



CIVIL SOCIETY POSITION PAPER ON FINANCING FOR LAND SERVICES:

A CLOSE SCRUTINY OF FY 2019/2020 NATIONAL BUDGET

September 2019 No. 01

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Solidarity Uganda, SEATINI, Land Justice Network, Civic Response on Environment and Development (CRED), DDG, Action Aid Uganda, Uganda Debt Network , FARAJA Africa Foundation , Resource Rights Africa (RRA), World Voices Uganda (WVU), Uganda Land Alliance (ULA), Land net Uganda, Women and Girl Child Development Association (WEGCDA), Coalition On Girls Empowerment (COGE), with technical stewardship of Food Rights Alliance(FRA).

INTRODUCTION

Civil Society Organizations (CSOs) have been engaging in the budget process at local and National level aiming at ensuring that this central process that determines resource mobilization, allocation and utilization, responds to the actual and felt needs of the people and in return, translates into development at macro and micro level.

The views and opinions expressed in this paper are a result of an analysis of the Ministerial Policy Statement for FY2019/20, budget speech FY2019/20 and experiences of the participating organizations in the Lands, Housing and Urban Development sector. Further, the recommendations are a follow up on those already made to government during various engagements in the lands sector.

The Lands, Housing and Urban Development Sector seeks to ensure sustainable land management, planned urban and rural development and decent housing for all. Strategically the sector seeks to ensure

security of land tenure, orderly development and adequate housing for all. The sector consists of 3 sub sectors i.e. Lands, Housing and Urban Development. This paper however, focuses mainly on the lands sector considering it has a high multiplier effect in the other sectors of the economy.

The land sub sector consists of 4 sub programs including land management, land administration, surveying and mapping, land registration and land sector reform. Broadly the sub sector aims at;

- Creation of an inclusive, pro-poor policy and legal framework for the land sector and putting land resources to sustainable productive use
- Improving livelihoods of poor people through a more equitable distribution of land access and ownership, and greater tenure security for vulnerable groups
- Increasing availability, accessibility, affordability and use of land information for planning and implementing development programs
- Establishing and maintaining transparent, accountable and easily accessible institutions and systems for decentralized delivery of land Services.



BACKGROUND

Majority of Uganda's population (83.5%) lives in rural areas and depends on land for their livelihoods. In Uganda today, there is a growing pressure on land due to the changes in the land use patterns for industrialization and infrastructural development. The Government's plan to move Uganda from a peasantry status to a modern and prosperous country within the next 30 years under the NDPII, using land as a facilitator of growth of the other sectors makes it a valuable resource with potential to transform the economy if exhaustively exploited.

Knowing that Land is a driver for

development, development programs cannot be fully implemented without addressing the challenges in the lands sector. Today, the lands sector is experiencing many challenges from gaps in the institutional and legal policy frameworks to challenges of staffing and retooling. These have been exacerbated by the fact that land sector is not operating to full capacity as a result of low funding from the government.

The National Development Plan II lists five sectors that will propel Uganda to middle income status: Agriculture, Tourism, Infrastructure development, human capital development and Minerals. All the sectors prioritized depend on a functioning land management system since their development is on land.

Compliance to NDP II costing

Financial Year	NDP Costing	Budget Allocation	Variance	%
2015/2016	166.3			
2016/2017	186.5	150.053	36.447	19.5
2017/2018	197.5	151.944	45.556	23.1
2018/2019	144.2	198.657	- 54.457	- 37.8
2019/2020	150.8	193	-42.2	- 12.3

Table 1. Source: CSO's construction based on a previous national budget documents

We commend the government for the allocation and actual releases to the sector beyond the NDPII costing. Whereas the approved budgets for FY2016/2017 and 2017/2018 are lower than the costing of NDP II, analysis of the budget performance (see table 5) indicates that the sector received more funds in the FY 2018/2019 and

FY 2019/2020, higher than the approved budget and estimated costing of the NDPII. Despite this increase, the sector is not getting enough in comparison to the work that is supposed to be done, this leaves a funding gap that needs to be closed if the sector's specific issues are to be adequately addressed.

SECTOR SPECIFIC CONCERNS

I. Inadequate Funding for the Land Valuation Function

Fair Land valuation is important in facilitating the acquisition of land for Government projects, resettlement, compensation and livelihood restoration. The function is critical in facilitating financing and private investments as well as regulating land and land-resource based market. Uganda being a developing country, Government is currently undertaking many land based infrastructure projects that end up in land acquisition. Providing resources to the office of the Government Valuer to deliver on its mandate becomes critical. This in turn shall facilitate proper planning for compensation while undertaking development projects. Even when there is no need for land for investment, popularizing these values will facilitate consensus building at the time when land shall be needed. Regulation of the valuation function will not only bring harmony among the investors and host communities, land owners and those that intend to own the land but also bring order to the volatile compensation rates for all practitioners.

We are concerned however, that there is no specific legal instrument to facilitate the valuation function deliver on its mandate. Therefore, there's need for building the legal, institutional, financial and human capacity of this function. Additionally, the country has no Valuation Databank to provide values

for public and private valuations. Additionally, much as the MPS 2019/20 prioritized the valuation function, whereas 1.769Bn was allocated it is not sufficient for adequate staffing, retooling and capacity building technological and human which makes this function fit for purpose and responds to the development needs of the country. Reliance on private values for public investment project without a competent public supportive system raises project costs and opens controversy among affect communities and project host communities and project operation teams further, the statement sets no specific performance indicators and targets against this core function which makes tracing performance difficult.

In addition to this, the government during the FY 208/19 noted that due to financial constraints, they were unable to carry out vital activities including compensation arrears of UGX 144.5BN. Aware that issues of delayed compensation has always delayed government projects, we are concerned that this was not given budget allocation in the FY 2019/20.

Recommendations

- The Ministry during the next phase of development planning 2020/21FY should set specific targets for staffing and retooling, capacity building (technology and human) as country sets off for industrialization and improved quality of life of the people of Uganda.
- The ministry be given priority to handle all issues related to land valuation, acquisition and compensation of project affected persons.

- There is also need by the ministry to prioritize budget allocation to compensation of Project affected

persons. This will speed up project development process.



2. Inadequate funding for Staffing and tooling of Land Administration Structures

The land act as amended provides for several staff of land administration from national to local level including District Land Offices, District Land Boards, recorders and Area Land Committees. The Land administration institutions are crucial in taking services closer to the people by supporting delivery of land services at the district and regional levels; however according to

the score card report conducted by FRA in 2017 most of these land institution positions are not filled in most of the districts including the newly created ones (e.g. Ngora, Amuria, Kikube among others) due to inadequate funding to recruit staff and inadequate capacity of the existing staff to fully implement their roles. The appointed district land board are not fully oriented

and capacitated with the materials they need to make competent decisions. There is lack of land measurement equipment to be used by the land administrators during land surveying, this has left them using rudimentary tools. Some ALCs have outlived their tenure and those appointed are not oriented. Many recorders who also serve as SAS or sub county chiefs are not consciously aware of this responsibility and equally not capacitated with minimum tools required to deliver on this responsibility. The MPS 2018/19, recognizes the challenge of inadequate funding in the lands ministry to undertake training and support land management institutions and staffing of the land structures.

In a bid to increase access to land services such as land registration which were centralized Government through the Ministry of lands with support from World Bank embarked on establishment of Ministry Zonal zones. By the end of FY2018/2019 government had completed construction of 10 MZOs to bring land services closer to the people, mitigate land disputes and eliminate fraudulent land transactions. In FY 2019/2020, the Ministry is planning to procure furniture, fixtures and ICT equipment for the MZO's but is silent on operational costs for the MZOs.

According to the Land Act of 1998 the operation costs of these land institutions are a responsibility of local governments except for the Uganda Land Commission and Land Tribunals. However the land institutions, raises a lot of non-tax revenue from the various land transactions for instance, in FY2015/16, 400bn shillings were collected from digital titling on land and was remitted to the consolidated fund. Despite generating revenue from Land transactions which is remitted to the consolidated fund with restrictions on spending at source, they are not adequately facilitated to execute their mandate, facilitate development projects (public and private) and generate more revenue for the country.

Recommendations

- MLHUD in the FY2020/21 should consider providing the 2 billion shillings noted as vote challenge for facilitation and retooling of the MZOs.
- Facilitate effective operation of the land administration structures through allocating in FY2020/21 more resources for the staffing, retooling and capacity building. These additional resources can be got from the non-tax revenue generated by these institutions
- Government should operationalize the MZOs in terms of the recurrent budget. There are 7 MZOs left to be rolled out and this should be planned for in the next FY 2020/21

3. Inadequate Legal Framework to deliver land services

We commend government for its efforts to respond to the NLP Implementation Action Plan 2014 which recognized the inadequacy of the legal framework to fully support its implementation and deliver land services to the people of Uganda. During FY 2018/19, the sector allocation had planned to continue with the implementation of National Policies namely: the National Land Policy, National Housing Policy, National Urban Policy and National Land Use Policy; Finalize the drafting of the five (5) land related Bills (Surveyors' Registration Act (Amendment) Bill, Registration of Titles Act (Amendment) Bill, Land Acquisition Act (Amendment) Bill; Survey and Mapping Bill, and the

Land Information and Infrastructure Bill (LIS), and Physical Planners Registration Bill; enactment of Uganda Land Commission Law and Housing, Landlord and Tenant Law by Parliament; finalize the development of the National Resettlement, Land Acquisition and Rehabilitation. Aware that the MLHUD made this commitments during FY 2018/19 and set the conclusion of their review and amendment as one of its medium term plan in the MPS FY 2019/20. We are concerned that the sub-sector did not set any performance indicators or targets against this objective despite the lined legislations for enactment and review.



Recommendation

- Government through MoLHUD during the FY 2020/21 should focus on the completion of the LARR Policy and the review of the Land Acquisition Act 1965 in order to expeditiously respond to the concerns of land acquisition and development; and the enactment

of the Uganda Land Commission Bill to streamline the operations of the Land Fund.

- The government also needs to set performance indicators against its targets to review and amend the laws.

4. Insufficient budgetary allocation for critical services like; land rights sensitization, Surveys and Mapping and land fund in FY 2019/20



Conflicts associated with land are dominating all levels of Justice Systems, both formal and informal. Existing conflicts on land are largely an outcome of limited and/or misconceived rights, duties and obligations, unclear boundaries as well as double ownership in parts under Mailo tenure system. This largely comes from limited knowledge and

appreciation of the existing policies, laws and their associated regulations and procedures, muting some services and lack of capitalization of the land fund.

We commend government for carrying out dissemination of laws sensitization on land rights, registration of Communal land associations and land laws including National land policy, National Housing

Policy, 2016, Condominium law, National Land Use Regulatory and Compliance Framework, National Urban Policy among others. However we are concerned that land rights sensitization which is supposed to be an ongoing process since not all districts are covered has not been prioritized in FY 2019/20 as per the MPS for FY 2019/20. Added to this, much as there has been efforts by the Ministry to carry out sensitization, this has been restricted to the National Land Policy, disregarding other land laws and regulations which are key in strengthening tenure security, guide public and private investment and aid lawful transactions and land acquisition.

We commend Government for the preparation of principles for the survey and mapping bill, surveyors' registration Bill and valuation bill, reprinting topographic maps of 29/2 Packwach and 38/3 Buseruka, surveying 202km of Uganda and Rwanda international boundaries and established 208 geodetic control points to aid survey and mapping functions, disseminating house prototype plans during the FY 2018/19. However we are concerned that in the FY 2018/2019 by the end of December only 1.602 billion was spent. There is also a reduction in budgetary allocation for land mapping and surveys from 3.279 billion for FY 2018/19 to 2.097 billion in the FY 2019/20. Much as there is under spending in this sector leading to the reduction of budget allocation, a lot still needs to be done in regard to mapping and surveying including boundary opening, retooling and capacity building

of the personnel. Many land conflicts are as a result of the fact that people cannot clearly demarcate their land, entering into others' territories and hence causing boundary disputes. This could be remedied by assisting them to survey and map out their boundaries to create harmony among communities.

We commend the government during FY 2018/19 for compensating off 1,657 hectares of Land from absentee land lords using the land fund as per the MPS. The land fund was established to serve as a multipurpose resource envelop meant to serve beneficiaries including tenants seeking to buy or own land, or government seeking to buy land for redistribution to bonafide occupants or resettlement of the land less. Whereas government has plans of compensating all absentee landlords in Ankole, Toro, Buganda and Bunyoro we are concerned that no funds have been allocated for the land fund for this financial year and this means nothing will be done this year to resolve the clashes between bonafide occupants and absentee landlords.



Recommendation

- Sensitization in districts should be an ongoing program that should be budgeted for every Financial Year to ensure maximum coverage. Sensitization should include all land laws and regulations which are key in strengthening tenure security, guide public and private investment and aid lawful transactions and land acquisition. These should be done in all the districts.
- The land fund should always be budgeted for in every FY to curb the land wrangles between bonafide occupants and absentee landlords. There is a need to redesign the land fund and operationalize it, by tagging the relevant ministries to operationalize it. The Government should consider giving the land fund its own vote.
- The Ministry should prioritize in its budget allocation capacity development of the surveys and mapping department in the face of technological advancements taking place.

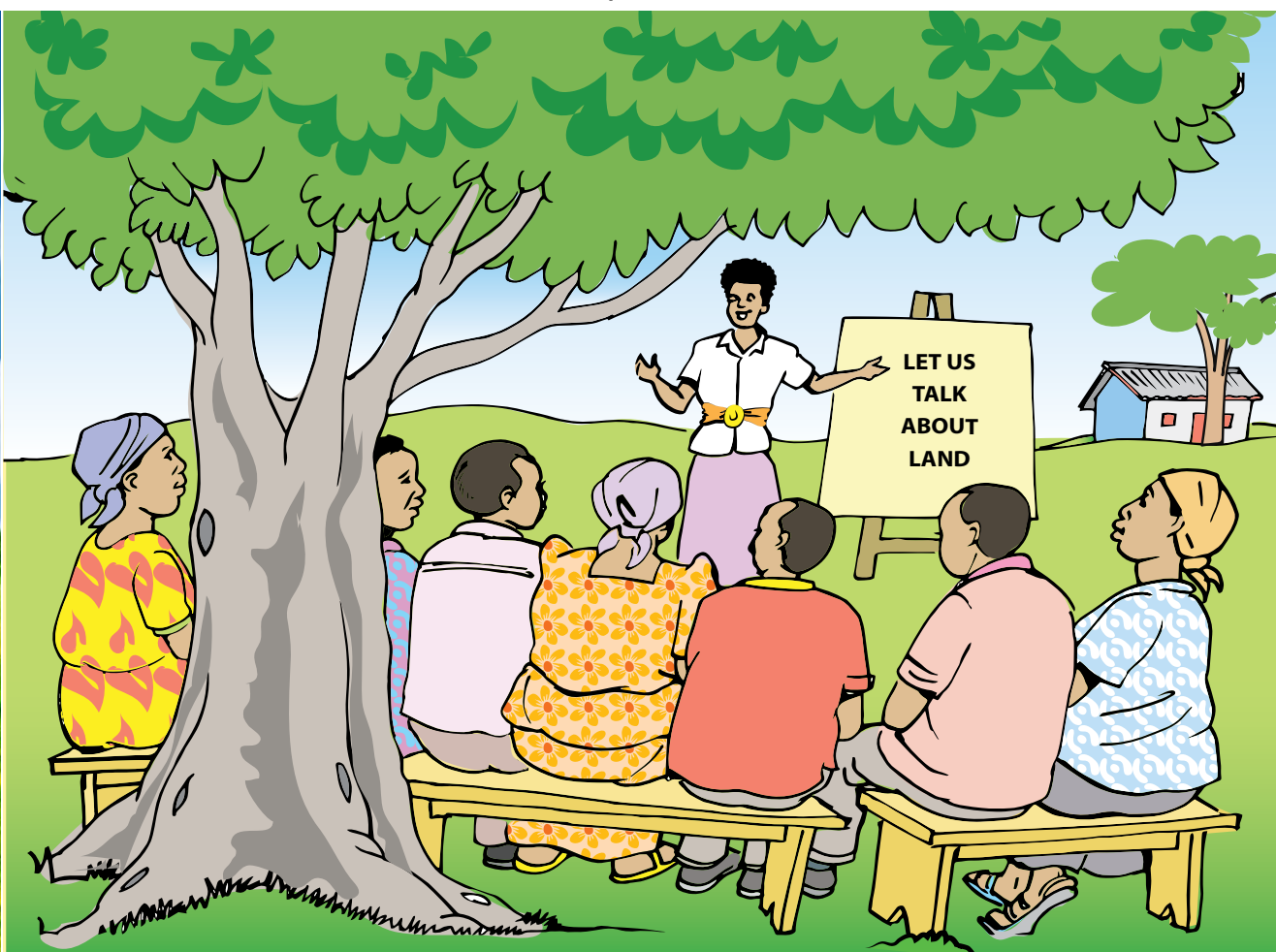


5. Delay in the establishment of customary land registry

A land title or certificate of customary ownership is a very important document since it is the only conclusive documented evidence of ownership on land and contributes to tenure security. The government committed under the NLP to support the process of attaining customary certificate of land ownership by establishing a customary land registry. However this commitment has not been given much attention and priority in the land sector for example during the FY2018/19 the government committed to processing and issuing of land titles and did not indicate Customary

certificate of Ownership as its focus, this is repeated in the FY 2019/2020 which did not have monitory allocation for the establishment of the Customary Registry. This threaten the security of the customary land tenure which might in turn affect development projects since most of these projects are carried out on customary land which covers 80% of land in Uganda.

We recommend that the government through MLHUD priorities resource allocation to cater for the establishment of the customary land registry to enable this tenure to function at optimum level.



CONCLUSION

Knowing that all development programs are implemented on land, it is our humble request that the Ministry of Lands Housing and Urban Development takes into consideration these recommendations to inform the budgetary allocation in 2020/21. This will promote and support the theme of vision 2040 of transforming

Uganda from a peasantry to a modern and prosperous country. The implementation of the above recommendation will also support industrialization and job creation and above all the enhance the protection of the land rights of the vulnerable.



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