrading in cities
- ▶ Promotion of greening of cities for clean environment
- ▶ Costing of the implementation of the approved the NPDP 2024.
- ▶ Challenges in approvals of building plans creating mushrooming structures.

Area Land Committees

- ▶ Law provides that the applicant facilitates the process which breeds corruption amongst members.
- ▶ No set qualification on membership of the Committees.

Conclusion

Whereas there are legal, policy and regulatory frameworks for the administration and management of land for the promotion and protection of tenure security, the implementation frameworks continue to face many challenges/gaps as illustrated above in terms of human resource, finances, ICT and technology which need to be addressed for efficiency at all levels for proper management of land resources.



THE END *THANK YOU*

PRESENTATION MADE AT THE TRAINING OF THE TRAINER'S COURSE FOR LAND MANAGERS AT SOROTI HOTEL

BY AG. DIRECTOR LAND MANAGEMENT

NAOME KABANDA