

Policy Proposals
For Enhancing

TRANSPARENCY AND ACCOUNTABILITY



IN THE LAND SECTOR

November 2023





Introduction

As Uganda strives towards achieving its Vision 2040 i.e. “A Transformed Ugandan society from a peasant to a modern and prosperous country within 30 years”, the role of land in the attainment of this grand aspiration is not debatable.

The Vision is conceptualised around opportunities in the sectors like oil and gas, tourism, minerals, water resources, industrialization, agriculture etc. which are land-based and require large tracts of land. Given the centrality of land to Uganda’s development agenda, it therefore follows that good land governance is a prerequisite for Uganda to attain its Vision 2040.

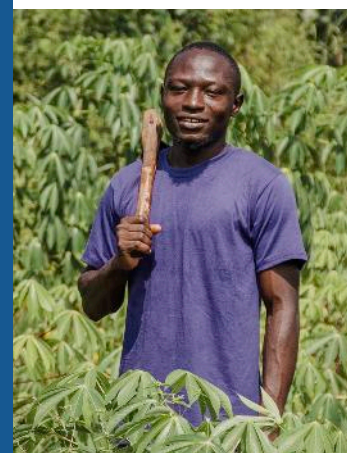
Good land governance is underpinned by several principles, some of which include transparency, integrity and accountability, efficiency, and effectiveness as well as rule of law. In this context, according to FAO, transparency for example requires that there are clear service standards and costs for land services provided. Integrity suggests that the service standards are applied and monitored regularly including mechanisms for sanctioning professional misconduct by any staff as well as incentives for good conduct.

Efficiency implies short and clear procedures with zero opportunity for informal payments and unchecked discretion. Whereas the current National Land Policy made broader proposals for ensuring good and governance in Uganda, there was hardly any mention of corruption as one of the issues in the sector. As such, little, if any measures were put to deal with corruption and enhance transparency, accountability, and integrity in the sector.

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Context

While the Ministry of Lands, Housing and Urban Development (MLHUD) has made some progress in ensuring transparency and accountability in the land sector through for example, digitization of processes, we note that there is still room for improvement. Globally, in terms of corruption, Uganda is ranked 142 out of 180 with the score of 26 (Corruption Perception Index, 2022). This means that the country is not doing well in terms of fighting graft. For the land sector, every third respondent to TI's Global Corruption Barometer (2013) stated that they had paid a bribe in order to access land services.

Similarly, the East Africa Bribery Index (2017) recorded that 54% of respondents in Uganda indicated that paying a bribe was the only way to access various land services. Yet, nearly two decades ago, Uganda ratified the UN Convention Against Corruption – the sole legally binding universal anti-corruption instrument.

Uganda also ratified the African Union Convention on Preventing and Combatting Corruption which recognizes corruption as one of the obstacles to the realisation of economic, social and cultural rights.

From the context of corruption in the land sector, a recent UN Committee on Economic, Social and Cultural Rights' General Comment 26 (2022) on land and economic, social and cultural rights acknowledges the prevalence of corruption in the land sector especially in land registration, demarcation, leasing, and compulsory land acquisition processes. It demands States to establish "proper accountability mechanisms to prevent corruption" in the land sector.

At the Country level, Uganda has enacted a number of anti-corruption laws that form part of the legal framework such as; the Anti-Corruption Act 2009 (amended 2015), Leadership Code Act 2002, the Inspectorate of Government Act 2002; Access to Information Act 2005, Whistle Blowers' Protection Act 2010, Public Finance

Management Act 2002, and the PPDA Act 2003.

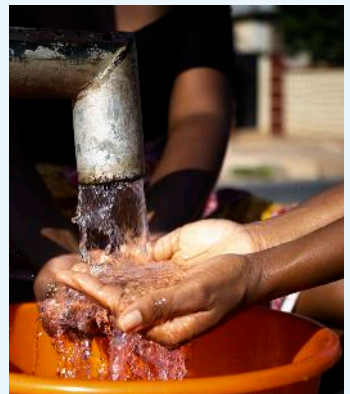
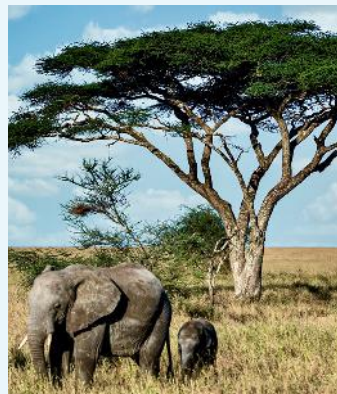
To oversee, implement and enforce these Acts, government has an elaborate institutional framework comprising of a number of agencies such as; the Office of the Auditor General, Public Accounts Committee of Parliament, the PPDA Tribunal, Inspectorate of Government, Criminal Investigations and Intelligence Directorate of Uganda Police and the Directorate of Public Prosecutions, among others. However, in spite of these legal and institutional frameworks, corruption remains persistent in Uganda. For sectors like land, any inadequacies in the anti-corruption laws means the vice will persist. At the expense of improved land service delivery and sustainable development.

Generally, the most common forms of corruption in Uganda according to the government's official report (National Integrity Survey report, 2019) are: Bribery: 47.1%; Solicitation: 18.4%; Nepotism: 9.9%; Embezzlement: 7.7%; Diversion of public resources: 4.5%; and Forgery: 2.3%. These forms of corruption affects almost both men and women in their quest to access public services which extend to those in the land sector.

The increasing cases of land conflicts in the judiciary and other dispute resolution mechanisms, delays in land registration, challenges with compulsory land acquisition, disputes arising out of valuation and compensation, etc which has resulted in unlawful eviction, displacement and landlessness have corrupt undertones. Media reports are awash with stories which show the magnitude of this issue. Similarly, the Commission of Inquiry on Land Matters exposed several irregular land dealings across the country.

In light of this context, strongly believe that tackling land corruption is a reality that Uganda cannot ignore and needs to be deliberately embedded in the new national land policy.

Context



1 Uganda vision 2040. Available online: <http://npa.ug/wp-content/themes/npatheme/documents/vision2040.pdf> (last accessed on 16th November 2017)

2 Good Government in Land Administration: Principles and Good Practices See: <https://www.fao.org/3/i0830e/i0830e00.htm>

The Problem



The current NLP just has pockets of mentions of transparency and accountability in the land sector. For example, clause 2.5, paragraph 5 (v) of the guiding principles for the NLP provides for transparency and accountability in democratic land governance.

Another mention of transparency is in clause 3.6 which obliges the State to ensure transparency and accountability while exercising its public trusteeship over natural resources. In clause 3.8, paragraph 28, the government is mandated to exercise the principles of democratic governance, accountability and transparency in the management of minerals and petroleum.

While the highlighted provisions are important, they are inadequate to deal with corruption in the land sector which, as mentioned in the previous section, is quite prevalent in Uganda. The previous Policy fell short of articulating concrete anti-strategies for the sector. This creates room for improvement in the next National Land Policy.

1. Recognize corruption as one of contemporary land policy issues

The current NLP highlighted several land policy issues including women's land rights, management of government land, population increase, discovery of oil and gas, etc. It also explained other land administration and management issues like the dual system, regulation of land use, etc and went ahead to prescribe policy actions in subsequent sections of the Policy. Accordingly, we propose that the new NLP should expressly recognize land corruption as one of the current land policy issues which merits urgent attention. This can be informed by court decisions, Commission of Inquiry reports, NGO reports as well as media coverage of corruption in the land sector to form a basis for formulating anti-corruption measures in the land sector.

2. Simplification and Dissemination of Land Procedures

Corruption generally happens when citizens seek public services. In the context of the land sector, it is at the point of seeking services like surveying, registration, compensation, dispute resolution, etc that the risk of bribery or solicitation can happen. Corruption thrives in a climate of ignorance of the applicable service standards for a given sector. Whereas MLHUD has published its procedures on its website, this is still restrictive as few people have access to the internet.

The new NLP should therefore prioritize the simplification, publication, and dissemination of MLHUD's service standards including the nature of services, responsible office, timelines, and applicable fees. This will ensure that people are aware of what to expect and cannot be misled by unscrupulous officials or 'middlemen'. This will also go along way not only to deal with bribes and other forms of corruption but also to address aspects of misinformation.

3. Management of Government-controlled Land

While the current NLP and other land laws vest government with control of certain resources like reserves, wetland and forests as well as land own some land under the public trust doctrine, there is obscurity with the way this power has been exercised. This partly because government does not have a full inventory of land under its control which has facilitated some unscrupulous people to grab some of these lands. The new NLP should mandate MLHUD to establish clear mechanism aimed at promoting transparency and accountability on government owned land through developing land inventory to enable Uganda Land Commission (ULC) to keep track of land in their custody details of leases in terms of dates for expiry of leases.

4. Anti-Corruption Strategy for the Land Sector

Overall, the new NLP should mandate MoLHUD to develop an anti-corruption strategy for the sector like it is with some other sectors like JLOS. This will provide comprehensive measures to deal with corruption in land administration contrary to piece-meal and reactionary measures like Directives that usually come as and when an issue manifests. For example, recently, there was a Directive by the Commissioner Land Registration, on the advice of the Attorney General, in which officers found to culpable for double titling of land to personally pay for costs arising out of litigation against the government. The government should make the report of the Commission of Inquiry on Land Matter public. This is because a lot of public resources were invested and further the report raises corruption issues which should be used to influence public policy for better land governance.

Conclusion

To tackle corruption in the land sector, MLHUD must first and expressly recognize it as a land policy issue and an impediment to the realization of good governance in the land sector as well as Uganda Vision 2040. As such, the focus moving forward is to develop actions to detect, investigate and eliminate corruption risks in the land sector for better management and provision of quality services and for enhanced land tenure security for all.



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