

**LAND PLANNING AND SUSTAINABILITY OF THE NATURAL
RESOURCE BASE, LAND REFORM PROCESSES AND POLICIES
IN UGANDA**

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CONTENT:

1. *Introduction*
2. *Background Information*
3. *Government Policies on Agriculture and Land Use*
4. *Challenges in Land Planning*
5. *Landlessness, Investment and Market driven land planning*
6. *Civil Society interventions: The Uganda Land Alliance work on Natural Resources and Land Use Planning*
7. *Examples on Environmental and Industrialization Conflicts*
8. *Recommendations and Conclusion*

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1.0 Introduction

This paper sets out to examine the land reform process in Uganda and how market oriented policies on land affect systems of agriculture and the environmental protection mechanisms. It explores the role of Uganda Land Alliance as part of civil society organizations in intervening in Government policies and addresses the challenges government faces in land planning and makes recommendations and conclusions based on the Ugandan experience.

2.0 Background Information

Uganda is located in East Africa boarded by Kenya to the east, Tanzania and Rwanda in the South, The Democratic Republic of Congo to the West and Sudan to the North. It covers an area of about 241, 500 sq. km of which approximately 15.3% is open water, 3.0 % permanent wetlands and 9.4 % seasonal wetlands.

Uganda is basically an agricultural Country with over 80 % of the population engaged in agriculture production and the majority of the people in Uganda living in rural areas (85%). The majority of the population depends on land for survival, but the land also provides the base for industrial investment and environmental conservation. Any improvement on the land holding and planning structures is a step towards sustainable production and development.

Uganda' s vision statement on agriculture is the Plan for Modernization of Agriculture, "the target is agricultural systems which are market oriented and driven by dynamic technologies and managerial capabilities, rooted in synergism of theory and praxis enabling farmers to earn higher incomes and contribute to food security."¹ This means that land in Uganda has been opened up to the market as the basis for modernization and development.

The Ugandan Constitution, which forms the basis of land holding and use, is widely seen as a revolutionary one that puts people at the center. Chapter 15 of the Constitution is concerned with Land and Environment and people are given ownership rights in the constitution. Article 237 (1) provides that:

¹ Prof J. Y.K Zake: Land Degradation : How much is the peasant land User to Blame? A paper presented at a workshop on 24th August 1999 Nsambya,Kampala

'All land in Uganda belongs to the Citizens of Uganda and shall vest in them in accordance with the four land tenure systems; customary, freehold, mailo and leasehold'.

These provisions have been a source of great controversy and misunderstanding and increased the dilemma of government to provide a regime of proper land planning and use. The Land Act of 1998 reaffirms the citizenry ownership rights and ultimately strengthens the security of tenure of the people on the land.

The Constitution is the key legislation for Environmental protection and use. It provides for protection and preservation of the environment from abuse, pollution and degradation. It also allows government or local government to hold natural resources, which include natural lakes, rivers, wetlands, forest reserves, game reserves, national parks and others in trust for the people of Uganda. (Article 237 (b)).

Other relevant laws governing the environment are the Land Act 1998 and the National Environmental Statute of 1995. Other government policies and action documents make mention of environmental conservation and include the Poverty Eradication Action Plan (1997) and the Plan for Modernization of Agriculture, which will be looked in detail below.

When Uganda set out on its Land reform process, it did not have a land policy, to guide the process therefore three principles were developed by the Ministry of Lands, Water and Environment (MLWE) to guide the drafting of the law, these were;

- *A good Land tenure system should support agricultural development through the function of land market which permits those who have rights in land to voluntarily sell their land and for progressive framers to gain access to land*
- *A good land tenure system should not force people off the land, particularly those who have no other way to earn a reasonable living or to survive. Land tenure system should protect people's rights in land so they are not forced off the land before there are jobs available in the non-agricultural sector of the economy.*
- *A good land tenure system should be uniform throughout the country*

These principles were implemented through the objectives of Land Act 1998, which included;

- *To provide security of tenure to all land users (mainly customary land holders- customary tenants on public land) and the lawful or bonafide occupants*
- *To resolve the land use impasse between the registered owners (Mailo, freehold and leasehold) and the lawful and bonafide occupants of this land.*
- *To recognize customary tenure as legal tenure equal to other tenures*
- *To provide an institutional framework for the control and management of land under a decentralized system. Constitutional provision*
- *To ensure proper planning and well-coordinated development of urban areas*
- *To ensure sustainable land use and development, to conserve the environment*
- *To redress historical imbalances and injustices in the ownership and control of land*
- *To provide for government and local government to acquire land compulsorily in the public interest and public use, public safety, public order, public morality or public health.*

From the above, it is clear and evident that there were no specific policy guidelines developed on natural resource use and conservation areas for environmental protection. Government was more concerned with land tenure security and citizens' private ownership of land. Most of the policies made on land in Uganda are market oriented and clearly show that Uganda is following the new wave of agrarian land reform initiatives, which is market based and is a trademark from the World Bank. The Government of Uganda has made it a policy to encourage people to formalize their ownership rights on land and then voluntarily transfer it to willing buyers who can develop it.

Land and land resources degradation account for over 80% of the annual costs of environmental degradation.² There is neither a national Land Policy neither a Land Use Policy in place to control the usage. However, plans are underway to have these policies made by the end of 2002. The national land use policy would therefore act as a clear indication of the Government's commitment to control environmental degradation at the net benefit to the communities and the private sector hopefully.

Uganda is a signatory to the Habitat Agenda and therefore Land planning has got to be in line with the Habitat Agenda whose objectives include sustainable human settlements in the promotion of optimal use of productive land in urban

² Ministry of Water Lands and Environment (MWLE); National Land Use Policy Issues Paper August 2001, pg 5

and rural areas and protecting of fragile ecosystems and environmentally vulnerable areas, and supporting the implementation of improved land management practices that deal comprehensively with potentially competing land requirements for agriculture, industry, transport, urban development green space protected areas and other vital needs. (UNCHS, 1999)

The challenges currently facing developing countries including Uganda is to increase the investment sector in order to modernize the economy and thus eradicate poverty without seriously endangering the environment. In Uganda it has not always been possible to take consideration of the people's needs and rights, environment management and allow investment at the same time. Civil society has been seen to play a crucial role in alerting Government of where their priorities should be put.

3.0 Government Policies on Agriculture and Land Use

Uganda's policies have since the late 1990s been focused on poverty eradication and most recently two important policies were written; The Plan for Modernization of Agriculture and the Poverty Eradication Action Plan. Both these plans focus on the poor. Many government plans, policy documents and studies have noted the inability of poor people to access productive assets as one of the major impediments to poverty eradication.³

3.1 The Poverty Eradication Action Plan

Since its inception in 1997, the Poverty Eradication Action Plan has guided the other sectoral policies made in Uganda. It stresses the need to enhance agricultural growth through increased production by modernizing agriculture where smallholder farmers adopt enhanced technologies.⁴ The PEAP is based on four pillars;

- i. Fast and sustainable economic growth and structural transformation
- ii. Good governance
- iii. Increased ability of the poor to raise incomes
- iv. Increased quality of life of the poor.

The PEAP identifies areas, actions that directly increase the ability of the poor to raise their incomes. The fourth pillar discusses land as an asset to increase the

³ Republic of Uganda (2000). Revised Volume 1 of the Poverty Eradication Action Plan (PEAP)-Final Draft. Ministry of Finance, Planning and Economic Development. Kampala; Republic of Uganda (2000). National Programme for Good Governance in the Context of the Poverty Eradication Action Plan. Uganda Governance Capacity Assessment Project/Ministry of Finance, Planning and Economic Development. Kampala.

⁴ Prof J. Y.K Zake: Land Degradation : How much is the peasant land User to Blame? A paper presented at a workshop on 24th August 1999 Nsambya, Kampala

capacity of the poor to access credit facilities and be able to engage in a land market thus increasing their incomes. The recommendations on Land in this document are based on researches carried out by NGOs like the Land Alliance, Makerere Institute of Social Research (MISR) and the Centre for basic Research (CBR).

It is clear that there is considerable inequality in the access to land, and the land market has created a large number of smallholder farmers. The PEAP analyses the Land Act as a law that is meant to strengthen the land rights of the poor. Among its important provisions it protects the family from illicit sales by the requirement for written consent to transfer land from the children and spouses. It introduces a decentralized system of land administration and protects tenants on land. The PEAP also acknowledges the fact that there is a mismatch between available resources and the administrative structures provided by the Land Act. It recommends for the preparation of a land use policy as a vital document to address environmental issues such as the protection of forests, which have not been adequately addressed by other existing policies.

The PEAP addresses environmental issues by discussing the NEAP, which is a national environmental policy, meant to provide sustainable social and economic development, which maintains environmental quality and resource productivity to meet the needs of the present generation without compromising the future generations.

3.2 The Plan for Modernization of Agriculture

The Plan for Modernization of Agriculture reinforces what the PEAP document is about and is intended to deal with poverty eradication through agricultural transformation. It states in part, *“the fundamental objective of the PMA is to enable the poor people to improve their natural resource based livelihoods in a sustainable manner through multi-sectoral interventions”*⁵. The PMA seeks to transform agriculture through the following mechanisms;

- Individual farms shift from highly diversified subsistence-oriented production towards more specialized production oriented towards the market or other systems of exchange.
- Greater reliance on input delivery systems.
- Increased integration of agriculture with other sectors in the domestic and international economies.

The PMA recommends land to be properly utilized for agricultural purposes “all interventions must consider amongst others control and access to resources and

⁵ *Ibid*, pg 2.

existing power relations that may hinder participation of both men and women.”⁶ It is also clear that effective land use is dependant on a good land law, which would remove the constraints of the land tenure systems that are not conducive to the emergence of land markets.⁷ Therefore, land reform plays a significant role in agricultural modernization through;

- I) The redistribution of land to the landless and the land poor,
- II) Strengthening of a decentralized land administration system
- III) Improved management of Public land, which would facilitate the attainment of government goals for conservation of natural resources.
- IV) The development of a land information system, which would improve the overall management of land and other natural resources.⁸

3.3 The National Environment Action Plan

The NEAP is the main policy document on environment in Uganda. It creates the National Authority on Environmental Management (NEMA), which coordinates, supervises and monitors the environment. Actual management of natural resources and policy development and harmonization is intended as a role for the MWLE. The NEAP makes fundamental recommendations aimed at an integrated national policy framework and legislation for sustainable development and management of natural resources. It is stated in the NEAP that the clarification of tenure and user rights in the Land will go a long way to improve natural resource management but contradictions that exist are such that land may be alienated for conservation at the expense of the poor by their losing of access to water, fuel wood fish etc. The challenge facing NEMA is to ensure the implementation of the NEAP by carrying out Environmental Impact Assessments, Audits and developing Regulations on the Environment

3.4 The Land Sector Strategic Plan

The Land Sector Mission is to create an enabling environment for the participation of all stakeholders in the effective use and management of Uganda’s land resources, this is consistent with government ‘s other policies such as PEAP and PMA. The LSSP is charged with the coordination and rationalization of land resource management. It revolves around land service delivery, and the implementation of the Land Act 1998. Key areas for its focus are development of a national land and land use policy and District Land Use Plans. It will strengthen technical services at a decentralized level and development of a land information system.

⁶ The Plan for Modernization of Agriculture: Eradicating Poverty in Uganda. “ Government Strategy and Operational Framework” Ministry of Finance , Planning and Economic Development, Kampala August 2000, pg 27

⁷ *ibid*, 27

⁸ Uganda’s Agricultural Modernization Plan: The Role of Land Reform, management and Administration (A draft Paper) 200 Frank Byamugisha 2000

3.5 The Uganda Forestry Policy

The Forestry Policy recognizes the important role of forests and forest products in the overall growth of the economy and their potential to contribute to poverty eradication. Government commits itself to promote “profitable and productive forest plantation business” through among other strategies “encouragement of “small to medium-scale commercial plantation development, to foster local economic benefits, especially for the poor, women and youth”.⁹ The core theme for the forestry policy is conservation and sustainable development, livelihood enhancement, and institutional reform with new roles for central and local government, the private sector, local communities and civil society.

The above policies all have one goal lead to poverty eradication and environmental protection, however they all emphasize the withdrawal of government from activities that should now be left to the private sector to manage. The Land Sector encourages a land market while government will continue to regulate the processes. Whether or not these policies will address poverty or cause the poor to remain in absolute poverty if they cannot favorably compete in the market economy. Both the PMA, the LSSP and the Forest Policy emphasize the importance of the private sector as investors and managers in the economy.

4.0 Challenges in Land Planning

- There is lack of a holistic, clear land policy and lack of a physical development Plan which would cover aspects of environmentally sound land management, including surveying, environmental conservation etc. Many policies are scattered in different government departments and are made independent of each other thus causing constant duplication of work and misuse of resources. It is difficult to implement a land Use plan if it is made without first amending the Constitution and the Land Act since it cannot be imposed with the current system of land ownership.

- Due to constant political interventions in policy work, many policies are made for specific political intentions that do not necessarily take into consideration environmental protection and there is no clear line ministry to take charge of the policy e.g. (there is a minister for disaster preparedness, lands, agriculture, finance and planning and they are all responsible in one way or another for environmental issues. When it comes to implementation it is not clear who should take the lead.)

⁹ The National Forest Plan, MWLE May 2001 pg 1

- The yardstick for policy formulation in Uganda since 1998 has been PEAP which in itself is not clear enough on how agriculture modernization, industrialization and poverty eradication can be dealt with and the environment preserved without any controversies.
- There are over three authorities dealing with environmental issues; the National parks Authority, the Wildlife Authority and the National Environment Authority Their roles in environmental protection and how they relate to each other have not been properly streamlined.
- Uses of land are conflicting with conservation, where market oriented policies are required to be environmental friendly and yet these aspects are not clearly addressed. Agricultural modernization and development have seemed to take the upper hand over environmental conservation.
- Policies in the above mentioned sectors are made independently, hence there are individualistic sector approaches that are pursued by each specific sector with little or no consideration of what the related and other relevant sectors are engaged in as far as environment and agriculture is concerned.
- Emphasis by the policies of the operation of the private sector without government support removes the poor people from participation in determining their lives and making a contribution to the policies that are meant to improve their lives.

5.0 Landlessness, Investment and Market driven land planning

Landlessness is a growing problem in developing countries with an estimated 13% of the rural households being landless and 60% being near landless i.e. having too little space for cultivation.¹⁰ As seen above the basic underlying principle for land reform was to create a land market so that land would move from the people without capacity to utilize it to those that have the capacity to put it to maximum usage. This has been seen by the Alliance as a market distortion in land, labour and credit, where there are too many assumptions made that; people who are poor will sell off their land and work in industries created by the rich investors and improve their incomes as well, that land if put on the open market will get into the hands of the most efficient users and that they will employ labour from the landless people. This is a move to create landlessness over a period of time and thus making the poor people poorer. The Land

¹⁰ H.J Leonard: Environment and the poor: Development strategies for a common agenda, New Brunswick and Oxford, Transaction books, 1989

Alliance carried out research on land sales by the poor people and interviewed fifty families that had sold all or part of their land and made several findings; that those people who had sold their land had chronic food shortages, there was increased pressure on the remaining land thus decreasing yields which resulted in low cash returns and absolute dependence

That modernization of agriculture and individualization of land rights leads to poverty eradication is an assumption. It assumes that land titles are needed to promote investment since security of tenure is vital for investment and that land is collateral for credit. The underlying principle is that bigger farming is better. Land in Uganda has been known not to make the best collateral, since disposal of it by the banks is very difficult. It has instead been proved that small holder farming is good for employment and poverty reduction. Agricultural growth built on the basis of smallholder agriculture creates linkages in the rural economy, enables poor people to develop savings and results in improved access to nutrition and food security.¹¹

In countries like Uganda, unusual political interventions cannot be underestimated. There are many powers at play in the land tenure systems in Uganda, which keep landowners from fully developing their land. A clear example is the reinstatement of the mailo tenure in the Constitution and the creation of two “owners” on mailo land the Landlord and the tenant together with other inefficient land institutions where sales cannot be fully validated by the existence of documents which may be forged All these factors work together to create a big inefficiency in land use, and contribute to reduced investment in agriculture and thus increasing poverty. The land reform process has to deal with political and historical imbalances on land to be able to create a sense of security for the investor who would be willing to develop the land. The land information system is very weak and distorted and in effect slows down the market system. The Land Sector reform programme now seeks to develop a computerized system and decentralize information to make land related data easily accessible to all users

6.0 Civil Society interventions: The Uganda Land Alliance work on Natural Resources and Land Use Planning

The Uganda Land Alliance was formed in May 1995 as a consortium of local and international non-governmental organizations lobbying for fair land laws and specifically for the rights of poor people to be guaranteed on land. A lobby and advocacy group of organizations and individuals emerged with the following objectives;

¹¹ Growth and Equity: Are we growing at the expense of 65% of Ugandans? A Uganda Land Alliance Publication 1997

- Increased awareness of the poor women, men and children and other marginalized groups of their land rights and obligations.
- Fair laws and policies for land rights protection and promotion of the poor.

In line with its objectives, the Land Alliance has kept track of the emerging issues in the Land Act of 1998 and drawn attention to the gaps and issues of concern, particularly as they relate to land rights of ordinary users of land who make up 90% of the agricultural workers and the majority of those being women.

The Alliance membership is made up of several Organizations that are involved in poverty eradication, agriculture a, human rights Debt reduction and other environmental issues. With this rich background the Alliance has carried our research on land uses and legal concerns of the poor. The Alliance also works very closely with government Ministries and in particular MWLE. ULA is now working on the development of a national land policy, which is crucial for the developing of guidelines for land use, ownership, management and administration. The findings are used to lobby the MWLE, Parliament and the executive on the crucial issues to be addressed in land reform.

There has been development of piecemeal policies in different sectors of the economy in the past and thus creating land use conflicts. Most conflicts have arisen between the people, investors and government. The need for a national Land Policy therefore arises out of lack of proper streamlining of ownership, use and management of land and the need for modernization of agriculture, which cannot be done without clear guidelines on land ownership and use. The Alliance has worked as a pressure group to advocate for laws and policies that favour the poor on land and protect the environment. The Alliance uses the media and public awareness programmes to lobby government to address land problems of the poor. Specific cases in which the Alliance has intervened include the following:

Example 1: Namanve Forest Reserve

In Central Uganda about ten Kilometers from Kampala lies the Namanve Central Forest Reserve. This is a peri-urban forest reserve, which was established, in the early 1930s to supply poles and fuel wood to Kampala and to serve as an anti-malarial and flood control measure. During the 1990s, permits were issued to private tree farmers to grow and harvest trees in the 1,816-hectare forest reserve. In 1997, as a way to support its policy of industrialization, the government of Uganda degazetted 1,006 hectares of the forest reserve to create an industrial park. The socio-economic and environmental services that the forest provided, such as the supply of fuel wood and poles on which rural and

urban populations in the area were dependant and conservation of natural forests and woodlands in the area respectively, were considered less desirable than an industrial park. The private farmers filed a suit in which they sought compensation from Government and were awarded USD 2m as a result.¹²

The role of the Alliance in this case was to lobby government to consider the preservation of the Namanve forest reserve area as an environmental concern, this is a drainage area which is very close to the city and development of industries in this area would create flooding in the city and also deprive the local people of incomes raised from tree harvesting. To date most of this area has not been leased to investors due to the failure by government to provide enabling legislation that allows the investors to get titles to the land and pressure from NGOS like the Alliance has slowed down government actions.

Example 2: Butamira Forest Reserve and Kakira Sugar Works

Another important example arising from the lack of harmonization of sectoral policies is the attempt to degazette the Butamira Forest Reserve in Eastern Uganda for commercial sugarcane growing to fulfill the objective of increased agricultural production. The people were given permits to grow trees for wood and cultivate crops within the forest for a livelihood. Government is now seeking to grant a permit to Kakira Sugar works for 49 years for them to use the forest reserve unconditionally for sugar cane growing. The local population is fighting a bitter battle against government to stop the degazetement. They are not willing to be compensated and government is set to see the forest degazetted for the Madivani group of Companies to grow Sugar Cane.

This is a clear case where several government policies aimed at poverty eradication have not been put into perspective. Both from a theoretical and practical perspective, it is clear that the activities of the community groups and individual permit holders attest to the fact that natural resources investments can yield considerable dividends and contribute to eradicating rural poverty while promoting ecological stability. "The notion that agriculture and natural resources conservation are mutually exclusive is cast in doubt and a synergistic relationship between various government policies amplified".¹³ The Alliance has participated in sensitizing the people to know their rights so that they can fight for them. Currently the people have been empowered to take the government to court to stop government for degazetting Butamira forest.

¹² MWLE; Land Use Issues Paper

¹³ Godber W. Tumushabe: Sustainably Utilizing Our Natural Heritage Legal Implications Of The Proposed Degazettment Of Butamira Forest Reserve. ACODE Policy Research Series, No.4, 2001

Example 3 Amendment of the Land Act

The Alliance is in the process of identifying a test case to question government actions. Government holds in trust for the people of Uganda all natural resources and is mandated to use them in Public Interest. Public interest has not been defined and government has not made any guidelines to explain which circumstances it can use these resources. A clear case in point where government has tried to erode constitutional protection accorded to natural resources in its proposal to amend Section 45 of the Land Act 1998.

The proposed amendment to the Land Act provides as follows:

“Section 45 of the Land Act, 1990 is amended by substituting for subsection (4) the following-

“(4) Government or a local government shall not lease out or otherwise alienate any natural resource referred to in this section; ***except that in special circumstances*** a natural resource referred to in subsection (1) of this section may be leased by government with the approval of the Cabinet”. (Emphasis ours)

A one-page memorandum to the draft amendment provides that “the object of this Bill is to make certain provisions concerning the leasing of any natural resource by Government in special circumstances with Cabinet approval”. According to a Cabinet Memorandum attached to the proposed amendment, the genesis of this Bill is the need to grant a lease to an Electric Power Generating Company over the banks and riverbed of the River Nile. The Memorandum notes that “the unconditional prohibition of leasing out the said natural resources, particularly the riverbeds, the river banks and wetlands has created a very unfavorable environment for investment even for projects which would have no negative impact on the local environment or compromise shared natural resources”.

The legal effect of this proposed amendment is to remove the protection provided for natural resources as public trust property. First, the amendment doesn't give an indication as to what amounts to “special circumstances”. Government is given the discretion to determine what amounts to “special circumstances”. The propensity of overzealous governments to abuse such discretionary powers cannot be underestimated and is dotted all through Uganda's history. The government has not carried out any impact assessment studies before proposing such an amendment and if this proposal became law it would be difficult for the other policies on poverty eradication and environmental protection to be seriously observed by government given its history.

Alliance has been lobbying seriously against this amendment through the media, workshops and meetings with members of Parliament and other civil Society Organizations. Due to the pressure and reactions from the civil Society

government has tentatively withdrawn the amendment but hopes to reinstate it in future.

7.0 Conclusions

The above examples show the contradictions of land planning, industrialization and development, poverty eradication and environmental protection. The people for whom the policies are made have not fully participated in their making and thus it has been difficult to fully implement them. Sustainable development needs for the re definition of economic growth from the perspective of the poor taking into account the linkage between environmental and economic policies. It is still a challenge to see comprehensive policies that deal with sustainable development in Uganda. It is hoped that the National Land Policy will go a long way to establish a sector wide approach to land planning, use and environmental conservation.

Uganda is also designing a land use plan, which will aim at optimal co existence of various land use forms. It will take into account the social, economic and environmental factors of land utilization to ensure sustainability. By examining all uses of land in an integrated manner, it makes possible to minimize conflicts, to make the most efficient tradeoffs and to link social and economic development with environmental protection and enhancement, thus helping to achieve the objectives of sustainable development.¹⁴

7.1 Recommendations

- In order to establish an enabling environment for proper land planning all land uses in Uganda should be audited. This would ensure that Land use practices are monitored and evaluated for compliance to land use plans, environmental standards and sustainable management practices.¹⁵
- There is need for a human settlement policy, which would induce movement to less populated areas and planning of settlement areas.
- A development of a comprehensive framework for integrated urban and rural land uses is very crucial. The amendment Land Act is crucial for land uses to be streamlined.
- Ultimate ownership of natural Resources should remain in Government but control of the resources should in certain

¹⁴ Ministry of Water Lands and Environment (MWLE); National Land Use Policy Issues Paper August 2001 pg 4

¹⁵ Principles of a good Land Policy framework for Uganda. The Uganda Land Alliance Working Document, October 2001, pg 22

circumstances be vested in local communities, authorities at local levels who are capable of utilizing them in an efficient manner.

- Community management of natural resources should be encouraged.
- Land marketability should not be the main focus of government for poverty eradication and development to occur.
- Development of a good land Information system is vital if land planning is to be streamlined.

List of Acronyms

CBR	Centre for Basic Research
LSSP	Land Sector Strategic Plan
MISR	Makerere Institute of Social Research
MWLE	Ministry of Water Lands and Environment
NEMA	National Environment Management Authority
PEAP	Poverty Eradication Action Plan
PMA	Plan for Modernization of Agriculture
ULA	Uganda Land Alliance

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