



DEVELOPMENT INITIATIVE FOR NORTHERN UGANDA  
(DINU)



# LAWS, POLICIES AND REGULATIONS ON

Accountability, Public Resource Management and Gender  
Inclusion at the Local Government Level in Uganda

## HANDBOOK FOR LOCAL GOVERNMENT ACTORS

Implemented by Konrad Adenauer Stiftung and co-applicants  
*RIAMIRIAM Civil Society Network - Karamoja*  
*LIRA NGO Forum*  
*MAYANK Anti-Corruption Coalition (MACCO)*



This handbook was written by Yusuf Kiranda (Consultant) and published by Konrad-Adenauer-Stiftung under the project Strengthening Performance and Accountability through Community Engagement (SPACE).

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# Acknowledgements

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SPACE is implemented by a consortium consisting of three partner NGOs, namely RIAMIRIAM Civil Society Network – Karamoja, LIRA NGO Forum and MAYANK Anti-Corruption Coalition (MACCO), all of whom want to thank for their invaluable support in the implementation of this programme.

Special thanks also go to the management and coordination team of the Development Initiative for Northern Uganda (DINU) for their unstinting support towards the successful completion of this handbook. We are grateful to the European Union and the Government of Uganda, the latter through the Office of the Prime Minister (OPM) and the Ministry of Finance, Planning and Economic Development (MoFPED), for their support in the realisation of the SPACE project which has enabled us to bring out this publication.

We would further like to extend our appreciation to Mr. Yusuf Kiranda together with his research team for their invaluable time spent and expertise assembled to realise this publication

# Foreword

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Mandated to implement the project “Strengthening Performance and Accountability through Community Engagement”, the Konrad-Adenauer-Stiftung (KAS) has pledged to support government efforts to uplift accountability and civic spaces in Northern Uganda.

Over the past years, the region has emerged as a strong aspirant to the restoration of civic structures, improvement of service delivery and advances in inclusive economic development through government-led interventions. KAS has hence come up with this publication to inform the citizens about and engage them on the legal framework governing accountability, public resource management and gender inclusion at the local government level in Uganda.

In the face of the changing needs of communities served by local governments, laws relating to the operations of local governments have been known to change frequently owing to the demanding nature of accountability and governance. KAS and its partners, therefore, present the most recent legal framework which contains legislation, regulations and policies applicable to the local governments in their day-to-day operations.

KAS and its partners intend for this handbook of laws, policies and regulations to be made available to all local government actors – in particular appointed and elected public servants and the plethora of civil society actors. We believe this handbook will help them support their cause of decentralisation, accountability and gender inclusion, and ensure the participation of all people in the day-to-day governance matters.

KAS express their sincere appreciation to all those who have provided technical assistance and support towards the compilation, review and update of this publication and contributed to its success.

KAS extend their special recognition to the European Union, the Government of Uganda, and the Office of the Prime Minister for their support under the Development Initiative for Northern Uganda. We further extend our heartfelt appreciation to the lead resource person, Mr. Yusuf Kiranda, who has worked tirelessly with the KAS project team to compile this compendium of laws, regulations and policies.

It is our hope that, through this resource of legal references, we shall further strengthen and improve the efficiency and effectiveness of the governance of local government councils at both the higher and lower levels. Above all, we wish to see this contribute to building democratic and accountable local governments and to improving service delivery to the people of Uganda.

Anna Reismann  
**Country Director**  
**Konrad-Adenauer-Stiftung**  
**Uganda & South Sudan Office**

# Acronyms

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<b>AG</b>	Auditor General
<b>CAO</b>	Chief Administrative Officer
<b>DINU</b>	Development Initiative for Northern Uganda
<b>EU</b>	European Union
<b>GAD</b>	Gender and Development
<b>GoU</b>	Government of Uganda
<b>HLG</b>	Higher Local Government
<b>IG</b>	Inspectorate of Government
<b>IGG</b>	Inspector General of Government
<b>KAS</b>	Konrad-Adenauer-Stiftung
<b>LG</b>	Local Government
<b>LGDP</b>	Local Government Development Plan
<b>LGPAC</b>	Local Government Public Accounts Committee
<b>LLG</b>	Lower Local Government
<b>NYC</b>	National Youth Council
<b>OAG</b>	Office of the Auditor General
<b>OPM</b>	Office of the Prime Minister
<b>PFMA</b>	Public Financial Management Act
<b>PPDA</b>	Public Procurement and Disposal of Public Assets
<b>UNDP</b>	United Nations Development Programme
<b>WID</b>	Women in Development

# Introduction

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A country's legal framework provides the enforceable structure of incentives and sanctions that motivate public officials and citizens to fulfil their mandates, responsibilities and duties.

To foster democratic accountability, it is important for civil society and other actors to align their actions with enforceable government laws, policies and regulations. This also provides an opportunity for constructive partnership between civil society, political society and the state apparatus in enforcing defined standards.

The purpose of this handbook is to provide a concise overview of the laws, policies, regulations and guidelines governing three aspects within Uganda's local government system, namely accountability, public resource management and gender inclusion.

The handbook is developed primarily as a resource material for civil society actors and other stakeholders working to strengthen accountability at the local government level in Uganda. This review of existing laws portrays the comprehensive institutional framework for accountability and gender inclusion that exists in Uganda. These laws can be leveraged by stakeholders seeking positive change in governance and accountability processes at national and local levels.

It is emphasised here that the main goal of development is to create an enabling environment for people to enjoy long, healthy and self-determined lives free of violence. Development should also enable everyone to exercise their freedom and creativity. These aspects require social order, the rule of law as well as respect for and protection of human rights and the principles of equality and equity — all of which are essential for the wellbeing of society and the individual within.

By their nature as representatives of the people's will, governments are obliged to guarantee these prerequisites for development in order to foster an environment where all citizens enjoy equality of voices, rights and opportunities.

## Outline

This handbook is presented in three parts. The first part covers the legal and policy framework for accountability while the second part considers public resource management. Part Three of the handbook presents the laws and policies concerning gender inclusion at local government level.

Readers will find that several legal instruments referenced in this handbook overlap in the sense that specific laws or policies may cover more than one of the three aspects covered in the handbook, i.e. accountability, public resource management and gender inclusion. Where this happens, the specific provisions addressing a particular aspect have been emphasised in the corresponding section.





PART

1

# Accountability

*"The obligation of power-holders to take responsibility  
for their actions."*

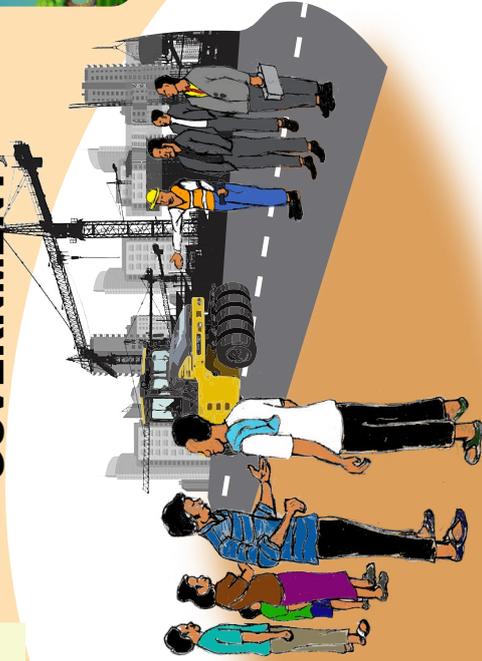
# THE ACCOUNTABILITY CYCLE OF GOVERNMENT



## SOURCES OF INCOME



## GOVERNMENT



## EXPENDITURES



## BUDGET MONITORING

## Understanding Accountability

Accountability, as defined by the United Nations Development Programme (UNDP), refers to “the obligation of power-holders to take responsibility for their actions.”<sup>1</sup> It is further clarified that accountability ensures a citizen-state relationship where “decision-makers adhere to publicly agreed standards, norms and goals.”<sup>2</sup> In working terms, accountability deals with how government power is exercised and how resources are mobilised, managed, controlled and utilised for the benefit of the people.

The concept of accountability is based on the principle that “citizens grant their governments the powers to tax, to spend, and to enact and enforce laws and policies. In return, they expect the government to explain and justify the use of power and to take corrective measures when needed.”<sup>3</sup>

The UNDP underlines two critical components of accountability, namely:

- a. Answerability which refers to the obligation to provide an account and the right to get a response; and
- b. Enforceability whereby action is taken when accountability fails.

In Uganda, accountability is a key pillar of the institutional framework of all levels of government, including local governments. The 1995 Constitution provides the central basis for answerability of government to citizens by stating in Article 1 that “all power belongs to the people.”

Additionally, the enabling law for local governments, namely the Local Governments Act, 1997 (as amended), emphasises the objective to “ensure good governance and democratic participation, and control of decision-making by the people”.<sup>4</sup>

## Laws, Policies and Regulations Providing for Local Government Accountability in Uganda

All laws in Uganda provide for a degree of government accountability in the sense that the laws define the specific roles of government agents or public officials and the answerability of these agents to the people of Uganda.

For the specific application of accountability processes in local governments, selected laws are emphasised here, namely:

- i. The Constitution of the Republic of Uganda, 1995 (as amended)
- ii. The Local Governments Act, 1997 (as amended)
- iii. The Public Finance Management Act, 2015 (as amended)
- iv. The Treasury Instructions, 2017
- v. The National Audit Act, 2008
- vi. The Leadership Code Act, 2002 (as amended)
- vii. The Inspectorate of Government Act, 2002

1 Lister, S. (2010). *Fostering Social Accountability: From Principle to Practise - A Guidance Note*. New York: United Nations Development Programme.

2 Lister, S. (2010). *Fostering Social Accountability: From Principle to Practice – A Guidance Note*. New York: United Nations Development Programme.

3 Ibid.

4 Statement of objectives, Local Government Act, 1997 (as amended)

- viii. The Anti-Corruption Act, 2009
- ix. The Public Service Standing Orders, 2010
- x. The Local Governments (Financial & Accounting) Regulations, 2007
- xi. The Local Government Finance Commission Act, 2003

## The Constitution of Uganda, 1995 (as amended)

**The 1995 Constitution (hereafter referred to as “the Constitution”) is the supreme law of Uganda. It provides for accountability among all levels of government to the citizens of Uganda**

The key foundation of government answerability (and hence accountability) to Ugandans is set out in Chapter One of the Constitution, which provides for the sovereignty of the people. The Constitutional provisions on the sovereignty of the people are stated in Box 1.

### ***Box 1: Constitutional provisions on the sovereignty of the people***

#### **1. Sovereignty of the people.**

1. All power belongs to the people who shall exercise their sovereignty in accordance with this Constitution.
2. Without limiting the effect of clause (1) of this article, all authority in the State emanates from the people of Uganda; and the people shall be governed through their will and consent.
3. All power and authority of Government and its organs is derived from this Constitution, which in turn derives its authority from the people who consent to be governed in accordance with this Constitution.
4. The people shall express their will and consent on who shall govern them and how they should be governed, through regular, free and fair elections of their representatives or through referenda.

### ***Key Message***

All public officials derive their power and authority from the Constitution, which in turn derives its authority from the citizens of Uganda. Therefore, public officials are answerable to the people and the people have the mandate to demand accountability from the public officials.

Accountability is furthermore provided for in the National Objectives and Directive Principles of State Policy as stated in Principle No. XXVI of the Constitution. This is set out in Box 2.

## **Box 2: Provision for accountability in the National Objectives and Directive Principles of State Policy of the 1995 Constitution**

### **XXVI. Accountability.**

- i. All public offices shall be held in trust for the people.
- ii. All persons placed in positions of leadership and responsibility shall, in their work, be answerable to the people.
- iii. All lawful measures shall be taken to expose, combat and eradicate corruption and abuse or misuse of power by those holding political and other public offices.

### **Key Message**

All persons placed in positions of leadership and responsibility (be it at local or national level) remain answerable to the people

## **Other constitutional provisions on accountability**

The Constitution has various provisions on government accountability. These include the following:

### **Auditor General**

Article 163 establishes the Office of the Auditor General. Clause 163(3) provides the Auditor General with the mandate to audit local governments as provided in Box 3:

### **Box 3: Mandate of the Auditor General to audit local governments in accordance with clause 163(3) of the Constitution**

- a. Audit and report on the public accounts of Uganda and of all public offices, including the courts, the central and local government administrations, universities and public institutions of the like nature, and any public corporation or other bodies or organisations established by an Act of Parliament; and
- b. Conduct financial and value for money audits in respect of any project involving public funds.

It is further provided in Article 163(4) that the Auditor General shall submit to Parliament annually a report of the accounts audited by him or her for the financial year immediately preceding. Parliament, within six months after the submission of the report, debates and considers the report and takes appropriate action.

### **Key Message**

Audit is an important process as it helps to determine the credibility of financial statements of local government entities as well as to improve internal controls and systems. Therefore, the Auditor General performs an important audit function as the statutory auditor of all local government entities in accordance with the provisions of the Constitution.

## Accountability for public funds

Article 164 provides for accountability for public funds as follows:

### **Box 4: Accountability for public funds in accordance with Section 164 of the Constitution**

1. The Permanent Secretary or the Accounting Officer in charge of a Ministry or department shall be accountable to Parliament for the funds in that Ministry or department.
2. Any person holding a political or public office who directs or concurs in the use of public funds contrary to existing instructions shall be accountable for any loss arising from that use and shall be required to make good the loss even if he or she has ceased to hold that office.
3. Parliament shall monitor all expenditure of public funds.

### **Key Message**

According to the law, any person holding public or political office who directs or concurs in the use of public funds contrary to existing instructions is accountable for any loss and is required to make good the loss even if that person has ceased to hold office.

### **Chief Administrative Officer**

The Chief Administrative Officer (CAO) of a district is the Accounting Officer of a District Local Government in accordance with the provisions of Article 188(2) of the Constitution. The Accounting Officer is responsible for the funds of a district and is accountable to Parliament for the management of these funds.

### **Principles of Local Government**

Chapter Eleven of the Constitution provides for local governments and their principles and structures. The detailed operation of local governments as well as their principles and structures are provided for under the Local Governments Act, 1997 (as amended). Therefore, the respective legal provisions of accountability for local governments are discussed under the following sections on the Local Governments Act.

# The Local Governments Act, CAP 243

The Local Governments Act, CAP 243 with all the subsequent amendments is the enabling law for the operationalisation of local governments in Uganda.

The Local Governments Act provides for the decentralisation and devolution of functions, powers and services of government at all levels of local governments to ensure accountability, good governance and democratic participation in, and control of, decision-making by the people. It also provides for revenue collection and accountability by local governments.

## Objectives of the Local Governments Act

The objectives of the Local Governments Act as provided for in Section 2 (b) and (d) set out in Box 5.

### **Box 5: Objectives of the Local Governments Act**

The objectives of the Act are—

- a. to give full effect to the decentralisation of functions, powers, responsibilities and services at all levels of local governments;
- b. to ensure democratic participation in, and control of, decision-making by the people concerned;
- c. to establish a democratic, political and gender-sensitive administrative setup in local governments;
- d. to establish sources of revenue and financial accountability;
- e. to provide for the election of local councils;
- f. to establish and provide for the composition of interim councils for newly created local government units pending elections of the councils; and
- g. to provide for formation of interim executive committees for interim councils.

Local governments are defined under Section 1 (i) as the Local Councils established under Section 3(2), (3), (4) and (5) of the Act. They include district, sub-county, city council, division and municipal councils among others with their respective Accounting Officers as set out in Box 6.

**Box 6: Established local councils that constitute local governments  
Section 3**

**(2). Local Governments.**

- (1) The local governments in a district rural area shall be—
  - a. the district council;
  - b. the sub-county councils.
- (2) The local governments in a city shall be—
  - a. the city council;
  - b. the city division councils.
- (3) The local governments in a municipality shall be—
  - a. the municipal council;
  - b. the municipal division councils.
- (4) The local government in a town shall be the town council

## Revenue and Financial Accounting Regulations

Section 78(2) of the Local Governments Act gives the minister responsible for local governments the mandate to make, by a statutory instrument, financial and accounting regulations prescribing financial and accountability measures for compliance by all local governments.

The regulations which are made under Section 78(2) apply to all financial transactions and business of all local government councils and administrative units and the management of all public monies and public property in local governments

### **Key Message**

The Minister responsible for local government can issue policy instruments on local government accountability. Therefore, engaging the Minister provides an entry point in influencing the regulations and accountability measures for local governments.

Section 78(3) of the Local Governments Act provides that “notwithstanding any other penalty imposed by any other law, a surcharge may be imposed on any councillor or member of staff who is responsible for loss of money or loss or damage to property or stores in accordance with the financial and accounting regulations.”

## Keeping Accounts

Section 86 provides that “[e]very local government council and administrative unit shall keep proper books of account and other records in relation thereto and shall balance its accounts for that year and produce statements of final accounts within four months from the end of each financial year.”

## Audits of accounts

Section 87 provides for the audit of local government as set out in Box 7.

### **Box 7: Provisions on the audit of local governments**

#### Section 87

1. The accounts of every local government council and administrative unit shall be audited by the Auditor General or an auditor appointed by him or her.
2. The Auditor General may carry out surprise audits, investigations or any other audit considered necessary.
3. The Auditor General shall give the report of the audited accounts to—
  - a. Parliament;
  - b. the Minister responsible for finance;
  - c. the Minister;
  - d. the local government or administrative unit to which the audit relates;
  - e. the Local Government Public Accounts Committee;
  - f. the Local Government Finance Commission;
  - g. the Inspector General of Government; and
  - h. the Resident District Commissioner.

### **Key Message**

All local government councils and administrative units are audited by the Auditor General. The Office of the Auditor General also publishes reports on the findings from the audit of government entities on its website. Therefore, interested stakeholders can access the reports from the website.

## Local Government Public Accounts Committee

Further frameworks for transparency in management and accountability in districts are offered in the provision of a Local Government Public Accounts Committee which is provided for in Section 88 of the Local Governments Act (see Box 8).

**Box 8: Provision of Local Government Accounts Committee****Section 88. Local Government Public Accounts Committee.**

1. There is established in each district, a Local Government Public Accounts Committee consisting of—
  - a. four members appointed by the district council on the recommendation of the District Executive Committee;
  - b. one member appointed—
    - i. in the case of a district with more than one urban authority, by an electoral college of the urban council executive committee members in that district; and
    - ii. in the case of a district with only one urban authority, by the urban council on the recommendation of the urban executive committee.
2. Members of a Local Government Public Accounts Committee shall hold office for a period of five years and shall be eligible for reappointment for one more term only.
3. A Local Government Public Accounts Committee shall examine the reports of the Auditor General, Chief Internal Auditor and any reports of Commissions of Inquiry and may, in relation to the reports, require the attendance of any councillor or officer to explain matters arising from the reports.
4. The Local Government Public Accounts Committee shall submit its report to the council and to the Minister responsible for local governments who shall lay the report before Parliament.
5. The chairperson of the council and the chief administrative officer or town clerk shall implement the recommendations of the Local Government Public Accounts Committee.
6. The expenses of a Local Government Public Accounts Committee shall be met by the district council.
7. A member of the Local Government Public Accounts Committee appointed under subsection (1)(a) and (b) shall not be a member of a local government council or administration.
8. The members of the Local Government Public Accounts Committee shall elect a chairperson from among its members.
9. Every meeting of the Local Government Public Accounts Committee shall be presided over by the chairperson and in his or her absence by a member elected by the members present.
10. Three members of the Local Government Public Accounts Committee shall form a quorum at any meeting of the committee.
11. The office of the clerk to the district council shall be the secretariat to the Local Government Public Accounts Committee.

**Key Message**

Each district must have a Local Government Public Accounts Committee which examines the reports of the Auditor General, the Chief Internal Auditor and any reports of Commissions of Inquiry. The committee submits its reports to the council and to the Minister responsible for local governments, who lays the report before Parliament.

## Protection of local government officials against court action

It should be noted, however, that the Local Governments Act protects local government officials from liability for omissions where it is proved that the action resulting in the omission was done in good faith. This is provided for under Section 173 (see Box 9).

### ***Box 9: Provisions on the protection of local government officials from court action***

#### **Section 173. Protection against court action.**

No act, matter or thing done or omitted to be done by—

- a. any member of a local government or administrative council or a committee of a council;
- b. any member of staff or other person in the service of a council; or
- c. any person acting under the directions of a council, shall,

if that act, matter or thing was done or omitted in good faith in the execution of a duty or under direction, render that member or person personally liable to any civil action claim or demand.

## Removal of local government officers from office

There are several provisions under which a local government officer can be removed from office as provided in Box 10.

### ***Box 10: Removal of local government officers from office***

#### **Section 11: Removal of Speaker or Deputy Speaker**

The speaker or deputy speaker may be removed from office by the council by a resolution supported by not less than two-thirds of the members of the council on any of the following grounds—

- a. abuse of office;
- b. incompetence;
- c. misconduct or misbehaviour; or
- d. such physical or mental incapacity as would render the speaker or deputy speaker incapable of performing the duties of speaker or deputy speaker.

#### **Section 14: Removal of the District Chairperson**

1. Subject to subsection (2), the chairperson may be removed from office by the council by a resolution supported by two-thirds of all the members of the council on any of the following grounds—

1. abuse of office;
2. corruption;
3. incompetence;
4. misconduct or misbehaviour;

5. such physical or mental incapacity as would render the chairperson incapable of performing the duties of chairperson;
6. failure or refusal without justifiable reasons to implement lawful council decisions.

**Section 68: Removal of the Chief Administrative Officer and Town Clerk**

1. The district or urban council may recommend the removal of a chief administrative officer or town clerk as the case may be by a resolution supported by two-thirds of the council members on the following grounds—
  - a. abuse of office;
  - b. incompetence;
  - c. misconduct or misbehaviour; or
  - d. such physical or mental incapacity as would render the chief administrative officer incapable of performing the duties of chief administrative officer.
  - e. such physical or mental incapacity as would render the chief administrative officer incapable of performing the duties of chief administrative officer.
2. The provisions of section 14 except subsection (18) shall apply to the removal of the chief administrative officer or town clerk with such modification as may be necessary, but the tribunal, in this case, shall submit its findings to the district service commission to take appropriate action.

**Section 73: Removal of Resident District Commissioner**

The district council may recommend to the appointing authority the removal of a Resident District Commissioner or a deputy or assistant Resident District Commissioner by a resolution supported by two-thirds of all the members of the council, stating the grounds for the recommendation for such removal.

**Section 89: Removal of a member of a Local Government Public Accounts Committee.**

1. A member of a Local Government Public Accounts Committee, including the chairperson, may be removed from the committee by the district council by a resolution supported by two-thirds of the members of the council on the recommendation of the executive committee but can only be removed on the following grounds—
  - a. abuse of office;
  - b. incompetence;
  - c. failure to attend three consecutive ordinary meetings without valid reasons acceptable to the committee;

- d. inability to perform the functions of that office arising from physical or mental incapacity.

**Section 93: Removal from the District Tender Board**

1. A member of a Local Government Public Accounts Committee, including the chairperson, may be removed from the committee by the district council by a resolution supported by two-thirds of the members of the council on the recommendation of the executive committee but can only be removed on the following grounds—
  - a. abuse of office;
  - b. incompetence;
  - c. failure to attend three consecutive ordinary meetings without valid reasons acceptable to the committee;
  - d. inability to perform the functions of that office arising from physical or mental incapacity.

**Key Message**

The Local Governments Act requires the elected or appointed leadership of local governments to act in a manner that demonstrates financial, moral and social integrity and provides grounds upon which the respective officers can be removed from their office as stated in Sections 11, 14, 68, 73, 89 and 93 of the Local Governments Act.

It should be noted that removal from office is one of the sanctions in place which ensures that public officers are accountable and adhere to defined standards.

## The Public Finance Management Act 2015

The Public Finance Management Act, 2015 (as amended) (hereafter referred to as “PFMA”) is the law which provides for the management of public finances in Uganda.

### Content

The Act provides for the roles of Accounting Officers, establishes accounting standards and audit committees, provides for in-year reporting by government entities, provides for the preparation of annual accounts and for accounting for classified expenditure and other matters connected to public finance management.

### Jurisdiction

The PFMA applies to local governments, given that local governments are indeed government entities.

## Budgets of local governments

Government financial accountability begins with the preparation of a budget, which is the process through which revenue sources and amounts are defined and expenditures appropriated. Following accountability in local governments demands following the budget process and understanding the budget.

The Chief Administrative Officer of a local government as the Accounting Officer leads the budget process as provided for in Section 9(1) of the PFMA, which provides as follows:

Each Accounting Officer shall, in consultation with the relevant stakeholders, prepare a Budget Framework Paper for the vote, taking into consideration balanced development, gender and equity responsiveness and shall submit the Budget Framework Paper to the Minister.

From the provisions of Section 9(1), an accountable budget is an outcome of a consultative process. This is the purpose of budget conferences that are held from lower local governments up to the district local government.

After a budget is appropriated by Parliament, an Accounting Officer is responsible for its execution in a district and must provide quarterly reports to the Secretary to the Treasury as provided for in Section 16(1) of the PFMA as follows:

An Accounting Officer shall, every three months prepare and submit to the Secretary to the Treasury, an expenditure commitment report indicating the actual and forecast commitments and cash position of the vote.

## Financial reporting provisions in the PFMA

The PFMA also provides for financial reporting of government entities, which include half-year financial reports and annual financial reports as provided for in Sections 50 and 51 (see Box 11).

### **Box 11: Financial reporting provisions in the PFMA**

#### **Section 50. In-year financial reporting.**

1. An Accounting Officer shall, prepare and submit half year financial statements to the Accountant General by 15th February of each financial year and shall submit such other reports within such time as the Accountant General may require.
2. Where a financial statement makes a departure from the accounting standards, the departure shall be identified and explained in the disclosures in the financial statements.

#### **Section 51. Annual accounts.**

An Accounting Officer of a vote and an Accounting Officer of a local government, shall within two months after the end of each financial year, prepare and submit to the Auditor-General, and the Accountant-General, the accounts and information set out in paragraph 2 of Schedule 5 to this Act.

## Accounts for submission

The highlights of financial reports to be submitted by the Accounting Officer are provided in Schedule 5 to the PFMA as set out in Box 12.

### **Box 12: The key highlights of Schedule 5, paragraph 2 of the PFMA**

#### **2. Accounts to be submitted by Accounting Officers.**

- a. an appropriation account, signed by the Accounting Officer, showing the services for which the money expended were voted, the sums actually expended on each service, and the state of each vote compared with the amount appropriated for that vote by Parliament;
- b. a statement signed by the Accounting Officer and in the form the Accountant General may direct containing the amount of commitments outstanding for the supply of goods, works and services at the end of the financial year and any other information the Minister may require;
- c. a statement of revenues received, signed by the Accounting Officer, and in the form the Accountant General may direct, showing the amount contained in the estimates of revenue for each source of revenue, the amount actually collected and containing an explanation for any variation between the revenues actually collected and the amount estimated;

- d. a statement of arrears of revenue, signed by the Accounting Officer, showing the amount outstanding at the end of the financial year for each source of revenue and containing information in the form the Accountant General may direct and which shall be submitted as a nil return where appropriate;
- e. a statement of assets, signed by the Accounting Officer, containing details and values of the unallocated stores under the control of the Accounting Officer at the end of the financial year, together with the details and values of any other classes of assets under the control of the Accounting Officer as the Accountant-General may determine;
- f. a statement of performance, signed by the Accounting Officer, indicating each class of outputs provided during the year, which shall:
  1. compare the performance with the forecast of the performance contained in the estimates laid before Parliament under Section 13(15) (b); and
  2. give the particulars of the extent to which the performance criteria specified in that estimate in relation to the provision of those outputs was satisfied; and
- g. any other statements, in the form the Accountant-General may require.

## Expiry of appropriation

A vote or a local government that does not expend all the money appropriated to that vote or local government within the financial year for which it was appropriated shall repay the unexpended balance of the money to the Consolidated Fund by the 31st of July of the proceeding financial year (Section 17).

### **Box 13: Expiry of budget appropriations**

#### **2. Expiry of appropriations.**

1. Every appropriation by Parliament shall expire and cease to have any effect at the close of the financial year for which it is made. 24 Act 3 Public Finance Management Act 2015
2. A vote that does not expend money that was appropriated to the vote for the financial year shall at the close of the financial year, repay the money to the Consolidated Fund.
3. A vote that repays money under subsection (2).

## Offences

Non-compliance with the provisions of the PFMA may result in commission of an offence by any employee of a local government as provided under Section 79 (1). A person who commits an offence under this section shall on conviction be liable to a fine not exceeding five hundred currency points, or a term of imprisonment not exceeding four years, or both (Section 79 (2)).

## **Box 14: Offences under the PFMA**

### **Section 79. Offences.**

1. A person commits an offence if that person, without lawful authority under this Act or any other Act—
  - a. without reasonable excuse, fails to provide by the due date, any information the Secretary to the Treasury may reasonably require under Section 11(3) (b);
  - b. without reasonable excuse fails to provide any information that the Accountant General, or a person authorised by him or her may reasonably require under this Act;
  - c. without reasonable cause fails to provide, or wilfully obstructs access to any item required under this Act; 71 Act 3 Public Finance Management Act 2015
  - d. opens or causes to be opened any bank account for public or official use without the permission of the Accountant General or in any other way contravenes Section 33;
  - e. being an Accounting Officer, without reasonable excuse fails to comply with any requirement of this Act or fails to execute duties and functions imposed on him or her under this Act;
  - f. borrows money on behalf of the Government, or repays or converts an existing loan;
  - g. issues public securities, or varies their terms and conditions;
  - h. lends money or any asset of Government;
  - i. issues guarantee or indemnities on behalf of the Government;
  - j. issues securities for loans made to the Government;
  - k. disposes of, pledges, or encumbers Government property;
  - l. refuses or neglects to pay any public money into a public or official bank account as may be required;
  - m. incurs unauthorised expenditures or makes unauthorised commitments;
  - n. (n) fails to keep proper records or conceals or wrongfully destroys information that is required to be recorded by this Act;
  - o. (o) makes any statement or declaration, or gives any information or document, required under this Act, knowing it to be false or misleading; 72 Act 3 Public Finance Management Act 2015
  - p. (p) divulges data in electronic or other form without authority; or
  - q. (q) diverts Government funds to unauthorised activities.
2. A person who commits an offence under this section shall on conviction be liable to a fine not exceeding five hundred currency points, or a term of imprisonment not exceeding four years, or both.

## **Surcharge against a public officer**

In addition to that, a surcharge may be levied against a public officer. In this section, a reference to a public officer includes a person who has been a public officer (Section 80).

**Box 15: Surcharge of a public officer****Section 80. Surcharge.**

1. Where—
  - a. a loss of or deficiency in, public money, that has been advanced to or was under the control of a public officer, occurs; or
  - b. a loss or deficiency of, or damage to, public property or other property occurs while the property was in the care of a public officer,
 

and the Minister is satisfied after due inquiry, that the negligence or misconduct of the public officer caused or contributed to the loss or deficiency, the amount of the loss or deficiency, the value of the property lost or destroyed or the cost of replacing or repairing the damage to that property, as the case may be, shall be a debt due to the Government, and may be recovered from the public officer either administratively or through a court of competent jurisdiction.
2. Where the negligence or misconduct of a public officer is not the sole cause of any loss, deficiency or destruction resulting in an action under subsection (1), the amount recoverable from the public officer may be restricted to only the cost of replacing or repairing the loss, deficiency, damage or destruction that the Minister considers, after due inquiry, to be just and equitable, having regard to the contribution made by the public officer to that loss, deficiency, damage or destruction.
3. In this section a reference to a public officer includes a person who has been a public officer.

**Key Message**

A public officer can face a surcharge for loss of or deficiency in public money that has been advanced to or was under the control of a public officer.

A surcharge means an extra penalty levied on the public officer or a person that served as a public officer in addition to the prescribed penalty under Section 79(2).

A currency point is equivalent to 20,000 shillings (see Schedule 1).

# The Treasury Instructions, 2017

The Treasury Instructions apply to all votes that include ministries, departments, and local governments.

The instructions provide financial management functions and procedures to be followed in administering the financial control mechanism of local governments. The instructions contain policies and systems, procedures and forms for conducting public finance management, and guides and regulates local government officials, especially those responsible for financial management while performing their day-to-day work (Section 1.2.1).

## **Box 16: Purpose and objectives of the Treasury Instructions**

### **1.2 Purpose and Objective**

1.2.1 The Treasury Instructions contain public financial management functions and procedures to be followed in administering the financial control mechanism of the Government of Uganda. The Instructions contain policies and systems, procedures and forms for conducting PFM in the Government of Uganda and shall guide and regulate Government officials especially those responsible for financial management while performing their day-to-day work.

1.2.6 The main outcome of these Instructions is to create a financial management system that delivers value for money and supports the Treasury and Accounting Officers in the proper management of public resources with utmost economy, efficiency and effectiveness in the delivery of outputs required to achieve desired objectives.

All public officers are required to carry out their duties strictly in accordance with the Treasury Instructions. Failure to do so is regarded as a material breach and constitutes an offence as prescribed under Section 79 of the PFMA. The public officer responsible who commits the offence is liable to disciplinary action and surcharge in accordance with Section 80 of the PFMA (Instruction 1.1.1).

## **Box 17: Authority of the Treasury Instructions**

1. The Treasury Instructions are issued pursuant to Section 11 (3)(a) and 46(2) of the Public Finance Management Act 2015 as amended, hereinafter referred to as the "PFMA".
2. The Secretary to the Treasury is authorised to issue directives and instructions to Accounting Officers in respect to his or her functions prescribed under Section 11(2) of the PFMA.
3. In addition, the Accountant General is mandated to issue instructions to the Accounting Officers setting out guidelines and procedures consistent with the Act and Public Finance Management Regulations (PFMR) 2016 in respect of his or her functions under Section 46 of the PFMA.

4. All officers in the Public Service are required to carry out their duties strictly in accordance with these Treasury Instructions. Failure to do so shall be regarded as a material breach and shall constitute an offence as prescribed under Section 79 of the PFMA. The public officer responsible for the offence shall be liable to disciplinary action and surcharged in accordance with Section 80 of the PFMA. All queries on the interpretation of these Treasury Instructions shall be addressed to the Secretary to the Treasury.
5. The treasury instructions are to be read in conjunction with the relevant provisions of the Constitution, the PFMA and the PFMR. The Secretary to the Treasury and Accountant General may issue circulars and guidelines from time to time to supplement these Instructions.

### **Key Message**

The Treasury Instructions provide the set of rules to be followed by Accounting Officers in the management of public funds. The instructions are drawn from the Public Finance Management Act. Any officer who violates the instructions commits an offence.

The Treasury Instructions provide precautions against fraud, embezzlement and mismanagement of public funds in Sections 6.6.2 and 6.6.3

### **Box 18: Obligations of an Accounting Officer in promoting ethical conduct and detecting fraud and embezzlement**

“An Accounting Officer is responsible for preventing and detecting fraud, embezzlement and similar illegal acts. Accordingly, an Accounting Officer is required to emphasise an ethical and positive work environment, which promotes honesty, integrity, respect, service excellence and accountability for the resources under his or her control.”

The detailed roles of the Accounting Officer as provided in the PFMA are stated set out in Box 19.

### **Box 19: Responsibilities of an Accounting Officer**

**Section 6.6.2:** Subject to Section 46(3) (g) of the PFMA and as prescribed in Section 45(2) of the Act, an Accounting Officer has a primary responsibility to put in place effective systems of risk management, internal control and internal audit.

**Section 6.6.3:** In accordance with paragraph 6.6.2 above, an Accounting Officer shall have the following responsibilities:

- a. Preventing and detecting fraud, embezzlement and similar illegal acts. Accordingly, an Accounting Officer shall emphasise an ethical and positive work environment, which promotes honesty, integrity, respect, service excellence and accountability for the resources under his or her control.

- b. Undertake reasonable steps, through training and other communication methods, to ensure that employees are aware of and understand the policies that affect them. This includes internal policies and government-wide policies on financial, human resources, and information technology, legal and purchasing matters. Particular emphasis shall be placed on fraud awareness training and the policy requirement for employees to report suspicions of fraud or similar illegal acts.
- c. (c) Establish an effective system of internal controls. The system shall consider the principal risks, the costs to implement controls and existing government policies and directives, particularly these Treasury Instructions.
- d. (d) Satisfy himself or herself that the measures taken for the protection of public funds and resources are adequate. Specific controls that are important to the prevention and detection of fraud are described under paragraph 6.3.2.
- e. (e) Ensure that the anti-fraud controls and processes are in place and operating as intended. Controls shall be monitored through such means as internal audits, review of variance and exception reports by management and general oversight by senior officials. Deficiencies detected shall be fixed, and controls and processes modified as required. Any deficiencies identified shall be brought to the attention of the Secretary to the Treasury and Accountant General, as may be appropriate.
- f. (f) Ensure compliance with the GoU anti-fraud policies or guidelines as may be established from time to time.

**Section 6.6.4:** When incidents of suspected fraud or similar illegal acts are identified, the Accounting Officer shall be responsible for investigating all incidents and he or she shall be expected to:

- a. Take disciplinary action against employees, which may include termination and legal action.
- b. Proceed with legal action against other parties as recommended by legal advisors.
- c. Pursue recovery of losses; and
- d. Implement corrective action to reduce the likelihood of similar future incidents.

**Section 6.6.5:** The Accounting Officer shall comply with all applicable laws, policies, directives, standing orders and other authorities when investigating, reporting and following up incidents.

### **Key Message**

The management of public funds follows established rules which are defined in the Treasury Instructions. The Accounting Officer is expected to put in place an effective system of risk management and internal controls as well as to detect fraud and embezzlement of public funds and take disciplinary action where these risks occur.

## The National Audit Act, 2008

The National Audit Act, 2008 facilitates auditing of local government accounts. It mandates the Auditor General to conduct financial and value for money audits of government entities, including local governments.

### Audits of accounts of local governments

The accounts of every local government are annually audited by the Auditor General or by an auditor appointed by the Auditor General who then makes a report to Parliament as provided for in Section 16 of the Act (Box 20).

#### ***Box 20: Provisions on audit of local government councils and administrative units***

##### **16. Audit of accounts of local government councils and administrative units.**

1. The accounts of every local government council and every administrative unit shall be audited annually by the Auditor General or by an auditor appointed by the Auditor General.
2. The Auditor General shall report to Parliament on the accounts audited under subsection (1) and shall give a copy of the report to—
  - a. the President;
  - b. the Minister;
  - c. the Minister responsible for local governments;
  - d. the local government or administrative unit to which the audit relates;
  - e. the Local Government Public Accounts Committee;
  - f. the Local Government Finance Commission;
  - g. the Inspector General of Government; and
  - h. the Resident District Commissioner.

### Value for money audits

While ensuring value for money, the Auditor General may, for the purpose of establishing the economy, efficiency and effectiveness of any local government, enquire into, examine, investigate or undertake random value for money audits in accordance with Article 163(3) (b) of the Constitution and report the expenditure of public monies and the use of public resources by the local government councils.

## **Box 21: Provisions on value for money audits**

### **21. Value for money audits.**

1. The Auditor General may, for the purpose of establishing the economy, efficiency and effectiveness of the operations of any department or ministry in respect of which appropriation, or other accounts are required to be prepared under the Public Finance and Accountability Act, 2003, or any public organisation, or any local government council, enquire into, examine, investigate or undertake random value for money audits in accordance with Article 163 (3) (b) of the Constitution and report as he or she considers necessary on—
  - a. the expenditure of public moneys and the use of public resources by ministries, departments and divisions of the Government and all public organisations and local government councils;
  - b. the conduct of, and performance of their functions by—
    - i. Accounting Officers;
    - ii. heads of departments and divisions;
    - iii. chief executives and chief administrative officers of all departments;
    - iv. public organisations;
    - v. local government councils;
  - c. any other activity undertaken by the departments, divisions, public organisations and local government councils referred to in paragraph (b).
2. Any report prepared by the Auditor General as a result of an examination, enquiry or investigation under this section shall be laid before Parliament and shall be referred to the appropriate committee of Parliament.
3. Section 24 applies to any examination, enquiry or investigation conducted by the Auditor-General in the exercise of his or her powers under this section.

## **Surcharge**

Section 25 of the Audit Act provides that if it appears to the Auditor General that there has been any deficiency in respect of any money or stores subject to its audit, the Auditor General may recommend to Parliament that the person in default or responsible show cause why he or she should not be surcharged with the amount of the deficiency or loss.

## Leadership Code Act, 2002 and Amendment No. 8 Of 2017

The Leadership Code Act provides for a minimum standard of behaviour and conduct for public officers and requires them to declare their incomes, assets and liabilities. It also puts in place an effective enforcement mechanism in case of non-compliance.

### Declaration of income, assets and liabilities

Under Section 4 of the Leadership Code Act, public officers (also referred to as leaders) are required to declare their income, assets and liabilities every two years during the month of March in accordance with this Act.

This declaration is continuously made to the Inspector General of Government (IGG) for the duration of the officer's term of office. Details of the declaration are set out in Box 22.

#### ***Box 22: Leadership Code Act provisions for declaration of income, assets and liabilities by public officers***

##### **Section 4. Declaration of income, assets and liabilities.**

1. A leader shall—
  - a. within three months after the commencement of this Code; and
  - b. thereafter every two years, during the month of March, submit to the Inspector-General a written declaration of the leader's income, assets and liabilities in the prescribed form.
2. A person shall—
  - a. within three months after becoming a leader; and
  - b. thereafter every two years, during the month of March, submit to the Inspector-General a written declaration of the leader's income, assets and liabilities, in the prescribed form, without prejudice to the rights of the leader's spouse, child and dependent to independently own property.
3. A leader shall before the expiration of his or her term of office declare his or her income, assets and liabilities under this Code if his or her term of office expires six months after his or her last declaration.
4. A leader shall state how he or she acquired or incurred, as the case may be, the income, assets or liabilities included in a declaration submitted to the Inspectorate.
5. Notwithstanding anything to the contrary, a leader shall only declare income, assets or liabilities—
  - a. in which he or she has an interest, or
  - b. which is owned by any other person but was, with or without consideration, bequeathed, donated, sold, assigned, transferred by the leader having been declared as his or her income, assets or liabilities in a preceding declaration.

6. In this section, a leader shall be taken to have an interest where—
  - a. in case of an income or assets—
    - i. it is owned by the leader;
    - ii. it is jointly owned by the leader with any other person;
    - iii. it is held in trust by the leader for any other person; or Leadership Code (Amendment) Act 2017 6
    - iv. it is contained in a joint account for the benefit of the leader and any other person.
  - b. in case of a liability, it was acquired, guaranteed or is payable by the leader on his or her behalf or on behalf of any other person.
7. A leader shall ensure that all the information contained in the declaration submitted to the Inspectorate is true and correct to the best of his or her knowledge.
8. Where possible, a declaration shall be accompanied by proof of ownership of the income, assets or liabilities contained in the declaration.
9. A leader, who without justifiable cause, submits a declaration to the Inspectorate any time after the period prescribed in subsections (1) and (2) commits a breach of this Code.

**Section 6. Failure to submit correct information.**

A leader who knowingly or recklessly submits a declaration or gives an account of any matter which is false, misleading or insufficient, in any material particular, commits a breach of this Code.

## Accountability for public property

Section 13 of the leadership Code Act provides that it is the responsibility of a public officer to ensure the protection and preservation of public property under his or her personal use and custody. Public officers shall not use such property or allow its use for any other purpose other than the authorised purposes.

According to the Act, such property includes any form of real or personal property in which the Government or public body has ownership; a plant, equipment, leasehold or other property interest as well as any right or other intangible interest that is purchased with public funds, including the services of contractor personnel, office supplies, telephones and other telecommunications equipment and services, mails, automated data, public body records and vehicles.

**Box 23: Provisions on abuse of public property****13. Abuse of public property**

1. A leader shall protect and preserve public property under his or her personal use and shall not use such property or allow its use for any other purpose other than authorised purposes.
2. In this section “public property” includes any form of real or personal property in which the Government or public body has ownership; a plant, equipment, leasehold, or other property interest as well as any right or other intangible interest that is purchased with public funds, including the services of contractor personnel, office supplies, telephones and other telecommunications equipment and services, mails, automated data, public body records, and vehicles.
3. A leader who knowingly misuses or allows public property entrusted to his or her care to be misused, abused or left unprotected shall make good the loss occasioned to the property; and the value of the property or damage to the property shall constitute a debt from the leader to the Government or public body concerned.
4. Notwithstanding the provisions of subsection (3) of this section, a leader who knowingly misuses or allows public property entrusted to his or her care to be misused or abused or left unprotected may, in addition to the sanctions under that subsection be—
  - a. warned or cautioned;
  - b. demoted; or
  - c. dismissed from office.

**False information**

Section 29 of the Leadership Code provides that a person who knowingly makes a false, malicious, frivolous or vexatious allegation under this Code against a person commits an offence and is liable, on conviction, to a fine not exceeding 120 currency points or imprisonment not exceeding five years, or both.

**Inspectorate of Government Act, 2002**

The Inspectorate of Government Act provides for the functions of the Inspectorate of Government, including the promotion of adherence to the rule of law, enforcement of the Leadership Code of Conduct, and investigation of public officers.

**Jurisdiction**

The Inspectorate of Government covers all officers and leaders serving at all levels of government, including local government councils or local government units or committees.

The Inspectorate of Government may cause investigations of actions of a person that has served in any position in the local government, whether that person is still serving or has ceased to serve in that office.

## **Box 24: Functions of the Inspectorate of Government**

### **Section 8: Functions of the Inspectorate**

3. The Inspectorate may, in the performance of its duties under this section, investigate into the actions of any person that may have been done while that person was serving in a public office, notwithstanding that at the time of the investigation, that person has ceased to serve in that office.

### **Key Message**

The Inspectorate of Government may investigate actions of any public officer even when that officer ceases to hold office. This means that cessation of service with the local government does not exonerate anybody from being held accountable for actions or omissions committed in the course of his service.

## **Offences under the Act**

According to Section 35 of the Act, a public officer is expected to cooperate and respect the office or officers of the Inspectorate of Government and comply with the instructions or directives from the Inspectorate, failure to do which means he or she commits an offence and if found liable may be convicted to a fine not exceeding 150 currency points or imprisonment not exceeding three years or both.

This provision ensures that the office of the Inspectorate of Government, while promoting and ensuring accountability of all local governments, is respected.

### **Box 25: Offences under the IG Act**

#### **35. Offences**

A person who-

- a. wilfully and without lawful justification or excuse disobeys an order of the Inspectorate for his or her attendance or for the production of a document, paper or thing; or
- b. without lawful justification or excuse refuses to be examined before or to answer questions relating to an inquiry put to him or her by the Inspectorate; or
- c. without reasonable excuse refuses or fails to comply with any order or direction of the Inspectorate; or
- d. knowingly presents to the Inspectorate a false or fabricated document or makes a false statement with intent to deceive or mislead the investigating officers; or
- e. publishes any false or scandalous libel on the Inspectorate; or
- f. creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the Inspectorate; or
- g. without lawful justification or excuse, wilfully obstructs or hinders a person acting in the exercise of powers conferred by this Act, commits an offence and is liable on conviction to a fine not exceeding one hundred fifty currency points or imprisonment not exceeding three years or both.

## The Anti-Corruption Act, 2009

The purpose of the Anti-Corruption Act is to provide for the effectual prevention of corruption in both the public and private sectors. The Act applies to all public bodies, including a district administration, a district council and any committee of a district council, local council and any committee of any such council.

In promotion of accountability by individuals holding offices at local government level, the Act provides for the interpretation and explanation of corruption and other acts that may be regarded as such, offences and penalties.

Section 2 of the Act provides definitions to show the manifold forms of corruption, which is described in Box 26.

### **Box 26: Forms of corruption in accordance with the Anti-Corruption Act**

- a. the solicitation or acceptance, directly or indirectly, by a public official, of any goods of monetary value, or benefits, such as a gift, favour, promise, advantage or any other form of gratification for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
- b. the offering or granting, directly or indirectly, to a public official, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage or any other form of gratification for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
- c. the diversion or use by a public official, for purposes unrelated to those for which they were intended, for his or her own benefit or that of a third party, of any movable or immovable property, monies or securities belonging to the State, to an independent agency, or to an individual, which that official has received by virtue of his or her position for purposes of administration, custody or for other reasons;
- d. indirectly, of any undue advantage to or by any person who directs or works for, in any capacity, a private sector entity, for himself or herself or for any other person, for him or her to act, or refrain from acting, in breach of his or her duties;
- e. the offering, giving, solicitation or acceptance directly or indirectly, or promising of any undue advantage to or by any person who asserts or confirms that he or she is able to exert any improper influence over the decision-making of any person performing functions in the public or private sector in consideration of the undue advantage, whether the undue advantage is for himself or herself or for any other person, as well as the request, receipt or the acceptance of the offer or the promise of the advantage, in consideration of that influence, whether or not the supposed influence leads to the intended result;
- f. the offering or giving, promising, solicitation or acceptance, directly or the fraudulent acquisition, use or concealment of property derived from any of the acts referred to in this section;
- g. the participation as a principal, co-principal, agent, instigator, accomplice or accessory after the fact, or in any other manner in the commission or attempted commission of, or in any collaboration or conspiracy to commit, any of the acts referred to in this section;

- h. any act or omission in the discharge of his or her duties by a public official for the purpose of illicitly obtaining benefits for himself or herself or for a third party; or
- i. neglect of duty.

### **Key Message**

The Anti-Corruption Act defines various forms of corruption, which include accepting, giving, promising or soliciting goods of monetary value or benefits. Corruption also includes the fraudulent acquisition, concealment or use of property and neglect of duty.

The Act explains corrupt acts and omissions by any individual, which constitute offences under the Act. These offences are highlighted in Box 27.

### **Box 27: Corrupt acts and omissions under the Anti-Corruption Act**

#### **3. Corrupt transactions with agents.**

If—

- a. an agent corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or herself or for any other person, any gratification as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any act in relation to his or her principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his or her principal's affairs or business;
- b. a person corruptly gives or agrees to give or offers any gratification to any agent as an inducement or reward for doing or forbearing to do, or for having done or forborne to do any act in relation to his or her principal's affairs or business, or for showing or forbearing to show favour or disfavour to any person in relation to his or her principal's affairs or business;
- c. a person knowingly gives to an agent, or if an agent knowingly uses, with intent to deceive his or her principal, any receipt, account or other document in respect of the principal's affairs or business which contains any statement which is false or erroneous or defective in any material particular, and which to his or her knowledge is intended to mislead the principal;
- d. an agent who corruptly gives or agrees to give or offers any gratification to any person as an inducement or reward for doing or omitting to do or for having done or omitted to do any act in relation to the business or affairs of his or her employer or for showing favour or disfavour to any person in relation to the business or affairs of his or her principal; or
- e. a person who corruptly accepts or obtains, or agrees to accept or attempts to obtain, from any agent for himself or herself or for any other person, any gratification as an inducement or reward for doing or omitting to do or, for having done or omitted to do any act in relation to the business or affairs of his or her principal or for showing favour or disfavour to any person in relation to the business or affairs of his or her principal, commits an offence.

**4. Corruptly procuring tenders.**

1. A person—
  - a. who, with intent to obtain from any public body a contract for performing any work, providing any service, doing anything or supplying any article, material or substance, offers any gratification to any person who has made a tender for the contract, as an inducement or a reward for his or her withdrawing the tender; or
  - b. who solicits or accepts any gratification as an inducement or reward for his or her withdrawing a tender made by him or her for such contract, commits an offence
2. A public official, who provides any information relating to a tender for— (a) performing any works; (b) providing any service; or (c) supplying any article, material or substance, to enable a person obtain the tender from a public body, to the prejudice of another person interested in the tender, commits an offence.

**5. Bribery of a public official.**

A person who—

- a. directly or indirectly by himself or herself or through any other person offers, confers, gives or agrees to offer any gratification to any member of a public body an inducement or reward so that the member—
  - i. votes or abstains from voting at any meeting of that public body in favour of or against any measure, resolution or question submitted to that public body;
  - ii. performs, or abstains from performing his or her duty in procuring, expediting, delaying, hindering or preventing the performance of any official act; or
  - iii. aids in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person; or
- b. being a member as is referred to in paragraph (a) directly or indirectly solicits or accepts any gratification for himself or herself or for any other person, by himself or herself, or through any other person, as an inducement or reward for any act or abstaining from performing any act, referred to in subparagraphs (i), (ii) and (iii) of paragraph (a);

**6. Diversion of public resources.**

A person, who converts, transfers or disposes of public funds for purposes unrelated to that for which the resources were intended, for his or her own benefit or for the benefit of a third party, commits an offence.

**8. Influence peddling.**

A person who does or, omits to do an act in contravention of established principles or procedure as a result of improper influence, for his or her own benefit or for the benefit of a third party commits an offence.

**10. Loss of public property.**

1. Where loss of public property results from an act or omission done by a person knowing or having reason to believe that, the act or omission will cause loss of public property, that person commits an offence and is liable on conviction to a
2. term of imprisonment not exceeding ten years or a fine not exceeding two hundred and forty currency points or both.
3. A public official who by an act or omission directly or indirectly causes or allows damage or loss to occur to any public property placed in his or her custody, possession or control, commits an offence and is liable on conviction to imprisonment not exceeding three years or a fine not exceeding seventy-two currency points or both.
4. A public official who knowingly misuses or allows public property entrusted to his or her care to be misused, abused or left unprotected, commits an offence and is liable on conviction to a term of imprisonment not exceeding three years or a fine not exceeding seventy-two currency points or both.
5. In addition to any other penalty imposed upon conviction on a person referred to in subsection (1), (2) or (3), the court may order that person to make good the loss occasioned to the property; and the value of the property or damage to the property shall constitute a civil debt from the person to the Government or public body concerned and shall be recoverable from that person.
6. In this section “public property” means any form of real or personal property of any kind in which the Government or public body has ownership and includes: a plant, equipment, leasehold or other property interest as well as any right or other intangible interest that is purchased with public funds including the services of contractor personnel, office supplies, telephones and other telecommunications equipment and services, mail, automated data, public body records and vehicles.

**11. Abuse of office.**

1. A person who, being employed in a public body or a company in which the Government has shares, does or directs to be done an arbitrary act prejudicial to the interests of his or her employer or of any other person, in abuse of the authority of his or her office, commits an offence and is liable on conviction to a term of imprisonment not exceeding seven years or a fine not exceeding one hundred and sixty-eight currency points or both.
2. Where a person is convicted of an offence under subsection (1) and the act constituting the offence was done for the purposes of gain, the court shall, in addition to any other penalty it may impose, order that anything received as a consequence of the act, be forfeited to the Government.

**13. Nepotism.**

A person who being the holder of an office does any act in connection with the office for the purpose of doing favours to any person on the basis of blood relations between that person and that other person commits an offence.

**19. Embezzlement. A person who being-**

- a. an employee, a servant or an officer of the Government or a public body;
- b. a director, an officer or an employee of a company or a corporation;
- c. a clerk or servant employed by any person, association or religious or other organisation;
- d. a member of an association or a religious organisation or other organisation, steals a chattel, money or valuable security—
  - i. being the property of his or her employer, association, company, corporation, person or religious organisation or other organisation;
  - ii. received or taken into possession by him or her for or on account of his or her employer, association, company, corporation, person or religious organisation or other organisation; or
  - iii. to which he or she has access by virtue of his or her office; commits an offence and is liable on conviction to a term of imprisonment not exceeding fourteen years or a fine not exceeding three hundred and thirty-six currency points or both.

**20. Causing financial loss.****24. False claims by officials.**

A person who, being employed in the public service in such a capacity as to require him or her or to enable him or her to furnish returns or statements touching any sum payable or claimed to be payable to himself or herself or to any other person, or touching any other matter required to be certified for the purpose of any payment of money or delivery of goods to be made to any person, makes a return or statement touching any matter which is to his or her knowledge, false in any material particular commits an offence and is liable on conviction to a term of imprisonment not exceeding three years or a fine not exceeding seventy two currency points or both.

**25. False certificates by public officers.**

A person who, being authorised or required by law to give a certificate touching matter that may affect or prejudice the rights of any person, gives a certificate which is, to his or her knowledge, false in any material particular, commits an offence and is liable on conviction to a term of imprisonment not exceeding three years or a fine not exceeding seventy-two currency points or both.

**Key Message**

The Anti-Corruption Act outlines various corrupt practices, which include the following: 1) Corrupt transactions with agents; 2) Corruptly procuring tenders; 3) Bribery of a public official; 4) Diversion of public resources; 5) Influence peddling; 6) Loss of public property; 7) Abuse of office; 8) Sectarianism; 9) Nepotism; 10) Embezzlement; 11) Causing financial loss; 12) False accounting by public officer; 13) Fraudulent false accounting; 14) False claims by officials; and 15) False certificates by public officers.

## Part III – Offences and Penalties

The Anti-Corruption Act further prescribes sanctions or penalties for the offences above or any other offence. These include compensation orders, imprisonment and orders for fines as per Sections 27, 31 and 40 of the Act as detailed in Box 28.

### **Box 28: Offences and penalties under the Anti-Corruption Act**

#### **27. Penalty to be imposed in addition to other punishment.**

Where a person is convicted of an offence committed by the acceptance of any gratification in contravention of any provision of this Act, then, if that gratification is a sum of money or if the value of that gratification can be assessed, the court shall, in addition to imposing on that person any other punishment, order him or her to pay as a penalty, within such time as may be specified in the order, a sum which is equal to the amount of the gratification or is, in the opinion of the court, the value of that gratification, and any such penalty shall be recoverable as a fine.

#### **31. Illicit enrichment.**

1. The Inspector General of Government or the Director of Public Prosecutions or an authorised officer, may investigate or cause an investigation of any person where there is reasonable ground to suspect that the person—
  - a. maintains a standard of living above that which is commensurate with his or her current or past known sources of income or assets; or
  - b. is in control or possession of pecuniary resources or property disproportionate to his or her current or past known sources of income or assets.
2. A person found in possession of illicitly acquired pecuniary resources or property commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years or a fine not exceeding two hundred and forty currency points or both.

#### **40. Obstruction of investigations.**

A person who, with the intent to conceal an offence or frustrate the investigation of a suspected offence of corruption under this Act—

- a. destroys, alters, mutilates or falsifies, any book, document, valuable security, account, computer system, diskette, computer printout or other electronic device which belongs to or is in the possession of his or her principal, or was received by him or her on account of his or her employment, or any entry in any such book, document, account or electronic device;
- b. makes or is privy to making any false entry in a book, document, account or electronic record referred to in paragraph (a); or
- c. omits, or is privy to omitting, any material particular from any book, document, account or electronic record referred to in paragraph (a), commits an offence and is liable on conviction to a term of imprisonment not exceeding seven years or a fine not exceeding one hundred and sixty-eight currency points or both.

### **Key Message**

An official who is convicted of corruption is to be punished in accordance with the provisions of the law. In addition, the law allows court to impose a penalty on the person who has received a gratification from corruption. Illicit enrichment and obstruction of investigations are offences under the Anti-Corruption Act.

## Public Service Standing Orders, 2010

The Public Service Standing Orders are made in exercise of the powers conferred upon the Minister responsible for Public Service by the Public Service Act, No. 9 of 2008. All public officers are bound by the Standing Orders and are obliged to read the Constitution of the Republic of Uganda and all the laws and regulations that directly or indirectly relate to the Public Service in the course of their employment.

Local governments are required to develop and publish service delivery standards regarding the respective services they provide for which they will be held accountable.

### **Box 29: Performance management in the Public Service (A – M)**

3. It is the responsibility of all Responsible Officers to manage the performance of their Ministry, Department, or Local Government, to ensure that performance of organisations and individuals directly contribute to improved service delivery and the attainment of national development objectives.

Service Delivery Standards/Client Charters

28. On the basis of service delivery standards, all Responsible Officers shall develop and implement a client charter in order to:

- a. inform clients and stakeholders of the services the Ministries, Departments or Local Governments provide, the rights or expectations and obligations of the clients, and the commitments that the Ministry, Department or Local Government is making in terms of service delivery standards;
- b. provide an accountability framework for the Ministries, Departments, Agencies or Local Government to account to its clients and stakeholders on a regular basis on the commitments made;
- c. enable the clients and stakeholders to hold the Ministries, Departments or Local Government to account for their outputs, services and commitments;

## Code of Conduct and Ethics

The Public Service Standing Orders provide a code of conduct for all public officers on the basis of which they are held accountable for their actions or omissions.

The Code of Conduct and Ethics provides general guidance to public officers in their relationships and dealings with their clients and the general public. It complements existing laws, regulations, guidelines and professional Codes of Conduct issued over the years for the purpose of prescribing acceptable standards of behaviour and conduct in the Public Service. It makes provision for appropriate sanctions to be applied where a public officer's conduct is found to be inconsistent with the Code.

### **Box 30: Guiding principles of the Code of Conduct and Ethics**

The Code of Conduct and Ethics is based on the following principles:-

#### Accountability

A public officer shall hold office in public trust and shall be personally responsible for his or her actions or inactions.

#### **4.10 Accountability**

A public officer shall hold office in public trust and shall be accountable to the public. He or she shall be accountable for all resources under him or her as follows:-

##### **4.10.1. Financial**

1. A public officer shall ensure proper and frugal utilisation of public funds and value for money.
2. A public officer shall at all times promptly account for any financial resources entrusted to him or her in accordance with the Financial Regulations, Treasury Accounting Instructions (Part I Finance and Part II Stores) and Procurement Regulations.

##### **4.10.2 Public property/assets**

A public officer shall safeguard public property/assets entrusted to him or her and shall ensure that no damage, loss or misappropriation occurs in the process of procurement, storage, utilisation and disposal.

##### **4.10.4 Administrative**

1. A public officer shall be accountable both for actions and inactions through normal tiers of authority and will adhere to meritocratic principles in decision making.
2. Where a public officer believes that he or she is being required to act in any way which is inconsistent with this Code he or she shall refrain and report the matter to the next line manager.

### **Box 31: Appointments under the Public Service**

#### **EFFECTIVE DATE OF APPOINTMENT, DECLARATION AND CHANGE OF**

#### **PERSONAL DATA (A – j)**

##### **Declaration of Personal Data**

6. A public officer shall provide personal information by completing the particulars of service on the Personal Record Form (Appendix A.22) and he or she shall be held accountable for the validity of the information provided.

##### **Change of Personal Data**

9. Any change in personal information shall be communicated to the Responsible Officer and copied to the Responsible Permanent Secretary. A public officer shall be held accountable for the validity of the information provided.

## Sanctions and Rewards

The Public Service Standing Orders provide for sanctions of breach of the Code of Ethical Conduct and the rewards for those that exhibit good behaviour, as detailed in Box 32.

### **Box 32: Sanctions and rewards under the Public Service**

#### **6.0 SANCTIONS**

1. Unethical conduct by public officers shall not be accepted in the Public Service.

Sanctions for any breach of this Code shall be those prescribed by the Service Commissions Regulations, the Uganda Government Standing Orders and Administrative Instructions issued from time to time.

2. Depending on the gravity of the offence or misconduct, the following penalties shall apply:
  - a. Warning or reprimand.
  - b. Suspension of increment.
  - c. Withholding or deferment of increment.
  - d. Stoppage of increment.
  - e. Surcharge or refund.
  - f. Making good the loss or damage of public property/assets.
  - g. Interdiction from duty with half pay.
  - h. Reduction in rank.
  - i. Removal from the Public Service in public interest.
  - j. Dismissal

#### **7.0 REWARDS**

1. An appropriate reward and recognition shall be accorded to a public officer who exhibits good ethical conduct.
2. A reward shall be accorded to the public officer by the Responsible Officer or appropriate authority.
3. The rewards shall include, but shall not limited to:-
  - a. Word of recognition of good performance
  - b. Open praise
  - c. Challenging work assignments normally done by seniors
  - d. Letter of commendation
  - e. Presents
  - f. Mementoes
  - g. Certificate of merit
  - h. Concessionary trips
  - i. Cash bonuses
  - j. Salary increments
  - k. Award of medals



PART

2

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## Public Resources Management

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*"Public money and the stores property, assets and the loans and investments of government."*

## Understanding Public Resources

According to the Public Finance Management Act, 2015 (as amended) public resources include “public money and the stores property, assets and the loans and investments of government.”

In the broader context of development, public resources can be understood in two categories, namely fiscal resources, and Common Pool Resources (CPR). These are explained further as follows:

**Fiscal resources:** This refers to all finances of the government or a public entity. In the case of local government entities, fiscal resources typically include transfers from the central government, loans, local tax revenue, non-tax revenues such as income from rental properties, licences etc. Other fiscal resources include grants and donations from development partners and philanthropists. Fiscal resources are often detailed in the budget of the local government entity but some of these resources (such as grants and donations) may be indicated or reported as off-the-budget funds.

**Common Pool Resources:** This refers to those goods which are owned collectively by society and are accessed without exclusion of any users. They may be natural resources such as grazing grounds or pastures, a natural water spring, fishing grounds, swamps etc. Or they may be human-made resources such as valley dams or boreholes. A major characteristic of common pool resources is that they are open for access by all and typically operate under the principle of non-excludability. However, use of the resource by one reduces the resource benefits for other users.

For the purposes of this handbook, all assets of local governments shall be categorised as public resources drawing from the provisions of Section 34(9) of the Public Finance Management Act, as stated in Box 33.

### **Box 33: Assets under the Public Finance Management Act**

**Section 34(9)** of the Public Finance Management Act defines assets as:

- a. “assets” mean physical assets and financial assets.
- b. financial assets include deposits, cheques, loans, accounts receivable and marketable securities including bonds, notes and shares.

## Public resource management

Public resource management involves all processes concerned with the planning, organising, staffing, co-ordinating, reporting, directing, protecting, accounting for, and controlling public resources. These are core principles of management.

It should be noted, however, that some of these principles, especially reporting and co-ordinating, call for accountability. Therefore, the legal provisions in the accountability context have been outlined in Part One of this handbook and, for purposes of avoiding repetition, they shall not be discussed in this section.

## Laws, policies and regulations providing for public resources management

There are several laws, policies and guidelines which provide for the management of public resources. Some of the laws apply to specific resources, while others apply to public resources broadly. The main laws include the following:

- i. The Constitution of the Republic of Uganda, 1995 (as amended)
- ii. The Local Governments Act, 1997 (as amended)
- iii. The Local Government Development Planning Guide, 2014
- iv. The Public Finance Management Act, 2015 (as amended)
- v. The Treasury Instructions, 2017
- vi. The National Audit Act, 2008
- vii. The Leadership Code Act, 2002 (as amended)
- viii. The Inspectorate of Government Act, 2002
- ix. The Anti-Corruption Act, 2009
- x. The Public Procurement and Disposal of Public Assets Act, 2003 (as amended)
- xi. Local Government (Public Procurement and Disposal of Public Assets) Regulations, 2006 (as amended)
- xii. The Public Procurement and Disposal of Public Assets Act Local Government Regulations, 2016
- xiii. The Local Governments (Financial and Accounting) Regulations, 2007
- xiv. The Local Government Finance Commission Act, 2003
- xv. The Mining Act, 2003
- xvi. National Environment Act, 2019
- xvii. National Forestry and Tree Planting Act, 2003
- xviii. National Planning Authority Act, 2002
- xix. Land Act Cap 227 (as amended)

## The Constitution of the Republic of Uganda, 1995 (as amended)

The 1995 Constitution has various provisions on the management of public resources. The initial provisions on public resource management are contained in the National Objectives and Directive Principles of State Policy as set out in Box 34.

### **Box 34: Provisions on public resources management in the National Objectives and Directive Principles of State Policy – 1995 Constitution**

#### **National Objectives and Directive Principles of State Policy.**

##### **XIII. Protection of natural resources.**

The State shall protect important natural resources, including land, water, wetlands, minerals, oil, fauna and flora on behalf of the people of Uganda.

##### **XXI. Clean and safe water.**

The State shall take all practical measures to promote a good water management system at all levels.

##### **XXV. Preservation of public property and heritage.**

The State and citizens shall endeavour to preserve and protect and generally promote the culture of preservation of public property and Uganda's heritage.

##### **XXVII. The environment.**

- i. The State shall promote sustainable development and public awareness of the need to manage land, air and water resources in a balanced and sustainable manner for the present and future generations.
- ii. The utilisation of the natural resources of Uganda shall be managed in such a way as to meet the development and environmental needs of present and future generations of Ugandans; and, in particular, the State shall take all possible measures to prevent or minimize damage and destruction to land, air and water resources resulting from pollution or other causes.
- iii. The State shall promote and implement energy policies that will ensure that people's basic needs and those of environmental preservation are met.
- iv. The State, including local governments, shall—
  - a. create and develop parks, reserves and recreation areas and ensure the conservation of natural resources;
  - b. promote the rational use of natural resources so as to safeguard and protect the biodiversity of Uganda.

## **Key Message**

Protecting public resources is an obligation of the state as provided for in the National Objectives and Directive Principles of State Policy in the Constitution. This includes the protection of natural resources, the environment, water and the preservation of public property and heritage. The utilisation of the natural resources of Uganda is required by law to be managed in such a way as to meet the development and environmental needs of present and future generations of Ugandans.

## **Other Constitutional Provisions of Public Resource Management**

### ***Citizen Participation***

Whereas the National Objectives and Directive Principles of State Policy vest the mandate of public resource management to the state, Article 38 of the Constitution grants every citizen a right to participate in the affairs of government.

According to Article 38, the citizens can participate individually or through their elected representatives such as Local Government Councillors or Members or Parliament

Therefore, it is important that participation is not limited to voting alone. People need to follow-up on the entire process of government decision-making in the allocation of public resources such as the budgeting process, management of facilities and resources like valley dams, boreholes forests, wetlands etc.

## **Key Message**

Citizen participation is crucial to effective public resource management. It is the right of every citizen to participate in the affairs of government. In this, participation is not limited to voting. Citizens need to follow and participate in the processes through which public resources are allocated, managed and utilised and protected for present and future generations.

### ***Individual responsibility of public officers for financial resources***

Article 164 of the Constitution provides that all public officers have a personal and pecuniary responsibility for due performance of the financial duties of their offices, for the proper collection and custody of all administration monies, stores and assets receivable by them or under their authority.

The Constitution further commands planning for public resources, especially financial resources.

### ***Responsibility of district councils to prepare development plans***

Article 190 of the Constitution provides District Councils with the mandate and obligation to prepare comprehensive and integrated development plans incorporating the plans of Lower Local Governments (LLGs) for submission to the National Planning Authority.

Local governments have the mandate to levy and appropriate taxes in accordance with the provisions of Article 191 of the Constitution.

## Grants for local governments

In addition to the revenue collected, local governments also receive grants from the Consolidated Fund in the form of conditional, equalisation and unconditional grants (Article 193).

The unconditional grant is the minimum grant paid to local governments to run decentralised services (Article 193(2)).

A conditional grant refers to monies given to local governments to finance programs agreed upon between the Government and the local governments and is expended only for the purposes for which it was made and in accordance with the conditions agreed upon (Article 193(3)).

An equalisation grant is the money paid to local governments for giving subsidies or making special provisions for the least developed districts and is based on the degree to which a local government unit is lagging behind the national average standard for a particular service (Article 193(4)).

## The Local Governments Act, 1997 (as amended)

The Local Governments Act has several provisions relating to the effective and efficient management of public resources. The objectives of this Act have already been stated in Box 3.

Section 35 of the Local Governments Act (Cap 243) requires district councils to prepare comprehensive and integrated development plans incorporating plans of LLGs.

Planning for resources is essential if they are to be managed well. LLGs formulate their plans which are incorporated into those of High Local Governments (HLGs) (Section 35(3)). The district local government, therefore, compiles the final development plan.

Section 79 of the Local Governments Act further provides that urban local governments shall have autonomy over their financial and planning matters in relation to the district councils, but their plan shall be incorporated into the district plan.

To ensure that the planning process generates the best results, the following are in place at each local government:

- The District Council, which is the district planning authority;
- A District Technical Planning Committee chaired by the Chief Administrative Officer and consisting of the heads of department and technical persons co-opted by the Chief Administrative Officer; and
- Planning units which are the departments of the district responsible for economic planning.

Local governments have budgetary powers, as set out in Box 35. Budgeting enables local governments to manage and control public finances through determining local revenue sources and directing the expenditure of local governments.

### **Box 35: Provision for local government budgetary powers**

#### **Section 82: Appropriation of funds.**

1. No appropriation of funds by a local government shall be made out of the funds of the council unless approved in a budget by its council.
2. No monies shall be withdrawn from the general fund account or any other accounts of the district unless the withdrawal has been approved by the Auditor General or his or her representative.
3. No financial obligation shall be placed on a local government by the Government after the enactment of the Appropriation Act without providing for funds for the discharge of that obligation.
4. The chairperson of a local government shall, not later than the fifteenth day of June, cause to be prepared and laid before the council estimates of revenue and expenditure of the council for the next ensuing financial year

#### **Section 85: Percentage of revenue to be retained or distributed to lower councils.**

1. In the city and municipal councils, revenue shall be collected by the division councils, and a division council shall retain 50 per cent of all the revenue it collects in its area of jurisdiction and remit 50 per cent to the city or municipal council.
2. In rural areas, revenue shall be collected by the sub-county councils, and a sub-county council shall retain 65 per cent, or any other higher percentage as the district council may approve, of the revenue collected by it and pass the remaining percentage over to the district.
3. Where a sub-county fails to remit 35 per cent or any lower percentage approved by the district council under subsection (2), the district council shall take appropriate measures to make full recovery of the revenue due to it.
4. A district council may, with the concurrence of a sub-county, collect revenue on behalf of the sub-county council but shall remit 65 per cent of the revenue so collected to the relevant sub-county.
5. Where a district council fails to remit the 65 per cent referred to in subsection (4), the sub-county shall retain a percentage higher than that provided for in subsection (2) to make full recovery of the revenue due to it which is withheld by the district council.
6. The distribution of grants by the sub-county councils to other councils shall be as is provided under the Fifth Schedule.

#### **Key Message**

Local governments have powers over the management of fiscal resources within their jurisdictions. This includes the powers of levying local taxes, planning and appropriation of funds available to the local governments.

## The Local Government Development Planning Guide, 2014

The Local Government Planning Guide provides a framework for the formulation of harmonised decentralised plans within local governments while ensuring that decentralised development plans are well linked to the overall national development strategic direction as well as to the sector development goals.

### The objectives of the guidelines are outlined below:

- i. To provide a simple but integrated framework for the development of local government plans and the incorporation of these plans into sector and national development plans to ensure that local government plans support the achievement of the aspirations of Uganda Vision 2040 as well as those of the NDP.
- ii. To clarify the institutional framework governing decentralised planning in Uganda and spell out the key stakeholders that should take part in the decentralised planning framework and their roles.
- iii. To provide an appropriate linkage and harmony between national and local budgeting instruments.
- iv. To provide for the development of a Monitoring and Evaluation (M&E) strategy for the local government plans that contributes to both the local and national government M&E requirement without duplicating efforts.
- v. To provide a systematic approach to integrating cross-cutting issues into local government development planning processes and frameworks.
- vi. To provide the structure for the local government development plans.
- vii. To provide a basis for budgeting and financing of the local government planning processes to ensure its timely execution.
- viii. To provide for a communication and feedback strategy.

A local government plan has several stakeholders who are responsible for ensuring that the plans developed meet the intended development objectives. The main actors include the following:

Unit/Body	Responsibility/Role
Higher and Lower Councils	To decide how public sector resources are allocated
District Technical Planning Committee	Co-ordination and development planning functions in local governments
Lower Local Government Technical Planning Committees	Co-ordination and development planning functions in lower local governments
Local Government Planning Forum	Provision of people's views on planning and development priorities
Local Government Finance Commission	Providing advice on financing of local governments
Citizens	Participation in the primary stages of planning

# Local government development plan process, structuring and formulation

The local government plan development (LGDP) and formulation process is provided in Chapter 3 of the Local Government Planning Guide. The process consists of three main stages, namely:

1. Consultations and data collection
2. Actual plan formulation
3. Plan approval and submission

Consultation is the means through which citizens are involved in the development planning process. Through this, citizens provide information on their interests alongside feedback on existing development frameworks. Consultation therefore engenders informed decisions that reflect the needs and aspirations of the people whom development is about.

## **The consultation process involves the following:**

- a. Dissemination of information contained in the Planning Call Circular
- b. The local government performance review
- c. Discussion of the local government key development potential, opportunities, constraints and challenges
- d. Identification of key development priorities

## **The following main steps comprise the LGDP formulation phase:**

- a. Situation analysis and identification of development needs and opportunities.
- b. Definition of broad strategic direction of the LGDP.
- c. Description of development outcomes, goals, strategies and interventions.
- d. Description of the implementation and co-ordination plan of the LGDP.
- e. Elaboration of procedures, roles and responsibilities for LGDP guidance and integration.

The approval of LGDPs is a multi-stage process. The LLG development plan is approved by the LLG Executive Council while a HLG development plan is approved by the HLG Council. The LLGs submit their plans to the respective HLG, which then submits the development plans to the National Planning Authority with copies to the Ministry of Local Government.

## **Key Message**

Planning is a core part of management. Efficient decision-making and allocation of public resources can only exist where there is proper planning. It is, therefore, paramount that citizens participate in the planning process to ensure that their needs and aspirations reflect the identified priorities to which public resources are allocated.

## The Public Finance Management Act, 2015 (as amended)

As the name suggests, the Act is intended to provide for the management of public financial resources.

Section 4 (1) of the Act states that the objective of the Government, when setting fiscal objectives within the macroeconomic framework, shall be to ensure macroeconomic stability and economic growth having regard to the National Development Plan. The fiscal principles of government are set out in Box 36.

### ***Box 36: Principles of the fiscal objectives of government***

#### **4(2) The fiscal objectives shall be based on the following principles:—**

- a. Sufficiency in revenue mobilisation to finance Government programmes;
- b. Maintenance of prudent and sustainable levels of public debt;
- c. Ensuring that the fiscal balance, when calculated without petroleum revenues, is maintained at a sustainable level over the medium term;
- d. Management of revenues from petroleum resources and other finite natural resources for the benefit of current and future generations;
- e. Management of fiscal risks in a prudent manner;
- f. Consistency of the Medium Term Expenditure Framework with the National Development Plan; and
- g. Efficiency, effectiveness and value for money in expenditure.

The Act provides for the budgeting of government and local government entities as follows:

Section 8 provides that the Minister shall, as part of achieving the objectives of the Charter for Fiscal Responsibility, present to Parliament tax and revenue bills which give the government power to obtain money from taxes, fees, charges and other impositions to be proposed in the annual budget.

Every Accounting Officer is required to prepare a Budget Framework Paper for the vote after consultation with the relevant stakeholders, taking into consideration balanced development, gender and equity responsiveness after which the Budget Framework Paper is submitted to the Minister (Section 9(1)).

Each Accounting Officer is meant to prepare and submit a Budget Framework Paper by 15th November of the financial year preceding the financial year to which the Budget Framework Paper relates (Section 9(2)).

## The Anti-Corruption Act 2009

The Anti-Corruption Act aims at the effectual prevention of corruption in both the public and private sectors. Since public officials are entrusted with public resources, it is only essential that they understand what corruption and the repercussions for engaging in it.

Section 6 of the Act provides that a person who converts, transfers or disposes of public funds for purposes unrelated to that for which the resources were intended, for his or her own benefit or for the benefit of a third party, commits an offence.

### ***Box 37: Provisions on the loss of public property under the Anti-Corruption Act***

#### **Section 10: Loss of public property**

1. Where loss of public property results from an act or omission done by a person knowing or having reason to believe that, the act or omission will cause loss of public property, that person commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years or a fine not exceeding two hundred and forty currency points or both.
2. A public official who by an act or omission directly or indirectly causes or allows damage or loss to occur to any public property placed in his or her custody, possession or control, commits an offence and is liable on conviction to imprisonment not exceeding three years or a fine not exceeding seventy-two currency points or both.
3. A public official who knowingly misuses or allows public property entrusted to his or her care to be misused, abused or left unprotected, commits an offence and is liable on conviction to a term of imprisonment not exceeding three years or a fine not exceeding seventy-two currency points or both.
4. In addition to any other penalty imposed upon conviction on a person referred to in subsection (1), (2) or (3), the court may order that person to make good the loss occasioned to the property; and the value of the property or damage to the property shall constitute a civil debt from the person to the Government or public body concerned and shall be recoverable from that person.
5. In this section “public property” means any form of real or personal property of any kind in which the Government or public body has ownership and includes: a plant, equipment, leasehold or other property interest as well as any right or other intangible interest that is purchased with public funds including the services of contractor personnel, office supplies, telephones and other telecommunications equipment and services, mail, automated data, public body records and vehicles.

Section 20(1) provides that any person employed by the Government, a bank, a credit institution, an insurance company or a public body, who in the performance of his or her duties, does any act knowing or having reason to believe that the act or omission will cause financial loss to the Government, bank or credit institution commits an offence and is liable on conviction to a term of imprisonment not exceeding 14 years or a fine not exceeding 336 currency points or both.

Section 22 provides that a person who, being an officer charged with the receipt, custody or management of any part of the public revenue or property, knowingly furnishes any false statement or return of money or property received by him or her or entrusted to his or her care, or of any balance of money or property in his or her possession or under his or her control, commits an offence and is liable on conviction to a term of imprisonment not exceeding three years or a fine not exceeding 72 currency points or both.

## The Public Service Standing Orders, 2010

The Public Service Standing Orders provide guidelines on how public officers can use, care for and dispose of public property entrusted to them, including the use and care for government vehicles.

### ***Box 37: General rules for the use, care and disposal of government property in accordance with Section (F – I) of the Public Service Standing Orders***

#### **General rules.**

1. Government property means resources owned by Government or in the custody or care of Government which include monies, inventories, property, assets, loans, and investments.
2. Every Government Officer is personally and pecuniary responsible for Government property under his or her control or custody.
3. A public officer shall safeguard public property or assets entrusted to him or her and shall ensure that no damage, loss or misappropriation occurs in the process of procurement, storage, utilisation and disposal.
4. The management of all Government properties in a given Ministry, Department or Local Government is the direct responsibility of the Responsible Officer, who shall make arrangements for the maintenance of such properties.
5. A Responsible Officer shall ensure that all Government property under his or her care is labelled.
6. Disposal of Government assets and property shall be in accordance with the law on public procurement and disposal of assets.

## Use and care for Government vehicles

Vehicles are some of the commonly used properties in local governments. The Public Service Standing Orders give clear guidelines how government vehicles are acquired, used, and maintained as set out in Box 38.

### ***Box 38: Orders concerning Government vehicles***

#### **The following shall be observed with regard to all Government vehicles:**

- a. A Ministry, Department or Local Government shall not hire any private vehicle whatsoever, without following the Government procurement regulations;
- b. A Ministry, Department or Local Government shall not acquire a new vehicle outside the guidelines as circularised from time to time by the Ministry responsible for the Public Service in consultation with the Ministry responsible for Transport;
- c. Every Ministry, Department or Local Government shall designate an officer to be in charge of transport matters, who shall among other duties, maintain a fuel register on any Government vehicle and carry out monthly fuel reconciliation exercises;
- d. Every Government vehicle shall be subject to an annual inspection, irrespective of age or condition;

- e. A Government vehicle shall not be driven outside official working hours without authority of the Responsible Officer;
- f. Where a vehicle is required for official use outside official working hours and on weekends, the Responsible Officer may grant authority in writing for a specified period of time and shall ensure that the authority is not misused;
- g. Every Government vehicle shall have a logbook in which the driver records all the journeys made. Each journey entered in the logbook shall be certified by an authorised officer by countersigning against each entry;
- h. A driver shall not carry unauthorised passengers and goods in a Government vehicle.

**8. Government vehicles shall be driven by official drivers except:**

- a. officers specifically engaged to drive or operate vehicles or plant;
  - b. officers in the mechanical sections of Ministries, Departments or Local Government units in the course of their duties; for example, when inspecting, testing, running-in and demonstrating vehicles;
  - c. officers who have written permission from a Responsible Officer;
  - d. a public officer who, in case of emergency, shall write a report to explain the circumstances.
9. Any public officer authorised to drive a Government vehicle must possess a valid driving permit.
10. Care and discretion must be exercised by Authorising Officers in granting authority under paragraph 8 above, which irrespective of the period of time covered by the permission, must always be conveyed in writing and carried by the person so authorised for production when required.

**Obligation of Drivers in caring for Government Vehicles**

11. A driver of a Government vehicle must take personal interest and be capable of carrying out limited or routine repair or checks on them.
12. It is the direct responsibility of the drivers to ensure that Government vehicles are always road-worthy in all respects. Drivers of Government vehicles are, therefore, just as liable for prosecution for driving defective vehicles as are other drivers, e.g. when apprehended by the traffic police.
13. To ensure that Government vehicles are regularly serviced (including oiling and greasing) a Service Chart will be kept by the Transport Officer on every Government vehicle in his or her charge. It will, however, be the duty of the driver of the vehicle to see to it that the chart is followed strictly.
14. To encourage and sustain the highest level of care and responsibility for Government vehicles on the part of individual drivers, the following shall apply:-
- a. A Government driver who completes a period of 36 months without scratches and/or accidents to a Government vehicle in his or her charge, shall be rewarded in accordance with the reward and recognition scheme;
  - b. A new Government driver prior to assumption of duty, shall undergo a driving test by the Chief Mechanical Engineer;
  - c. A Government driver shall be required to undergo periodic training including defensive driving, at a recognised Training Institute;

- d. A Government driver shall be re-tested periodically every three years, on traffic regulations including traffic signs and shall have valid driving permits;
- e. A Government driver shall be required to undergo annual medical check-up, including eye testing at Government expense;
- f. Any Government driver who loses a public vehicle shall be prosecuted and shall be liable to disciplinary action;
- g. A driver of a Government vehicle shall observe traffic rules and shall be liable for prosecution for breaking any of these rules like any other drivers and shall be personally liable to costs arising out of traffic offences;
- h. A Government driver, like any other public officer, shall not be re-engaged to drive any Government vehicle of a Ministry/Department or Local Government and project related vehicles after he or she has been dismissed from the public service;
- i. A Government driver shall observe any other rules put in place by the responsible officer for the purpose of protecting Government vehicles.

#### **Provision of Government Vehicles**

- 15. A Public Officer at the level of Director and above, shall be entitled to a chauffeur driven vehicle at Government expense.
- 16. A public officer at the level of Head of Department (scale U1SE) shall be provided with an official vehicle for official duties including house to office running.
- 17. Pool transport consists of other Government vehicles, including project and hired transport, meant specifically to cater for the official transport needs of public officers and, where applicable, their families or personal effects as provided for in these Standing Orders.

#### **Liability for spot checks of Government Vehicles on the Road**

- 18. Any Government vehicle found travelling on the road may be stopped by authorised officers including the Police for inspection as to its road-worthiness, purpose and authority for the journey and the like. The authorised officer will be free to report either to the Responsible Officer of the driver/vehicle in question and/or the nearest police station if in his or her opinion there are sufficient grounds for him or her to make such report, e.g. if he or she suspects dishonest or criminal involvement in the use of the vehicle, if the vehicle is not sufficiently road-worthy etc.

#### **Key Message**

The Public Service Standing Orders provide the regulation for the use of public property, including vehicles. The regulations provide a framework for ensuring that public property is used solely for the purposes they are intended for. Officers who violate the regulations, for example through unauthorised use of vehicles, are liable to sanctions.

## The National Audit Act, 2008

As discussed under the part of this handbook, the National Audit Act provides for the auditing of public entities. It mandates the Auditor General to conduct financial and value for money audits of government entities including local governments.

The National Audit Act provides for various audits that can be undertaken by the Auditor General and these include the following:

1. Audit of the public accounts of public entities as provided in Section 13(1)(a).
2. Value for money audits as provided for in Section 21.
3. Special audits as provided for in Section 22.
4. Any other audits such as gender and environmental audits are provided in Section 13(1)(b).

Section 26 gives the Auditor General the right to make recommendations to the Minister responsible for local governments on measures to:

- a. minimise the unproductive expenditure of public monies;
- b. maximise the collection of public revenues; and
- c. avert loss by negligence, carelessness, theft, dishonesty or otherwise of public monies.

### ***Key Message***

Based on the different audits which are provided for under the law, the Auditor General checks on probity in the management of financial resources and all other assets of local governments as well as the compliance of local government entities with the statutory requirements for good governance and effective public management.

## The Leadership Code Act, 2002 (as amended by Act No. 8 of 2017)

The Leadership Code Act provides for the minimum standard of behaviour and conduct of leaders. It sets the requirement for leaders to declare their incomes, assets, and liabilities and puts in place the enforcement mechanism for upholding the standards, behaviours and conduct of leaders.

Leaders are entrusted with the power and authority to manage public resources. This power needs to be checked to ensure that it is not abused. It should be noted that the Leadership Code Act is enforced in complementarity with other laws that define constraints within which public officials must operate.

Section 2 (1) of the Leadership Code Act defines a “leader” as a person holding or acting in any of the offices specified in the Second Schedule to the Act. It also defines “a public officer” as a person holding or acting in any public office. According to the Act, the “Public Service” means service in a civil capacity of the government or of a local government.

### *Conflict of interest*

Conflict of interest can undermine good public resource management. The Leadership Code Act states the statutory requirements for guarding against conflict of interest as set out in Box 39.

#### ***Box 39: Conflict of interest as provided for in the Leadership Code Act***

##### **12A. Conflict of interest.**

1. A leader who, in the course of his or her official duties, deals with a matter in which he or she or his or her immediate family has a direct or indirect interest or is in a position to influence the matter directly or indirectly and who knowingly, fails to disclose the nature of that interest and votes or participates in the proceedings of a public body, board, council, commission or committee, commits a breach of this Code.
2. A conflict of interest shall arise where—
  - a. a leader deals with a matter in which he or she has a personal interest where he or she is in a position to influence the matter, directly or indirectly, in the course of his or her official duties;
  - b. the position the leader holds and the services he or she provides to a person or private body is in conflict with his or her official duties;
  - c. a leader participates in the deliberations of a public body, board, council, commission or committee of which he or she is a member at any meeting at which any matter in which he or she has a personal interest is to be discussed; or
  - d. a leader attends a meeting of a public body, board, council, commission or committee and fails or neglects to disclose the nature and extent of his or her personal interest.

3. A public officer whose personal interest conflicts with his official duties shall—
  - a. declare the personal interest to his or her superior or other appropriate body and comply with any direction to avoid the conflict; and
  - b. refrain from participating in any deliberation with respect to the matter.
4. Notwithstanding any direction to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—
  - a. himself or herself;
  - b. any person related to him or her by blood or marriage;
  - c. a business associate, agent or partner,
  - d. a company, partnership or other entity or body in which the leader, any person related to him or her by blood or marriage, has an interest.
5. In this section, personal interest, in relation to a leader, includes the personal interest of any person related to the leader by blood or marriage, or any agent, business associate or partner of which the leader has knowledge or would have had knowledge if he or she exercised due diligence having regard to all circumstances.

**Box 40: Other provisions in the Leadership Code Act**

**Section 13. Abuse of public property**

1. A leader shall protect and preserve public property under his or her personal use and shall not use such property or allow its use for any other purpose other than authorised purposes.
2. In this section “public property” includes any form of real or personal property in which the Government or public body has ownership; a plant, equipment, leasehold, or other property interest as well as any right or other intangible interest that is purchased with public funds, including the services of contractor personnel, office supplies, telephones and other telecommunications equipment and services, mails, automated data, public body records, and vehicles.

**Section 14. Misuse of official information**

1. Without derogating from any other written law, a leader shall not directly or indirectly use or allow any person under his or her control to use for furthering any private interest, whether financial or otherwise, any information obtained through or in connection with the office of the leader and not yet made available to the public.
2. Subsection (1) of this section does not apply to the use of the information referred to in that subsection for the purpose of educational, research, literary, scientific or other similar purpose not prohibited by law.
3. A leader who contravenes the provisions of this section commits a breach of this Code and is liable to—
  - a. be warned or cautioned;
  - b. demotion; or
  - c. dismissal; or
  - d. vacate office.

## Section 22. Special powers of Inspector General of Government

1. The Inspector General may, during the course of his or her investigations or as a consequence of his or her findings, issue an order placing such restrictions as appear to him or her to be reasonable on the operation of any bank account of a leader or any person being investigated, for the purpose of ensuring payment to Government or public body or prevention of dissipation of any moneys derived from or related to the violation of this Code.
2. The leader shall be allowed reasonable access to the account frozen under subsection (1) of this section and shall be allowed to withdraw such amount of money, as the Inspector General may deem reasonable in the circumstances.
3. The Inspector General may, during the course of his or her investigations or as a consequence of his or her findings, issue an order placing such restrictions as appear to him or her to be reasonable, on the disposal of any property of a leader or any person being investigated for the purposes of compensation to the Government or public body or otherwise for the purpose of prevention of dissipation of the properties derived from or related to the violation of this Code.

## Section 28. False information.

A person who knowingly makes a false, malicious, frivolous or vexatious allegations under this Code against a person commits an offence and is liable, on conviction, to a fine not exceeding one hundred and twenty currency points or imprisonment not exceeding five years, or both.”

## Section 30. Inspection of bank accounts

1. The Inspectorate may, for the purpose of performing its functions under this Code, by order made and signed by the Inspector-General or Deputy Inspector General, authorise any person under his or her control to inspect any bank account, share account, purchase account, expense account or any other safe or deposit book in a bank.
2. An order made under subsection (1) of this section shall be sufficient authority for the disclosure or production by any person of any information, account- document or article required by the person so authorised.
3. Any person who refuses or who without reasonable cause, fails to comply with an order issued under this section, commits an offence and is liable on conviction to a fine not exceeding one hundred fifty currency points or imprisonment not exceeding three years or both.

## Key Message

This Leadership Code Act binds all leaders and former leaders in public offices as one of the codes of conduct in the management of public resources. Breach of the code triggers sanctions with offences that are punishable under the law. Leaders have a duty to protect and manage public property with great professionalism and integrity. The mandate to enforce the code lies with the Leadership Code Act Tribunal, the Directorate of Public Prosecutions and the Inspectorate of Government.

## National Forestry and Tree Planting Act, 2003

The purpose of the Act is, *inter alia*, to provide for the conservation, sustainable management and development of forests for the benefit of the people of Uganda; to provide for the declaration of forest reserves for purposes of the protection and production of forests and forest produce; to provide for the sustainable use of forest resources and the enhancement of the productive capacity of forests; to provide for the promotion of tree planting; to consolidate the law relating to the forest sector and trade in forest produce; and to establish a National Forestry Authority.

Forests are essential resources for sustainable development and overall survival. Forests, among others, provide wood for various uses, offer watershed protection, conserve biodiversity, prevent soil erosion and mitigate the effects of climate change. The National Tree Planting Act includes various provisions on the conservation and sustainable management of forests as set out in Box 42.

### **Box 42: Key provisions on the conservation and sustainable development of forests in the National Forestry and Tree Planting Act**

#### **Section 5. Responsibility for forest reserves.**

1. The Government or a local government shall hold in trust for the people and protect forest reserves for ecological, forestry and tourism purposes for the common good of the citizens of Uganda.
2. In furtherance of the trust obligations under subsection (1), and in furtherance of the right to a clean and healthy environment, any person or responsible body may bring an action against a person—
  - c. whose actions or omissions have had or are likely to have a significant impact on a forest; or
  - d. for the protection of a forest.

#### **Section 12. Transfer of management of local forest reserve to the Authority.**

1. Where the Minister is satisfied that—
  - a. a local government has failed to manage, maintain and control a forest reserve as required by section 13(3);
  - b. a local government has failed to implement the management plan for the local forest reserve; or
  - c. it is necessary for the proper protection, control and management of a local forest reserve, the Minister may, by statutory order, transfer the responsibility for the protection, control and management of the local forest reserve to the Authority.
2. The Minister shall, before making an order under subsection (1), give notice in writing to the local government of his or her intention to make the order and may give a period of not less than ninety days to the local government, within which the council shall take remedial measures or make representations as to why responsibility for the local forest reserve should not be removed from it.

3. The Minister may, on the application of the local government, revoke an order made under subsection (1)—
  - a. if he or she is satisfied that the forest reserve has been restored to an acceptable standard; and
  - b. the local government has given an undertaking in writing, to the satisfaction of the Minister, to manage the local forest reserve in accordance with generally accepted principles of forest management.
4. Notwithstanding subsection (3), the Minister may reclassify the local forest reserve as a central forest reserve in accordance with sections 6 and 7.

### **Section 13. Management of forest reserves.**

1. A forest reserve shall be managed in a manner consistent with the purpose for which it is declared.
2. For the avoidance of doubt, a forest reserve shall not be put under any use other than in accordance with the management plan.
3. A responsible body shall manage, maintain and control the forest reserve in accordance with generally accepted principles of forest management as may be prescribed in guidelines issued by the Minister, including but not limited to the following—
  - a. natural forests shall not be destroyed, damaged or disturbed except in the course of carrying out activities for the sustainable management of the forest reserve;
  - b. (b) forests shall be developed and managed so as to—
    - iii. conserve biological diversity, ecosystems and habitats;
    - iv. sustain the potential yield of their economic, social, health and environmental benefits;
    - v. promote the fair distribution of their economic, social, health and environmental benefits;
    - vi. promote their health and vitality;
    - vii. conserve natural resources, especially soil, air and water quality; and
    - viii. conserve natural heritage and promote aesthetic, cultural and spiritual values.

### **Section 19. Management of community forest.**

1. Any revenue derived from the management of a community forest by the responsible body shall belong to and form part of the accountable funds of the responsible body and shall be devoted to the sustainable management of the community forest and the welfare of the local community.
2. A local government may make bye-laws in accordance with the Local Governments Act 1997, applicable to any community forest in respect of any matter that the local government may deem necessary in accordance with this Act.

**Section 20. Transfer of management of community forest to local government.**

1. Where, in the opinion of the Minister, it is expedient for ensuring the proper protection, control and management of a community forest, the Minister may, by statutory order, transfer the responsibility for the protection, control and management of the forest to a local government, and immediately, the local government shall exercise all the powers of the responsible body over the community forest.
2. The Minister may, on the application of the responsible body, revoke an order made under subsection (1), if—
  - a. he or she is satisfied that the community forest has been adequately rehabilitated; and
  - b. the responsible body has given an undertaking, in writing, to the satisfaction of the Minister, to manage the forest in accordance with generally accepted principles of forest management.

**Section 24. Register of rights and interests.**

The District Land Board shall maintain a register in which all rights and interests of any nature in respect of private forests shall be kept, including—

- a. the nature of the right or interest;
- b. the manner in which it came into existence;
- c. the name of the holder or beneficiary of the right or interest; and
- d. any other information as may be prescribed.

**Section 26. Assistance in forestry management**

1. The Minister, the Authority or a local government may provide technical services to local communities, organisations, cultural or traditional institutions and other persons involved in the development of community forests and private forests and forestry activities in general, and may charge fees for those services.
2. Assistance under subsection (1) may include—
  - a. providing information, training and advice on the management of forests;
  - b. the establishment and maintenance of nurseries and other facilities necessary for seeds and plants;
  - c. material or financial assistance;
  - d. the collection and dissemination of information, the provision of
  - e. technical guidance and promotion of public awareness about forestry and the conservation and utilisation of forestry resources;
  - f. the promotion of seed production, agro-forestry and tree growing, and in particular, the growing of fruit species;
  - g. assisting local councils in the conservation and management of local forest reserves;
  - h. promoting the conservation of forest biological diversity and the ecosystem; and
  - i. co-operating and liaising with other lead agencies in the management of forests and forest produce.

**Section 28. Management plan.**

1. A responsible body shall prepare a management plan and, in the case of a forest reserve or community forest, the plan shall be prepared in consultation with the local community.
2. A management plan shall—
  - a. contain a description of all matters relating to the forest, the forest produce and the use currently being made of the forest produce;
  - b. state the type of activities to be carried out in the forest;
  - c. state the management objectives of the forest;
  - d. state the measures to be taken for the sustainable management of the forest, and, except in the case of a private forest, the involvement of local communities in the management of the resources;
  - e. state the resources likely to be available to enable the management plan to be executed; and
  - f. contain any other information as the Minister may prescribe.
7. A management plan shall be approved by the Minister or by a person designated by the Minister for that purpose.
8. A management plan made under this section is binding on all persons having dealings with or interests in the forest.
9. A management plan shall be disseminated to the local community.
10. A management plan shall be revised every five years, or within such other time as the Minister may prescribe.
11. For the avoidance of doubt, a management plan shall be prepared, within one year after the coming into force of this Act, for every forest reserve declared under the Forests Act, and in existence at the commencement of this Act.

**Section 47. Mandate of responsible Ministry in relation to local governments.**

For the purposes of ensuring the implementation of national policies with respect to the forest sector and adherence to performance standards by local governments, the Minister is, in accordance with the Local Governments Act, 1997, responsible for—

- a. inspecting, monitoring and co-ordinating Government initiatives and policies in the forest sector as they apply to local governments;
- b. co-ordinating and advising persons and organisations in relation to forest projects involving direct relations with local governments; and
- c. assisting in the provision of technical advice, support, supervision and training to local governments to enable them to carry out the delivery of forestry services in their respective areas, and to develop their capacity to manage local forest reserves and community forests.

**Section 48. District Forestry Office.**

1. A District Council shall, in accordance with the Local Governments Act 1997, establish a District Forestry Office, which shall be funded by the Government.

2. A District Council shall appoint a District Forestry Officer and such other officers, as the Government may determine, to run the District Forestry Office established under subsection (1).
3. The functions of a District Forestry Officer are—
  - a. to advise the District Council on all matters relating to forestry;
  - b. to liaise with the Authority and other lead agencies on matters relating to forestry;
  - c. to promote forestry awareness in the district;
  - d. to promote the planting of trees;
  - e. to undertake duties involved in the management of local forest reserves;
  - f. to advise and support the management of community forests;
  - g. to assist in the development and provision of advisory services relating to private forests;
  - h. to cause to be prosecuted, any person wilfully destroying any forest resources in contravention of this Act; and
  - i. to perform any other function as the District Council may prescribe.

**Section 54. Functions of the National Forest Authority.**

1. The functions of the Authority are—
  - a. to develop and manage all central forest reserves;
  - b. to identify and recommend to the Minister, areas for declaration as central forest reserves, and the amendment of those declarations;
  - c. to promote innovative approaches for local community participation in the management of central forest reserves;
  - d. to prepare and implement management plans for central forest reserves and to prepare reports on the state of central forest reserves and such other reports as the Minister may require;
  - e. to establish procedures for the sustainable utilisation of Uganda's forest resources by and for the benefit of the people of Uganda;
  - f. to co-operate and co-ordinate with the National Environment Management Authority and other lead agencies in the management of Uganda's forest resources;
  - g. in conjunction with other regulatory authorities, to control and monitor industrial and mining developments in central forest reserves;
  - h. in consultation with other lead agencies, to develop, or control the development of tourist facilities in central forest reserves;
  - i. to enter into an agreement or other arrangement with any person, for the provision of forestry services, subject to such charges as may be agreed upon;
  - j. to carry out or commission research for the purposes of conservation, development and utilisation of forests, and for the conservation of biological diversity and genetic resources; and

- k. to ensure the training of forestry officers and other public officers in the development and sustainable management of forests.
2. The Authority may, in addition to the functions specified in subsection (1), perform any of the following functions in accordance with a contract entered into for the purpose, and subject to such charges as may be agreed upon—
    - a. inspect, monitor and co-ordinate local governments in the management of their respective local forest reserves, and produce reports on the state of local forest reserves as the Minister may require;
    - b. provide technical support and guidance to District Forest Officers in their delivery of forestry advisory services relating to community forests, private forests, the promotion of tree planting, growing and forestry awareness;
    - c. supervise and train local governments in the implementation of the provisions of this Act relating to the planting, protection and conservation of trees and forests;
    - d. advise on innovative approaches for local community participation in the management of local forest reserves;
    - e. advise on, and support the preparation of management plans for local forest reserves, private forests and other forests on private land;
    - f. in conjunction with other lead agencies, monitor and guide the development of tourist facilities in local forest reserves, private forests and other forests on private land; and
    - g. liaise with the National Environment Authority in the protection of Uganda’s forest resources, and the evaluation of environmental impact assessments undertaken in accordance with section 38.
  3. The Authority shall perform such other functions as may be conferred on it under this Act or by the Minister in writing.

**Section 63. Forestry Committees.**

1. The Authority may, in consultation with the respective local governments, establish Forestry Committees.
2. A Forestry Committee established under subsection (1) shall consist of—
  - a. a Chairperson appointed by the Authority;
  - b. one person to represent each of the District administrations covered by the respective forest management area;
  - c. a senior employee of the Authority in the area who shall be the secretary to the committee; and

- d. four persons including at least one female, who are knowledgeable in forestry matters nominated by a process of public advertisement.
3. The board shall specify the terms and conditions of service of the Forestry Committees.

**Section 64. Functions of Forestry Committees.**

1. The functions of a Forestry Committee are—
  - a. to inform the Authority of the ideas, desires and opinions of the people in the respective areas on all matters relating to the conservation and use of the central forest reserves;
  - b. to assist local communities to benefit from the central forest reserves;
  - c. to advise the Authority on the implementation of its functions under this Act; and
  - d. to perform such other functions as the Authority may require or delegate to it.
2. A Forestry Committee shall submit to the Authority an annual report on its activities and other matters related to forestry management in the area.
3. The Board shall give directions in writing to a Forestry Committee relating to the procedure for meetings of the committee.

**Key Message**

Given the crucial value of forests, the National Forestry and Tree Planning Act provides for their sustainable management. The National Forestry Authority is the co-ordinating entity for all forests in Uganda. The responsibility for managing all categories of forest lies with the central government and local governments that hold them in trust for the people of Uganda. Local governments are charged with, under the supervision of the National Forestry Authority, the responsibility of managing, maintaining and controlling the forest reserves in their jurisdiction.

## The Mining Act, 2003

The purpose of the Mining Act is to inter alia vest the ownership and control of all minerals in Uganda in the Government and to provide for the acquisition of mineral rights and other related matters.

Mineral resources are resources that are key to the survival and economic sustainability of the country and communities. Several communities draw their livelihoods from mining of various minerals, including sand and clay for various subsistence and commercial purposes. The Mining Act regulates the rights and ownership of these resources, as set out in Box 43.

### **Box 43: Ownership and rights over mineral resources**

#### **Section 3. Ownership of minerals.**

Subject to any right granted to any person under the Act, the entire property in and control of all minerals in, on or under, any land or waters in Uganda are and shall be vested in the government, notwithstanding any right of ownership of or by any person in relation to any land in, on or under which any such minerals are found.

#### **Section 86. Rights in waters and wetlands.**

Except as otherwise provided in the Act, all rights in wetlands and in the waters of any spring, stream, river, watercourse, pond or lake on or under public land, are vested in the government; and no such wetlands or water shall be obstructed, dammed, diverted, polluted or otherwise interfered with, directly or indirectly, except in accordance with the provisions of Part II of the Water Statute, 1995.

#### **Section 98. Royalties.**

1. Subject to section 100 of this Act, all minerals obtained or mined in the course of prospecting, exploration, mining or mineral beneficiation operations shall be subject to the payment of royalties on the gross value of the minerals based on the prevailing market price of the minerals at such rates as shall be prescribed.
2. Royalty shall be shared by the Government, Local Governments and owners or lawful occupiers of land subject to mineral rights in the manner specified in the Second Schedule to this Act.

### **Key Message**

All control of and rights to minerals in Uganda are vested in the Government of Uganda. To ensure equity in sharing natural resources, the royalties in any minerals are shared by the central government, local governments and owners or lawful occupiers of land.

## Land Act Cap 227 (as amended)

The purpose of the Land Act is to provide for the tenure, ownership and management of land; to amend and consolidate the law relating to tenure, ownership and management of land; and to provide for other related or incidental matters.

Box 44 outlines the key provisions on land ownership, tenure, management and administration in accordance with the Land Act (Cap 227).

### **Box 44: Land ownership, tenure, management and administration**

#### **Section 2. Land ownership.**

Subject to article 237 of the Constitution, all land in Uganda shall vest in the citizens of Uganda and shall be owned in accordance with the following land tenure systems—

- a. customary;
- b. freehold;
- c. *Mailo* land
- d. leasehold.

#### **Section 41. Land Fund.**

1. There shall be a fund to be known as the Land Fund.
2. Subject to this section, the Land Fund shall be managed by the commission.
3. The monies to form part of the Land Fund shall be derived from the following sources—
  - a. monies appropriated by Parliament;
  - b. loans obtained by the Government;
  - c. grants from any donors;
  - d. any monies paid into the fund under this Act;
  - e. any other source approved by the Minister in writing in consultation with the Minister responsible for finance.
4. The fund shall be utilised as follows—
  - a. to give loans to tenants by occupancy to enable them to acquire registrable interests pursuant to article 237(9)(b) of the Constitution;
  - b. by the Government to purchase or acquire registered land to enable tenants by occupancy to acquire registrable interests pursuant to the Constitution;

- c. to resettle persons who have been rendered landless by Government action, natural disaster or any other cause;
  - d. to assist other persons to acquire titles.
5. For the purposes of giving effect to subsection (4), the commission shall, in particular, carry out the following functions—
- a. Give loans to lawful or bona fide occupants to enable them to acquire registrable interests pursuant to article 237(9)(b) of the Constitution;
  - b. purchase or acquire land where necessary in order to redistribute it to the tenants in occupancy on such terms and conditions as shall be determined by the commission;
  - c. verify and distribute the land referred to in paragraph (b) of this subsection to the tenants by occupancy;
  - d. cause and facilitate the holding under paragraph (c) of this subsection to be surveyed and the occupant to acquire a registrable interest of the holding;
  - e. give loans to other persons to enable them to have their land surveyed for the purpose of acquiring certificates of title;
  - f. perform such other functions as provided in this Act or as the Minister may in writing determine.
6. Notwithstanding any provisions to the contrary in the Land Acquisition Act—
- a. any compulsory acquisition of land for purposes of implementing subsection (4)(b) shall be at a fair market valuation assessed on a willing seller willing buyer basis;
  - b. no person from whom land is to be acquired under this section shall be required to vacate that land until he or she has received the compensation awarded to, or agreed to, by him or her;
  - c. the commission shall pay compensation for any losses caused by severance or injurious affection;
  - d. the commission shall pay all reasonable costs of disturbance to the person from whom land is to be acquired; and
  - e. in the case of land occupied under customary tenure, in addition to compensation assessed under this section, there shall be paid as a disturbance allowance a sum not exceeding 15 per cent of the sum awarded to the person from whom land is to be acquired where that person was using the land as his or her home.
7. The statutory and administrative charges such as fees and stamp duty shall be payable the tenant in occupancy and shall not be paid out of the fund.

**Section 42. Acquisition of land by the Government.**

The Government or a local government may acquire land in accordance with articles 26 and 237(2) of the Constitution.

**Section 44. Control of environmentally sensitive areas.**

1. The Government or a local government shall hold in trust for the people and protect natural lakes, rivers, ground water, natural ponds, natural streams, wetlands, forest reserves, national parks and any other land reserved for ecological and touristic purposes for the common good of the citizens of Uganda.
2. A local government may, upon request to the Government, be allowed to hold in trust for the people and the common good of the citizens of Uganda any of the resources referred to in subsection (1).
3. Any resource that is not covered under subsection (1) which is identified after the coming into force of this Act may, upon request to the Government and with the approval of Parliament, be held in trust for the people and for the common good of the citizens of Uganda by a local government.
4. The Government or a local government shall not lease out or otherwise alienate any natural resource referred to in this section.
5. The Government or a local government may grant concessions or licences or permits in respect of a natural resource referred to in this section subject to any law.
6. Parliament or any other authority empowered by Parliament may from time to time review any land held in trust by the Government or a local government whenever the community in the area or district where the reserved land is situated so demands.

**Section 56. Establishment of district land boards.**

1. There shall be for each district a district land board.
2. The board shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.

**Section 57. Membership of a board.**

1. Subject to a minimum membership of five, a board shall consist of the following persons—
  - c. Chairperson
  - d. One member representing municipal councils;
  - e. One member representing urban councils;
  - f. One member from each county in the district
2. No person shall qualify to be appointed as a member of a board if the person—
  - a. Is less than eighteen years of age;
  - b. Is of unsound mind;
  - c. Is a member of Parliament;
  - d. has been convicted of an offence involving moral turpitude; or
  - e. has been declared bankrupt.

3. At least one-third of the members referred to in subsection (1) shall be women.
4. At least one of the members of a board shall be a person with qualifications and experience in matters relating to land.
5. A person holding office as a member of a local government council shall relinquish the office upon appointment as a member of a board.

**Section 59. Functions of a board.**

1. The functions of a board shall be to—
  - b. hold and allocate land in the district which is not owned by any person or authority;
  - c. facilitate the registration and transfer of interests in land;
  - d. take over the role and exercise the powers of the lessor in the case of a lease granted by a former controlling authority;
  - e. cause surveys, plans, maps, drawings and estimates to be made by or through its officers or agents;
  - f. compile and maintain a list of rates of compensation payable in respect of crops, buildings of a non-permanent nature and any other thing that may be prescribed;
  - g. review every year the list of rates of compensation referred to in paragraph (e) of this subsection; and
  - h. deal with any matter which is incidental or connected to the other functions referred to in this subsection.
2. A board within a district may, in the performance of its functions under of article 241(1)(a) of the Constitution, do so under the name of the institution of a traditional leader or cultural leader existing under article 246 of the Constitution in relation to that district.
3. For the avoidance of doubt, nothing in subsection (2) shall be construed as conferring on the traditional leader or cultural leader referred to in that subsection the power of direction or control over the board.
4. In carrying out its functions under subsection (1)(a), a board shall have regard to article 237(1) of the Constitution.
5. A board shall, in compiling a list of rates of compensation referred to in subsection (1)(e) and (f), consult the technical officers in the district.
6. Each district council shall have a district land office comprising the offices of the district physical planner, the district land officer, the district valuer, the district surveyor and district registrar of titles.
7. The district land office shall provide technical services to the board to facilitate the board in the performance of its functions under this Act.
8. The board shall hold in trust for the citizens the reversion on any lease to which subsection (1)(c) relates and may exercise in relation to the lease and the reversion the powers of a controlling authority under the Public Lands Act, 1969, as if that Act has not been repealed; but subject to the foregoing, that Act shall, in respect of any such lease or reversion, have effect with such modifications as may be necessary to give effect to this Act and shall be subject to the provisions of the Constitution.

**Section 60. Powers of a board.**

1. In the performance of its functions, a district land board shall be independent of the Uganda Land Commission and shall not be subject to the direction or control of any person or authority but shall take into account the national and district council policy on land and the particular circumstances of different systems of customary land tenure within the district.
2. A board shall have power to—
  - a. acquire by purchase or otherwise rights or interests in land and easements;
  - b. erect, alter, enlarge, improve or demolish any building or other erection on any land held by it;
  - c. sell, lease or otherwise deal with the land held by it; and
  - d. do and perform all such other acts, matters and things as may be necessary for or incidental to the exercise of those powers and the performance of those functions.
3. In the performance of its functions, a district land board shall prepare and publish an annual report and shall have regard to any comments that the district council may make on that annual report.

**Section 64. Establishment of land committees.**

1. There shall be for each parish a land committee consisting of a chairperson and three other members appointed by the district council on the recommendation of the sub-county council.
2. There shall be for each gazetted urban area and each division in the case of a city, a land committee consisting of a chairperson and three other members appointed by the council on the recommendation of the urban council, and in the case of a city, on the recommendation of the city division council.
3. A person holding office as a member of a local government council shall relinquish the office upon appointment as a member of the land committee.
4. A member of the committee shall hold office for a period of three years and may be eligible for reappointment for a further one term.
5. The district council may terminate the appointment of a member of the committee for his or her inability to perform the functions of his or her office or for any good cause.
6. The committee shall assist the board in an advisory capacity on matters relating to land, including ascertaining rights in land, and shall perform any other function conferred on it by or under this Act or any other law.

**Section 65. Qualification for appointment as member of a committee.**

1. A person shall qualify for appointment as a member of the committee if—
  - a. he or she is thirty years of age or more;
  - b. he or she has not been convicted of an offence involving moral turpitude; and
  - c. in the case of the chairperson, he or she is able to speak and write English.

2. At least one of the members referred to in section 64 shall be a woman.
3. At least one of the members referred to in section 64 shall be a person with knowledge and experience in matters relating to land.

#### **Section 69. General powers of disposal.**

Subject to this Act, the commission or a board shall have power to grant estates and create rights or interests in land and to manage, dispose of and otherwise deal with the estate or interest in relation to land vested in it.

#### **Section 70. Water rights.**

4. Subject to section 44, all rights in the water of any natural spring, river, stream, watercourse, pond, or lake on or under land, whether alienated or unalienated, shall be reserved to the Government; and no such water shall be obstructed, dammed, diverted, polluted or otherwise interfered with, directly or indirectly, except in pursuance of permission in writing granted by the Minister responsible for water or natural resources in accordance with the Water Act.

#### **Section 74. District land tribunals.**

1. There shall be for each district a tribunal to be known as the district land tribunal which shall consist of a chairperson and two other members.
2. The chairperson shall be a person qualified to be a magistrate grade I.
3. A member of the tribunal shall be a person with knowledge and experience in land matters.
4. A person shall not qualify for appointment as a member of the tribunal unless the person—
  - a. is a person of the age of thirty years or more;
  - b. is of sound mind;
  - c. is of high moral character and proven integrity;
  - d. has not been convicted of an offence involving moral turpitude;
  - e. has not been declared bankrupt.
5. Members of district land tribunals shall be appointed by the Chief Justice on the advice of the Judicial Service Commission.
6. Members of district land tribunals shall be appointed by the Chief Justice on the advice of the Judicial Service Commission.
7. Members of district land tribunals shall be paid such salaries and allowances as may be determined by the Public Service Commission on the recommendation of the Judicial Service Commission, and those salaries or allowances shall be charged on the Consolidated Fund.

#### **Section 75. Tenure of office of members of district land tribunals.**

1. Members of district land tribunals shall hold office for a period of five years and may be eligible for reappointment.
2. A member of a district land tribunal may be removed from office by the Chief Justice only for—

- a. inability to perform the functions of his or her office arising from infirmity of body or mind;
- b. misbehaviour or misconduct;
- c. incompetence;
- d. absence from at least five consecutive meetings of the tribunal without lawful excuse;
- e. having been convicted of an offence involving moral turpitude; or
- f. having been declared bankrupt.

**Section 76. Jurisdiction of district land tribunals.**

1. The jurisdiction of a district land tribunal shall be to—
  - a. determine disputes relating to the grant, lease, repossession, transfer or acquisition of land by individuals, the commission or other authority with responsibility relating to land;
  - b. determine any dispute relating to the amount of compensation to be paid for land acquired under section 42;
  - c. determine disputes in respect of land the value of which exceeds the amount stipulated under section 84;
  - d. make consequential orders relating to cancellation of entries on certificates of title or cancellation of title and vesting of title in cases handled by the lower land tribunals; and
  - e. determine any other dispute relating to land under this Act.
2. In the exercise of jurisdiction over land matters provided for by this section, a district land tribunal shall have all the powers of a magistrate's court grade I granted under the Magistrates Courts Act and shall, in addition and insofar as it is not provided for in that Act, have the power to grant decrees of specific performance and issue injunctions and generally shall have the power to grant such relief, make such orders and give such decisions against the operation of any action, notice, order, decree or declaration made by any official or any board or any committee or any association or the commission, as the circumstances of the case require, and without limiting the generality of that power, may—
  - a. cancel any action, notice, order, decree or declaration;
  - b. vary the operation of any action, notice, order, decree or declaration;
  - c. postpone the operation of any action, notice, order, decree or declaration;
  - d. substitute a different decision for the one determined by any official, board, committee, association or the commission;
  - e. confirm any action, notice, order, decree or declaration made, notwithstanding that some procedural errors took place during the making of that action, notice, order, decree or declaration if the district land tribunal is satisfied that—
    - i. the person applying for relief was made fully aware of the substance of the action, notice, order, decree or declaration; and

- ii. no injustice will be done by confirming that action, notice, order, decree or declaration, and may grant that relief and all other orders made and decisions given on such conditions if any, as to expenses, damages, compensation or any other relevant matter as the district land tribunal considers fit.
3. On receipt of a case referred to in section 84(2), the district land tribunal shall after satisfying itself make an appropriate order.

#### **Section 79. Secretary of land tribunal.**

1. A district land tribunal shall have a secretary who shall be a public officer qualified or knowledgeable in land matters.
2. The secretary shall be in charge of the registry of the land tribunal and shall be responsible for keeping records, the seal, conducting the correspondence and performing such other functions as the district land tribunal may direct.
3. The district land tribunal shall have such support staff as may be recruited for the purpose in accordance with the public service regulations.

#### **Section 80. Sub-county land tribunals.**

1. There shall be for each sub-county a land tribunal.
2. The land tribunal shall consist of a chairperson and two other members; at least one of the members shall be a woman.
3. A person shall qualify for appointment as a member of the land tribunal if the person—
  - a. is thirty years of age and above;
  - b. has completed a minimum formal education of Ordinary Level or its equivalent;
  - c. has not been declared bankrupt; or
  - d. has not been convicted of an offence involving moral turpitude.
4. Subsection (3)(a) shall not apply to a person who holds a diploma or higher qualifications in land related matters from a recognised institution.

#### **Section 81. Land tribunals in urban areas.**

1. There shall be for each gazetted urban area a land tribunal.
2. The land tribunal shall consist of a chairperson and two other members.
3. A person shall qualify for appointment as a member of the land tribunal if the person—
  - a. is thirty years of age or more;
  - b. has completed a minimum formal education of Diploma Level from a recognised institution;
  - c. has not been declared bankrupt; or
  - d. has not been convicted of an offence involving moral turpitude.

4. There shall be for each division in a city a land tribunal.
5. A land tribunal referred to in subsection (4) shall consist of a chairperson and two other members.
6. Subsection (3) shall apply to a member of the land tribunal established under subsection (4).
7. Subsection (3)(a) shall not apply to a person who holds a degree from a recognised university in land matters.

**Section 82. Appointment of sub-county and urban land tribunals.**

A member of a land tribunal established under section 80 or 81 shall be appointed by the Judicial Service Commission.

**Section 83. Tenure of office of members of a land tribunal.**

1. A member of a land tribunal established under section 80 or 81 shall hold office for a period of five years and may be eligible for reappointment.
2. A member of a land tribunal referred to in subsection (1) may be removed from office only for—
  - a. inability to perform the functions of his or her office arising from infirmity of body or mind;
  - b. misbehaviour or misconduct;
  - c. incompetence; or
  - d. absconding from duty.

***Key Message***

In line with and subject to the Constitution of the Republic of Uganda, all land is vested in the citizens of Uganda and public land is held in trust by the government and local governments. The function of the District Land Board is to provide administration for land in the district. Administration of land goes down to the grass-roots communities based on the establishment of a Land Committee for each parish.

The District Land Board is independent of the Uganda Land Commission and not subject to any control by any person or authority but operates subject to the laws and policies of Uganda and the district council. There are also established District Land Tribunals, Urban Land Tribunals and Sub-county Land Tribunals with a mandate to adjudicate land matters in their respective jurisdictions. Matters before the tribunal are adjudicated basing on the principles of natural justice.

## Public Procurement and Disposal of Public Assets Act, 2003 (as amended)

The Public Procurement and Disposal of Public Assets Act establishes the Public Procurement and Disposal of Public Assets Authority (PPDA) and formulates policies and regulates practices in respect of public procurement and disposal activities. The act applies to all public finances, resources; procurement and disposal of works, services and supplies.

Procurement is a major way in which public funds are expensed to acquire the required goods and services. It is also the channel through which public assets may be disposed of. Section 5 of the PPDA Act establishes the PPDA as an autonomous body to be known as the Public Procurement and Disposal of Public Assets Authority, in this Act referred to as the Authority.

### **Box 45: Selected provisions of the PPDA Act**

#### **Section 6. Objectives of the Authority.**

The objectives of the Authority are to-

- a. ensure the application of fair, competitive, transparent, non-discriminatory and value for money procurement and disposal standard and practices;
- b. advise Government, Local Governments and other procuring and disposing entities on procurement and disposal policies, systems and practices and where necessary, on their harmonisation.
- c. set standards for the public procurement and disposal systems in Uganda;
- d. monitor compliance of procuring and disposing entities; and
- e. build procurement and disposal capacity in Uganda.

#### **Section 7. Functions of the Authority.**

1. The functions of the Authority are to—
  - a. advise Central Government, Local Governments and other procuring and disposing entities on all public procurement and disposal policies, principles and practices;
  - b. monitor and report on the performance of the public procurement and disposal systems in Uganda and advise on desirable changes;
  - c. advise competent authorities on standards for procurement education and training, competence levels and certification requirements;
  - d. prepare, update and issue authorised versions of the standardized bidding documents, procedural forms and any other attendant documents to procuring and disposing entities;
  - e. ensure that any deviation from the use of the standardized bidding documents, procedural forms and any other attendant documents is effected only after the prior, written approval of the Authority;

- f. issue guidelines under section 97 of this Act;
  - g. organise and maintain a system for the publication of data on public procurement and disposal opportunities, awards and any other information of public interest as may be determined by the Authority;
  - h. maintain a register of providers of works, services and supplies;
  - i. conduct periodic inspections of the records and proceedings of the procuring and disposing entities to ensure full and correct application of this Act;
  - j. institute—
    - i. procurement or disposal audits during the bid preparatory process;
    - ii. contract audits in the course of the execution of an awarded bid; and
    - iii. performance audits after the completion of the contract in respect of any procurement or disposal, as may be required;
  - k. adopt, adapt and update common specifications standards, the use of which shall be mandatory for all procuring and disposing entities;
  - l. determine, develop, introduce, maintain and update related system-wide data-bases and technology;
  - m. develop a procurement and disposal capacity building strategy and human resource development;
  - n. where applicable, determine the prices of works, services and supplies which are used in common by two or more procuring and disposing entities and which may be subject to common procurement, and review the prices from time to time;
  - o. establish and maintain institutional linkages with entities with professional and related interest in public procurement and disposal;
  - p. undertake procurement and disposal research and surveys nationally and internationally;
  - q. undertake any activity that may be necessary for the execution of its functions; and
  - r. administer and enforce compliance with all the provisions of this Act, regulations and guidelines issued under this Act.
2. The Authority may contract a third party to carry out procurement audits, investigations and inspections.

### **Section 9. Action on recommendation of the Authority.**

- 1. Where there are persistent or serious breaches of this Act or regulations or guidelines made under this Act, the Authority may-
  - a. Direct the concerned procuring and disposing entity to take such corrective action as may be necessary in the circumstances, to rectify the breach; or
  - b. Recommend to a competent authority-
    - i. to suspend the officer responsible for the breach;

- ii. to replace the head of the procurement and disposal unit or the chairperson of the contracts committee, as the case may be;
- iii. to discipline the Accounting Officer;
- iv. to transfer temporarily, the procuring and disposing entity to a third party procurement agency;
- v. the replacement of the head of the Procurement and Disposal unit or the Chairperson of a Contracts Committee as the case may be;

#### **Section 24. Composition of procuring and disposing entities.**

For the purpose of this Act, a procuring and disposing entity shall be composed of—

- a. an Accounting Officer defined in Section 3;
- b. the Tender Boards in the case of Local Governments mentioned in sections 92 to 95 of the Local Governments Act of 1997, and a Contracts Committee in all other cases;
- c. a Procurement and Disposal Unit;
- d. a User Department as defined in Section 3; and (e) an Evaluation Committee.

#### **Section 25. Powers of a procuring and disposing entity.**

1. A procuring and disposing entity shall be responsible for the management of all procurement and disposal activities within its jurisdiction in accordance with this Act, regulations and guidelines made under this Act.
2. Notwithstanding subsection (1) the Secretary to the Treasury shall, for each financial year, appoint an agent to carry out the procurement and disposal activities as described in Section 86 and the Fourth Schedule to this Act, which shall be carried out by the Authority.

#### **Section 26. Accounting Officer.**

1. The Accounting Officer of a procuring and disposing entity shall have overall responsibility for the execution of the procurement and disposal process in the procuring and disposing entity, and in particular, shall be responsible for—
  - a. establishing a Contracts Committee in accordance with this Act;
  - b. appointing the members of a Contracts Committee specified in the Third Schedule;
  - c. causing to be established a Procurement and Disposal Unit staffed at an appropriate level;
  - d. advertising bid opportunities;
  - e. communicating award decisions;

- f. certifying the availability of funds to support the procurement or disposal activities;
  - g. signing contracts for procurement or disposal activities on behalf of the procuring and disposing entity;
  - h. investigating complaints by providers;
  - i. submitting a copy of any complaints and reports of the findings to the Authority; and
  - j. ensuring that the implementation of the awarded contract is in accordance with the terms and conditions of the award.
2. Notwithstanding subsection (1)(g) an Accounting Officer shall not sign a contract before a procurement is approved by the contracts committee except where due to an emergency situation, the contracts committee cannot meet to approve the procurement.
  3. Where the Accounting Officer signs a procurement contract to be made for the purposes of an emergency situation under subsection (2), the Accounting Officer shall-
    - a. inform the contracts committee of the contract within seven working days of signing the contract; and
    - b. within ten working days after signing the contract, submit in respect of the contract, a report to the Authority.
  4. Prior to the commencement of a procurement process, an Accounting Officer shall undertake an assessment of the market price of the supplies, services or of the unit costs of the works in respect of which the procurement is to be made by a procuring and disposing entity.
  5. Subject to Section 74, an Accounting Officer shall not sign a contract, where the price quoted by the bidder who is evaluated by a contracts committee as best evaluated bidder is higher than the market price established by the Accounting Officer in accordance with subsection (4).

**Section 30. Composition of a Procurement and Disposal Unit.**

A procuring and disposing entity shall cause to be established a Procurement and Disposal Unit staffed at an appropriate level.

**Section 41. Records of a Procuring and disposing entity.**

1. (A procuring and disposing entity shall maintain records on its procurement and disposal proceedings for a period of seven years from the date of a decision to terminate the procurement or disposal action, or the date of the contract completion, whichever comes later, except where a contract is ongoing or is challenged, in which case, the records shall be kept for an additional year after the completion of the contract or the settlement of the dispute, whichever comes earlier.
- 1A. The records to be maintained by a procuring and disposing entity under subsection (1) shall include a summary report of the procurement procedure used in respect of each contract, which shall indicate-

- a. a description of the objectives of the respective procurement;
  - b. a list of the participating bidders;
  - c. the bid prices;
  - d. the bid evaluation criteria
  - e. a summary of the evaluation and comparison of bids, including the grounds for rejecting any of the bids;
  - f. where applicable, a summary of the proceedings of the administrative reviews including the decisions taken;
  - g. a statement of the grounds for cancellation of procurement proceedings; and
  - h. any other information as may be prescribed by regulations.
2. The records of the procurement and disposal process shall be open to inspection by the Authority and a competent authority during working hours.

**Section 43. Application of basic principles of public procurement and disposal.**

All public procurement and disposal shall be conducted in accordance with the following principles-

- a. Non-discrimination;
- b. Transparency, accountability and fairness;
- c. Maximisation of competition and ensuring value for money
- d. Confidentiality;
- e. Economy and efficiency; and
- f. Promotion of ethics

**Section 44.**

Non-discrimination. A bidder shall not be excluded from participating in public procurement and disposal on the basis of nationality, race, religion, gender or any other criterion not related to qualification, except to the extent provided for in this Act.

**Section 45. Transparency, Accountability and Fairness.**

All procurement and disposal shall be conducted in a manner which promotes transparency, accountability and fairness.

**Section 46. Competition. Subject to this Act, all procurement and disposal shall be conducted in a manner to maximise competition and achieve value for money.**

**Section 48. Economy and efficiency.**

All procurement and disposal shall be conducted in a manner which promotes economy, efficiency and value for money.

**Section 49. Ethics.**

All procurement and disposal shall be carried out in accordance with the Codes of Ethics that may be specified from time to time by the Authority.

**Section 48. Economy and efficiency.**

All procurement and disposal shall be conducted in a manner which promotes economy, efficiency and value for money.

**Section 48. Ethics.**

All procurement and disposal shall be carried out in accordance with the codes of ethics that may be specified from time to time by the Authority.

**Section 53. Public accessibility.**

Copies of the Act, regulations, Guidelines, any forms made under this Act, standard bidding documents and decisions of the Authority shall be made accessible to the public by the authority.

**Section 58. Procurement and disposal planning**

1. In accordance with the budget preparation procedures issued by the Minister, a procuring and disposing entity shall in each financial year, by a date determined by the Secretary to the Treasury, prepare and submit to the Secretary to the Treasury and to the Authority, its annual procurement plan for the following financial year.
2. A procuring and disposing entity shall plan its procurement and disposal in a rational manner and in particular shall-
  - a. aggregate its requirements where possible, both within the procuring and disposal entities, to obtain value for money and to reduce procurement costs;
  - b. make use of framework contracts wherever appropriate to provide an efficient, cost effective and flexible means to procure works, services or supplies that are required continuously or repeatedly over a set period of time;
  - c. not split a procurement or disposal to defeat the use of appropriate procurement or disposal method;
  - d. integrate its procurement budget with its expenditure programme; and
  - e. integrate the disposal of assets register as well as in its income and expenditure budget.
3. The Authority shall issue guidelines in respect of the format of the procurement plan to be prepared under this section.
4. A procuring and disposing entity shall, on a quarterly basis and in any other case, wherever necessary, review and update its procurement plan.

5. A procuring and disposing entity shall notify the Secretary to the Treasury and Authority of any changes made to its procurement plan and submit the updated and approved plan to the Authority.
6. A procuring and disposing entity shall display its procurement plan and the updated and approved plan on its procurement and disposal notice board or using any other method as may be prescribed, for not less than twenty working days.
7. Procurement shall not be carried out outside the procurement plan except in cases of emergency situations

### ***Key Message***

In a bid to improve transparency and integrity in the procurement and disposal of public assets process, the PPDA Act establishes the PPDA Authority and the Board of PDA, formulates rules and regulates practices in the procurement and disposal of all public institutions, including local governments. The spirit of the Act is to promote accountability, transparency and fairness in the procurement and disposal of public assets and resources. All public procurement and disposal should be competitive and promote economy and efficiency. All public procurement and disposals should comply with the rules against bias and the rules of natural justice.

## Treasury Instructions, 2017

The Treasury Instructions set out the general policies, procedures and rules to be followed by government entities in the efficient and effective management of public resources and funds. The applicable provisions of the Treasury Instructions are as discussed under Part 1 on accountability.

## National Environment Act, 2019

The National Environment Act is the law which regulates environmental management in Uganda. It provides for the management of the environment for sustainable development; emerging environmental issues, including climate change; the management of hazardous chemicals and biodiversity offsets; and strategic environmental assessment. It, moreover, addresses environmental concerns arising out of petroleum activities and midstream operations, as well as the management of plastics and plastic products; establishes the Environmental Protection Force; enhances penalties for offences under the Act; and provides for procedural and administrative matters.

The Act recognises a “lead agency” which means a Ministry, department, agency, local government or public officer in which or in whom the functions of control or management of any segment of the environment are vested; and “Minister” means the Minister.

The Responsible Officers in the local governments are expected to ensure sustainable use of all resources. With particular regard to the environment, “sustainable use” means the use of environmental resources in a way and at a rate that does not lead to long-term decline of those resources, thereby maintaining their potential to meet the needs and aspirations of the present and future generations;

Local governments are expected to collaborate with the National Environment Management Authority (NEMA) in the management of the natural resources. This Act also obliges the Local Government to have committees to help in managing natural resources.

### ***Box 46: Provisions on environmental management by local government entities***

#### **26. Environmental management by urban and district councils.**

1. (1) Subject to this Act and any other applicable law, urban and district councils shall be responsible for the management of the environment and natural resources under their jurisdiction.
2. (2) Urban and district councils may, in consultation with the Authority, make ordinances and bylaws to regulate various aspects of the environment and natural resources within their jurisdiction. 36 Act 5 The National Environment Act 2019
3. (3) Any ordinances or bylaws made by urban and district councils under subsection (2) shall not be inconsistent with this Act.

#### **27. District environment and natural resources committee.**

1. (1) Every district shall establish a district environment and natural resources committee, which shall comprise—

- a. The District Chairperson;
- b. the Members of Parliament from the district;
- c. the Resident District Commissioners;
- d. the Secretary for environment;
- e. the District Natural Resources Officer, who shall be the secretary;
- f. the Chief Administrative Officer;
- g. the District Engineer;
- h. (h) the Town Clerk;
- i. (i) the Mayor, Town Clerk and secretary responsible for environment at the urban council;
- j. (j) the District Planner;
- k. (k) the Physical Planning Officer; and
- l. (l) the Community Development Officer.

**28. Functions of district environment and natural resource committees.**

1. The functions of the district environment and natural resources committee are—
  - a. (a) to co-ordinate the activities of the urban or district council relating to the management of the environment and natural resources;
  - b. (b) to prepare district environment action plans;
  - c. to ensure that environmental concerns are integrated in all plans and projects approved by the urban or district council;
  - d. to prepare the district state of the environment report;
  - e. to assist in the formulation and enforcement of ordinances and byelaws relating to the management of the environment;
  - f. to monitor all activities within its local jurisdiction to ensure that such activities do not have any significant impact on the environment;
  - g. to promote the dissemination of information about the environment;
  - h. (h) to co-ordinate with the Authority on all issues relating to the management of the environment;
  - i. (i) to co-ordinate the activities of environment and natural resources committees in the management of the environment; and
  - j. (j) to carry out such other functions as may be prescribed by the urban or district council.
2. The district environment and natural resources committee shall receive funding from among the sources of funds available to the urban or district council for performing its functions under this Act. 29

**54. Management of wetlands.**

1. The relevant lead agency shall, in collaboration with the Authority, ensure that wetlands are conserved for the common good of the people of Uganda.
2. Government or a local government shall not lease out or otherwise alienate any wetland.

## The Local Governments (Public Procurement and Disposal of Public Assets) Regulations, 2006

These regulations are to guide and regulate Local Government Councils, administrative units and other entities using public funds in functions and operations relating to procurement of goods, services and works and the disposal of public assets under the Local Governments Act, as read with the Public Procurement and Disposal of Public Assets Act, 2003.

Selected provisions of the Local Governments (Public Procurement and Disposal of Public Assets) Regulations are set out in Box 47.

### ***Box 47: Part IV – Local government procurement and disposal organs***

#### **Independence of functions and powers.**

1. Subject to the provisions of the Act or these Regulations, the Accounting Officer, the contracts committee, the procurement and disposal unit, the user department and the evaluation committee of a procuring and disposing entity shall each act independently in relation to their respective functions and powers.
2. An Accounting Officer or organ of a procurement and disposal entity referred in sub regulation (1) shall not seek to influence the decisions or activities of the others, except as permitted under the Act or these Regulations.
3. Every Accounting Officer or organ of a procurement and disposal entity referred to in sub-regulation (1) shall ensure that its duty is properly and professionally performed in accordance with the legal requirements and in order to guarantee independence of action with the objective of eliminating corrupt or fraudulent practices.
4. Where there is a disagreement between the procurement and disposal organs of the procuring and disposing entity, the disagreement shall be resolved in accordance with the procedure provided for under the Act.

#### **Composition and tenure of contracts committee.**

1. The contracts committee shall consist of five members nominated by the chief administrative officer in the case of a district contracts committee or the town clerk in the case of a municipal contracts committee from among the public officers of the procuring and disposing entity and approved by the Secretary to the Treasury.
2. The contracts committee shall seek the services of the district legal advisor in the execution of its work.

Under Regulation 17, one of the roles of the contracts committee of a Local Government is to ensure that best practices in relation to procurement and disposal are strictly adhered to by procuring and disposal entities

### Functions of the procurement and disposal unit of a Local Government

1. The procurement and disposal unit shall in relation to the functions under the Local Governments Act—
  - a. manage all procurement or disposal activities of the procuring and disposing entity except adjudication and the award of contracts;
  - b. support the functioning of the contracts committee;
  - c. implement the decision of the contracts committee;
  - d. liaise directly with the Authority on matters within its jurisdiction;
  - e. plan the procurement and disposal activities of the procuring and disposing entity;
  - f. recommend procurement and disposal procedures; (g) check and prepare statements of requirements;
  - g. prepare bid documents;
  - h. prepare advertisements of bid opportunities;
  - i. issue bidding documents;
  - j. maintain a providers list;
  - k. prepare contract documents;
  - l. issue approved contract documents;
  - m. maintain and archive records of the procurement and disposal process;
  - n. prepare monthly reports for the contracts committee;
  - o. co-ordinate the procurement and disposal activities of all the departments of the Functions of the procurement and disposal unit.
  - p. prepare any other such reports as may be required from time to time.

### Role of user department

26. (1) Every user department shall—
  - a. prepare an annual and quarterly procurement and disposal work plan based on the approved budget, which shall be submitted to the procurement and disposal unit for implementation and may seek technical assistance, where necessary.
  - b. initiate procurement and disposal requirements;
  - c. recommend a statement of requirements to the Role of user departments.

## Procurement practices and methods

The regulations provide for methods of procurement for local governments and the choice of a procurement method must be in accordance with these Regulations and guidelines, based on the estimated value of the requirement or the circumstances pertaining to the requirement (Regulation 31 &32).

### ***Box 48: Procurement practices and methods***

32. A procuring and disposing entity shall use any of the following procurement practices and methods—

- a. pre-qualification;
- b. registration;
- c. open national bidding;
- d. open international bidding;
- e. selective national bidding;
- f. selective international bidding;
- g. direct procurement;
- h. micro-procurement; or
- i. community purchase.



## PART

# 3

## Gender Inclusion

*“The social and cultural construct of roles, responsibilities, attributes, opportunities, privileges, status, access to and control over resources and benefits between men and women, boys and girls in a given society.”*

## Understanding gender and gender inclusion

In Uganda, the legal instrument which provides a detailed definition of gender is the Equal Opportunities Commission Act, 2007. The Act describes gender as the social and cultural construct of roles, responsibilities, attributes, opportunities, privileges, status, access to and control over resources and benefits between men and women, boys and girls in a given society.

A technical application of the term, a detailed explanation of gender, is provided by Makerere University's School of Women and Gender Studies, as set out in Box 49.

### **Box 49: Definition of gender<sup>5</sup>**

“Gender refers to the socially constructed differences and distinctions between men and women. Gender differs from sex in that it is not biologically determined. Gender distinctions include the different attributes, statuses, roles, responsibilities, and potentialities as well as their access to and control over resources and benefits.

Often, gender is taken to mean women, with many programmes and interventions being planned for women's empowerment. While women are generally more vulnerable than males, different women and different men experience life differently, given their class, religion, marital status, educational attainment, income, work, race, origin to mention a few. Yet, there are those gender related issues which all females may suffer regardless of their social positioning such as gender-based violence.

Hence, when talking about gender, it is better and safer to emphasise the power relationships that shape individual men and women's experiences, focusing on the social stratifiers that produce their advantage and/or disadvantage.”

Gender inclusion is a concept that transcends equality. It is the notion that all services, opportunities and establishments are open to all people and that male and female stereotypes do not define societal roles and expectations of people.

## Laws providing for gender inclusion at local government

There are various laws which provide for gender inclusion at local government level. These include the following:

- The Constitution of the Republic of Uganda, 1995 (as amended)
  - i. The Local Governments Act, 1997 (as amended)
  - ii. The Land Act Cap 227 (as amended)
  - iii. The Equal Opportunities Commission Act, 2007
  - iv. The National Youth Council Act, 1993 (as amended)
  - v. The National Women's Council Act, 1993 (as amended)
  - vi. The National Council for Disability Act, 2003
  - vii. The National Persons with Disability Act, 2006 (as amended)

<sup>5</sup> Excerpt from the Gender Equality Toolkit of Women and Gender Studies, Makerere University

The National Agricultural Advisory Services Act, 2001

- viii. The National Youth Policy, 2019
- ix. The Uganda Gender Policy, 2007
- x. The Uganda National Land Policy, 2013
- xi. The National Equal Opportunities Policy, 2006

## The Constitution of the Republic of Uganda, 1995 (as amended)

The Constitution provides various clauses on gender inclusion. The equality and inclusion of different social groups and national geographical localities in the constitutional provisions for the protection of rights protection and access to opportunities is stated in the National Objectives and Directive Principles of State Policy, as set out in Box 50.

### ***Box 50: Excerpts relating to gender inclusion from the 1995 Constitution – National Objectives and Directive Principles of State Policy***

#### **VI. Gender balance and fair representation of marginalised groups.**

The State shall ensure gender balance and fair representation of marginalised groups on all constitutional and other bodies.

#### **VII. Protection of the aged.**

The State shall make reasonable provision for the welfare and maintenance of the aged.

#### **XII. Balanced and equitable development.**

- i. The State shall adopt an integrated and co-ordinated planning approach.
- ii. The State shall take necessary measures to bring about balanced development of the different areas of Uganda and between the rural and urban areas.
- iii. The State shall take special measures in favour of the development of the least developed areas.

#### **XIV. General social and economic objectives.**

The State shall endeavour to fulfil the fundamental rights of all Ugandans to social justice and economic development and shall, in particular, ensure that—

- a. all developmental efforts are directed at ensuring the maximum social and cultural wellbeing of the people; and
- b. all Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security and pension and retirement benefits.

**XV. Recognition of the role of women in society.**

The State shall recognise the significant role that women play in society.

**XVI. Recognition of the dignity of persons with disabilities.**

Society and the State shall recognise the right of persons with disabilities to respect and human dignity.

**XVIII. Educational objectives.**

- i. The State shall promote free and compulsory basic education.
- ii. The State shall take appropriate measures to afford every citizen equal opportunity to attain the highest educational standard possible.

**XXIV. Cultural objectives.**

Cultural and customary values which are consistent with fundamental rights and freedoms, human dignity, democracy and with the Constitution may be developed and incorporated in aspects of Ugandan life.

The State shall—

- a. promote and preserve those cultural values and practices which enhance the dignity and wellbeing of Ugandans;
- b. encourage the development, preservation and enrichment of all Ugandan languages;
- c. promote the development of a sign language for the deaf; and
- d. encourage the development of a national language or languages.

## The Bill of Rights

The Constitution entails what is commonly referred to as the Bill of Rights. This refers to provisions on inherent human rights and freedoms which are provided for in Chapter Four of the Constitution. They include the provisions for the rights and freedoms of all people, including traditionally marginalised groups such as women and persons living with disabilities (PWDs). The provisions of the Bill of Rights which apply to gender equity and inclusion are set out in Box 51.

### **Box 51: Provisions in the Bill of Rights**

#### **Article 20: Fundamental and other human rights and freedoms.**

Article 20 provides that fundamental rights and freedoms of the individual are inherent and not granted by the State. It stresses that the rights and freedoms of the individual and groups shall be respected, upheld and promoted by all organs and agencies of government and by all persons.

#### **Article 21: Equality and freedom from discrimination.**

**Article 21 of the Constitution provides as follows:**

1. All persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.
2. Without prejudice to clause (1) of this article, a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.
3. For the purposes of this article, “discriminate” means to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.
4. Nothing in this article shall prevent Parliament from enacting laws that are necessary for—
  - i. implementing policies and programmes aimed at redressing social, economic, educational or other imbalance in society;
  - ii. or making such provision as is required or authorised to be made under this Constitution; or
  - iii. providing for any matter acceptable and demonstrably justified in a free and democratic society.
5. Nothing shall be taken to be inconsistent with this article which is allowed to be done under any provision of this Constitution.

#### **Article 32: Affirmative action in favour of marginalised groups.**

Article of the Constitution provides as follows:

1. Notwithstanding anything in this Constitution, the State shall take affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against them.

2. Parliament shall make relevant laws, including laws for the establishment of an equal opportunities commission, for the purpose of giving full effect to clause (1) of this article.

### **Article 33: Rights of women**

Article 33 of the Constitution provides for the rights of women as follows:

1. Women shall be accorded full and equal dignity of the person with men.
2. The State shall provide the facilities and opportunities necessary to enhance the welfare of women to enable them to realise their full potential and advancement.
3. The State shall protect women and their rights, taking into account their unique status and natural maternal functions in society.
4. Women shall have the right to equal treatment with men and that right shall
5. include equal opportunities in political, economic and social activities.
6. Without prejudice to article 32 of this Constitution, women shall have the right to affirmative action for the purpose of redressing the imbalances created by history, tradition or custom.
7. Laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status, are prohibited by this Constitution.

### **Article 36: Protection of rights of minorities**

Article 36 of the Constitution provides for the protection of minorities as follows:

Minorities have a right to participate in decision-making processes, and their views and interests shall be taken into account in the making of national plans and programmes.

### **Article 50: Enforcement of rights and freedoms by courts**

Article 50 of the Constitution provides for the enforcement of rights and freedoms by the courts as follows:

1. Any person who claims that a fundamental or other right or freedom guaranteed under this Constitution has been infringed or threatened, is entitled to apply to a competent court for redress which may include compensation.
2. Any person or organisation may bring an action against the violation of another person's or group's human rights.
3. Any person aggrieved by any decision of the court may appeal to the appropriate court.
4. Parliament shall make laws for the enforcement of the rights and freedoms under this Chapter.

### **Key Message**

Uganda has experienced historical marginalisation of specific social groups, especially women, PWDs, ethnic minorities and youths. The Bill of Rights provides a corrective framework for the historical injustices by:

- a. Providing for the equality of all persons and freedom from discrimination for them;
- b. Providing for affirmative action in favour of marginalised groups;
- c. Providing for the rights of women;
- d. Protecting the rights of minorities and providing for their participation in decision-making; and
- e. Providing for the enforcement of the rights and freedoms by the courts.

In this context, the role of the State must be understood to be that of a guarantor and not a granter of human rights and freedoms. Article 20 of the Constitution specifically provides that the “fundamental rights and freedoms of the individual are inherent and not granted by the State.”

The constitutional provisions on fundamental human rights and freedoms constitute a foundation for gender inclusion in all aspects of social, economic and political life of Ugandans at all levels of government, including the local government level.

Article 180 of the Constitution provides for gender inclusion in local government councils, as set out in Box 51.

### **Box 52: Constitutional provisions for gender inclusion in district councils**

Article 180(2)(ii) provides for a women’s quota in the membership of a local government council as follows:

“one-third of the membership of each local government council shall be reserved for women”

Article 180(2)(iv) provides for affirmative action in favour of marginalised groups as follows:

“any law enacted by virtue of this article shall provide for affirmative action for all marginalised groups referred to in article 32 of this Constitution”

### **Key Message**

By providing for one-third of the membership of each local government council to be reserved for women, the Constitution ensures that women’s voices are brought to the decision-making spaces within local governments.

The Constitution further provides that any law enacted by virtue of Article 180 must provide for affirmative action for all marginalised groups, which is yet another provision for ensuring gender inclusion in local governments.

## The Local Governments Act, 1997 (as amended)

As the enabling law for the local government system in Uganda, the Local Governments Act provides for the operational framework of local governments.

The Act includes several provisions for gender inclusion, as discussed below:

Sections 10 and 23: Composition of local councils

Section 10 of the Local Governments Act defines the composition of local councils. It provides for the inclusion of women, youth and PWDs in the councils, as set out in Box 20.

### ***Box 53: Provisions for the inclusion of women, PWDs and youth in Local Government Councils***

#### **Section 10: District Councils shall consist of:-**

- a. the district chairperson, elected under Part X of this Act;
- b. one councillor directly elected to represent an electoral area of a district;
- c. two councillors, one of whom shall be a female youth, representing the youths in the district;
- d. two councillors with disabilities, one of whom shall be a female, representing persons with disabilities; and
- e. women councillors forming one-third of the council such that the councillors elected under paragraphs (b), (c) and (d) shall form two-thirds of the council.

#### **Section 23. Lower local government councils.**

1. A sub-county council shall consist of—
  - a. a chairperson, elected under Part X of this Act;
  - b. one councillor representing each parish or part of a parish in the sub-county;
  - c. two youth councillors representing the youth in the sub-county, one of whom shall be a female youth;
  - d. two councillors with disabilities, one of whom shall be a female, representing persons with disabilities in the sub-county; and
  - e. women councillors forming one-third of the council.
2. A city division council shall consist of—
  - a. a chairperson, elected under Part X of this Act;
  - b. one councillor representing each parish or part of a parish in the division;
  - c. two councillors with disabilities, one of whom shall be a female, representing persons with disabilities in the city division;
  - d. two youth councillors representing the youth in a city division, one of whom shall be a female youth; and
  - e. women councillors forming one-third of the council.

3. A municipal council shall consist of—
  - a. a chairperson, elected under Part X of this Act and carrying the title of mayor;
  - b. one councillor representing each parish or part of a parish in the municipality;
  - c. two councillors with disabilities representing persons with disabilities in the municipality;
  - d. two youth councillors representing the youth in the municipality, one of whom shall be a female youth; and
  - e. women councillors forming one-third of the council.
  
4. A municipal division council shall consist of—
  - a. a chairperson, elected under Part X of this Act;
  - b. one councillor directly elected to represent each parish or part of a parish in the municipal division;
  - c. two councillors with disabilities representing persons with disabilities in the municipal division;
  - d. two youth councillors representing the youth in the municipal division, one of whom shall be a female youth; and
  - e. women councillors forming one-third of the council.
  
5. A town council shall consist of—
  - a. a chairperson, elected under Part X of this Act;
  - b. one councillor directly elected to represent each ward or part of a ward in the town;
  - c. two councillors with disabilities representing persons with disabilities in the town;
  - d. two youth councillors representing the youth in the town, one of whom shall be a female youth; and
  - e. women councillors forming one-third of the council.

The Local Governments Act further specifies the composition of an executive committee of local governments in Section 25. Gender inclusion is provided for in the Local Government Executive Committee, as set out in Box 53.

**Box 54: Gender inclusion in Local Government Executive Committees**

1. A lower local government council shall have an executive committee nominated by the chairperson from among the members of the council and approved by simple majority of all the members of the council voting.
2. The executive committee shall consist of—
  - a. the chairperson;
  - b. the vice chairperson;
  - c. such number of secretaries, not exceeding five, as the council may determine.
3. At least one of the offices of secretaries referred to in subsection (a) (2)(c) shall be held by a female.
4. The chairperson shall assign one of the secretaries to be responsible for health and children welfare.

Section 47(2) of the Local Governments Act provides for parish and village administrative units and for gender inclusion within these units, as set out in Box 55.

**Box 55: Gender inclusion in parish and village administrative units**

2. There shall be an executive committee at each parish and village administrative unit consisting of the following—
  - a. a chairperson;
  - b. a vice chairperson who shall also be secretary for children welfare;
  - c. a general secretary;
  - d. a secretary for information, education and mobilisation;
  - e. a secretary for security;
  - f. a secretary for finance;
  - g. a secretary for production and environmental protection;
  - h. the chairperson of the youth council at the parish or village level, who shall be the secretary for youths;
  - i. the chairperson of the women councils at the parish or village level who shall be the secretary for women and also the public health coordinator; and
  - j. the chairperson of the organisation for persons with disabilities at the parish or village level who shall be secretary for persons with disabilities affairs.
3. At least one-third of the executive committee members at the parish or village level shall be women.

## The Land Act, 1998, Cap 227 (as amended)

Land is an important resource for economic and social development. Accordingly, how different social groups access land is an important component of gender inclusion.

The Land Act provides for the tenure, ownership and management of land in Uganda. It provides for the Uganda Land Commission as the agency responsible for land administration and District Land Boards, which performs this mandate at local government level. Gender inclusion in the land administration agencies ensures that the voices of women are represented in matters of land administration at national and local levels and governed in land administration matters as per the provisions below:

The principles of gender inclusion in the Land Act are set out in Box 56.

### **Box 56: Gender inclusion in the Land Act**

#### **Section 47. Membership of the Uganda Land Commission**

1. The commission shall consist of a chairperson and not less than four other members appointed by the President with the approval of Parliament.
2. A person shall not qualify for appointment as a member of the commission unless the person—
  - a. is of or above the age of twenty-one years;
  - b. is of sound mind;
  - c. is of high moral character and proven integrity;
  - d. has not been convicted of an offence involving moral turpitude; or
  - e. has not been declared bankrupt.
3. At least two of the members referred to in subsection (1) shall be persons with qualifications and experience in matters related to land.
4. At least one of the members referred to in subsection (1) shall be a woman.

#### **Section 57: Membership of a District Land Board**

**Section 56 of the Land Act provides for the establishment of District Land Boards for each district. At least one of the five members of a District Land Board must be a woman as provided below:**

1. Subject to a minimum membership of five, a board shall consist of the following persons—
  - a. a chairperson;
  - b. one member representing municipal councils;
  - c. one member representing urban councils;
  - d. one member from each county in the district.

2. No person shall qualify to be appointed as a member of a board if the person—
  - a. is less than eighteen years of age;
  - b. is of unsound mind;
  - c. is a member of Parliament;
  - d. has been convicted of an offence involving moral turpitude; or
  - e. has been declared bankrupt.
3. At least one-third of the members referred to in subsection (1) shall be women.
4. At least one of the members of a board shall be a person with qualifications and experience in matters relating to land.
5. A person holding office as a member of a local government council shall relinquish the office upon appointment as a member of a board.

#### **Section 64: Establishment of land committees**

Section 64 of the Land Act provides for the establishment of Land Committees at lower levels (parish and gazetted urban areas). This provides for a governing layer at lower levels which is close to the people as per the spirit of Uganda's local government system.

1. There shall be for each parish a land committee consisting of a chairperson and three other members appointed by the district council on the recommendation of the sub-county council.
2. There shall be for each gazetted urban area and each division in the case of a city, a land committee consisting of a chairperson and three other members appointed by the council on the recommendation of the urban council, and in the case of a city, on the recommendation of the city division council.
3. A person holding office as a member of a local government council shall relinquish the office upon appointment as a member of the land committee.
4. A member of the committee shall hold office for a period of three years and may be eligible for reappointment for a further one term.
5. The district council may terminate the appointment of a member of the committee for his or her inability to perform the functions of his or her office or for any good cause.
6. The committee shall assist the board in an advisory capacity on matters relating to land, including ascertaining rights in land, and shall perform any other function conferred on it by or under this Act or any other law.

#### **Section 65: Qualification for appointment as member of a committee**

In accordance with Section 65(2), at least one of the members of the land committee referred to in Section 64 must be a woman. This once again provides for gender inclusion in the Land Committees.

1. A person shall qualify for appointment as a member of the committee if—
  - a. he or she is thirty years of age or more;
  - b. he or she has not been convicted of an offence involving moral turpitude; and

- c. in the case of the chairperson, he or she is able to speak and write English.
2. At least one of the members referred to in section 64 shall be a woman.
3. At least one of the members referred to in section 64 shall be a person with knowledge and experience in matters relating to land.

### **Section 80: Sub-county Land Tribunals**

Section 80 of the Land Act provides for Sub-county Land Tribunals where, according to Section 80(2), at least one of the three members must be a woman. The Composition of the Sub-county Land Tribunal is outlined below:

1. There shall be for each sub-county a land tribunal.
2. The land tribunal shall consist of a chairperson and two other members; at least one of the members shall be a woman.
3. A person shall qualify for appointment as a member of the land tribunal if the person—
  - a. is thirty years of age and above;
  - b. has completed a minimum formal education of Ordinary Level or its equivalent;
  - c. has not been declared bankrupt; or
  - d. has not been convicted of an offence involving moral turpitude.
4. Subsection (3)(a) shall not apply to a person who holds a diploma or higher qualifications in land related matters from a recognised institution.

### **Key Message**

Affirmative action in favour of traditionally marginalised groups is one of the tools applied in Ugandan law to ensure that the voices of marginalised groups are included in decision-making. In terms of land administration, the provision for a women's quarter in the membership of the Land Commission and District Land Boards is aimed at addressing the aspect of gender inclusion with regard to the administration of land.

## The Equal Opportunities Commission Act, 2007

As per its preamble, the Equal Opportunities Commission Act was enacted to make provision in relation to the Equal Opportunities Commission pursuant to Articles 32 (3) and 32 (4) and other relevant provisions of the Constitution.

It provides for the composition and functions of the Commission; gives effect to the State's constitutional mandate to eliminate discrimination and inequalities against any individual or group of persons on the grounds of sex, age, race, colour, ethnic origin, tribe, birth, creed or religion, health status, social or economic standing, political opinion or disability, and to take affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history, tradition or custom for the purpose of redressing imbalances which exist against them; and provides for other related matters.

The Act describes gender as the social and cultural construct of roles, responsibilities, attributes, opportunities, privileges, status, access to and control over resources and benefits between men and women, boys and girls in society.

The Equal Opportunities Commission is established under Section 2 of the Act in accordance with Article 32(3) of the Constitution of Uganda. The Commission is established as a body corporate with perpetual succession. Selected provisions on gender inclusion are provided in Box 56.

### ***Box 57: Selected provisions of gender inclusion in the Equal Opportunities Commission Act***

#### **Section 5: Composition of the Equal Opportunities Commission**

The composition of the Equal Opportunities Commission is provided for in Section 5(1) as follows:

5. The Commission shall consist of five members who shall include a Chairperson, Vice-Chairperson, at least one person with a disability, a youth and two women.

#### **Section 14: Functions of the Equal Opportunities Commission**

1. The functions of the Equal opportunities are to monitor, evaluate and ensure that policies, laws, plans, programmes, activities, practices, traditions, cultures, usages and customs of:
  - a. organs of state at all levels;
  - b. statutory bodies and agencies;
  - c. public bodies and authorities;
  - d. private businesses and enterprises;
  - e. non-governmental organisations; and
  - f. social and cultural communities,

are compliant with equal opportunities and affirmative action in favour of groups marginalised on the basis of sex, race, colour, ethnic origin, tribe, creed, religion, social or economic standing, political opinion, disability, gender, age or any other reason created by history, tradition or custom.

2. Without prejudice to the generality of subsection (1) the Commission may
  - a. investigate or inquire into, on its own initiative or on a complaint made by any person or group of persons, any act, circumstance, conduct, omission, programme, activity or practice which seems to amount to or constitute discrimination, marginalisation or to otherwise undermine equal opportunities.
  - b. examine any law, proposed law, policy, culture, tradition, usage, custom or plan which is likely to have effect of nullifying or impairing equal opportunities to persons in employment or enjoyment of human rights.
  - c. develop, conduct and manage information and educational programmes to facilitate and promote public awareness, understanding and acceptance of equal opportunities and treatment in employment, occupation, education and all social services.
  - d. undertake research and organise, co-ordinate and promote workshops, seminars, conferences and public discussions on equal opportunities and treatment in employment, education, social services or social and cultural construct of roles and responsibilities in society;
  - e. consider such recommendations, suggestions and requests concerning the promotion of equal opportunities as it may receive from any source;
  - f. prepare and publish, guidelines for implementation of equal opportunities and the avoidance of acts, practices, usage, customs, tradition or cultures that undermine equal opportunities;
  - g. monitor the compliance, in Uganda, with the provisions of International and regional conventions, treaties and other instruments in which Uganda is a party, that relate to or are relevant to the functions and objects of the Commission;
  - h. perform such other functions that are incidental or conducive to the above functions.
3. The Commission may rectify, settle, or remedy any act, omission, circumstance, practice, tradition, culture, usage or custom that is found to constitute discrimination, marginalisation or which otherwise undermines equal opportunities through mediation, conciliation, negotiation, settlement or other dispute resolution mechanism.

### ***Key Message***

The Equal Opportunities Commission is the government agency charged with ensuring that policies, laws, plans, programmes, activities, practices, traditions, cultures, usages and customs in Uganda comply with the requirements of equal opportunity and non-discrimination. The Commission can hear complaints from any member of the public and provide for remedies. In conducting its enquiries, the Commission has the powers of court.

## The Persons with Disabilities Act, 2006

The purpose of the Persons with Disability Act is to provide for comprehensive legal protection for PWDs in accordance with Articles 32 and 35 of the Constitution and to make provision for the elimination of all forms of discrimination against PWDs with a view to ensuring equalisation of opportunities and for other related matters.

Section 2 of the Act defines a 'person with disability' as a person living with physical, intellectual, sensory or mental impairment which substantially limits one or more of the major life activities of that person.

Section 3 of the Act provides for objectives of the Persons with Disabilities Act.

### **Box 58: Objectives of the Persons with Disability Act**

- a. To promote dignity and equal opportunities to persons with disabilities;
- b. To develop and promote the participation of persons with disabilities in all aspects of life as equal citizens of Uganda;
- c. To encourage the people and all sectors of Government and community to recognise, respect and accept difference and disability as part of humanity and human diversity;
- d. To eliminate all forms of discrimination against persons with disabilities on grounds of their disabilities;
- e. To provide for all sectors of government and the community to promote and include disability issues in all economic, political and social development policies and programmes;
- f. To promote a positive attitude and image of persons with disabilities as capable and contributing members of society, sharing the same rights and freedoms as other members of society.

Various sections of the Persons with Disability Act provide for inclusion and access to opportunities and services for PWDs as set out in Box 58.

### **Box 58: Inclusion of persons with disabilities in access to opportunities and services**

#### **Section 5: Education.**

Government shall, promote the educational development of persons with disabilities through-

- a. encouragement of inclusive education;
- b. the formulation and design of educational policies and programmes that promote the special needs and requirements of persons with disabilities;
- c. the formulation of policies that give children with disabilities access to relevant education at all levels paying particular attention to the requirements of the girl child and children in rural areas;

**Section 6: Prohibition of discrimination from educational services.**

1. A person shall not discriminate a person with disability to deny him or her educational services on the ground of his or her disability.

**Section 7: Health.**

1. Persons with disabilities shall enjoy the same rights with other members of the public in all health institutions including general medical care.

**Section 12: Prohibition of discrimination in employment.**

1. A person shall not discriminate against a qualified person on ground of that person's disability in regard to any job application procedures, hiring, promotion, employee compensation, job training, and other terms, conditions, and privileges of employment.

**Section 25: Discrimination relating to goods, facilities and services.**

2. A person shall not, provide goods or services, or make facilities available with a view, to discriminate against another person on the grounds of that person's disability by-

**Section 26: Access to public facilities.**

1. Any person operating a service or public facility shall make the service or facility readily accessible to and usable by all persons including persons with disabilities.

**Section 32: Constitutional rights and freedoms.**

The fundamental rights and freedoms enshrined in Chapter Four of the Constitution shall be respected, upheld and promoted by all organs and agencies of government and by all person in respect to persons with disabilities.

**Section 33: Affirmative action in favour of persons with disabilities.**

Government shall take affirmative action in favour of persons with disabilities for the purpose of redressing imbalances which exist against them.

**Section 34: Cruel, inhuman or degrading treatment.**

1. A person or institution shall not subject a person with disability to cruel, inhuman or degrading treatment.
2. A person or institution shall not subject a person with disability to medical or scientific experimentation without the free and informed consent of the person concerned.

**Section 37: Participation in public life.**

1. Persons with disabilities shall have the right to fully participate in political and public life and to vote and be voted in any political office.
2. Persons with disabilities shall have the right to participate in public administration, civil society, political parties and other associations or organisations.
3. Persons with disabilities shall have the right to fully participate and take part in decision-making processes.
4. The Government shall guarantee that persons with disabilities can exercise their political rights...by-

**Section 41: Complaints, appeal and judicial proceedings**

1. Any person, who alleges that an act prohibited under the provisions of this Act has been committed, may lodge a complaint with the Council.

**Key Message**

Persons with disabilities are a hitherto marginalised social group that faces various constraints in access to public spaces and services. The Persons with Disability Act provides for non-discrimination against and inclusion of PWDs in opportunities and services.

## The National Council for Disability, 2003 as amended (2013)

The National Council for Disability Act provides for the establishment of a National Council for Disability along with its composition, functions and administration for the promotion of the rights of persons with disabilities set out in international conventions and legal instruments, the Constitution and other laws.

### **Box 59: Key provisions of the National Council for Disability Act**

#### **Section 3. Establishment of Council.**

Section three provides for the establishment of the Council as follows:

1. There is established a Council to be known as the National Council for disability.
2. The Council shall be a body corporate with perpetual succession, a common seal and may sue or be sued in its corporate name.

#### **Section 7: Composition of the Council.**

Section 7 of the Act outlines the composition of the Council wherein it provides for the inclusion of Persons with Disabilities, women, youths, parents of children with disabilities and the different regions of Uganda as stated below:

1. The Council shall be composed of the following members to be appointed by the Minister—
  - a. one representative of the following Ministries in charge of issues relating to disabilities as ex-officio members—
    - i. Ministry responsible for local governments;
    - ii. Ministry responsible for finance, planning and economic development;
    - iii. Ministry responsible for health;
    - iv. Ministry responsible for education and sports;
    - v. Ministry responsible for gender, labour and social development;
    - vi. Ministry responsible for public service;
    - vii. Ministry responsible for justice and constitutional affairs;
    - viii. Ministry responsible for works, housing and communication;
  - b. two persons with disabilities, male and female from each region nominated by the National Organisations of persons with disabilities and approved by the Minister;
  - c. one parent of a child with disabilities appointed by the Minister in consultation with the national organisations of persons with disabilities;

- one professional and experienced person in the field of disability, appointed by the Minister in consultation with national organisations of persons with disabilities;
- e. one representative of the youths with disabilities appointed by the Minister in consultation with the National Organisations of persons with disabilities;
- f. one representative of the Federation of Uganda Employers appointed by the Minister in consultation with the Federation;
- g. one representative of Non-Governmental Organisations working with persons with disabilities appointed by the Minister in consultation with the National Organisations of persons with disabilities;
- h. one member of Parliament representing persons with disabilities elected by the Members of Parliament representing persons with disabilities;
- i. For the purpose of paragraph (b) regions are the traditional regions, Eastern, Western, Northern and Southern or Central regions.
- j. The Council may co-opt not more than three persons at a time who are knowledgeable in disability issues and committed to the disability movement as and when it deems necessary.
- k. At least one third of the members of the Council shall be female.

#### **Section 18: District Council for Disability.**

Section 18 of the Act provides for a District Council for Disability wherein gender balance is provided for as stated below:

1. The Chairperson of a District or City Local Government Council shall appoint members of the District or City Council for Disability to serve for a period of three years.
2. The District or City Council for Disability shall consist of—
  - a. the District Rehabilitation Officer as an ex-officio member;
  - b. the District Finance Officer as an ex-official member;
  - c. the District Education Officer as an ex-officio member;
  - d. the Director of Health Services as an ex-officio member;
  - e. the two district councillors for disability as ex-officio members;
  - f. two other persons with disabilities appointed in consultation with the organisation of persons with disabilities in the district or city and one
  - g. of whom shall be a woman;
  - h. one representative of the parents of children with disabilities appointed in consultation with the organisations of persons with disabilities in the district or city;

- i. one representative of Non-Governmental Organisations working with persons with disabilities in the district or city;
  - j. the Chairperson of the District Committee responsible for disability affairs or Social Services at the Local Council as an ex-officio member;
  - k. one representative of youth with disabilities, on the District or city youth council;
  - l. one person of proven integrity with knowledge in disability who is involved in the promotion and advancement of the disability matters appointed in consultation with organisations of persons with disabilities in the district or city.
3. The District or City Council for Disability shall elect the Chairperson and the Vice Chairperson from Members of the Council who are persons with disabilities taking into consideration gender balance.

### **Section 21: Sub-County Council for Disability.**

Section 21 of the Act provides for a Sub-County for Disability as follows:

1. The Chairperson of a Municipal, City Division, Municipal Division, Town or Sub-county Local Council shall appoint members to the Municipal, City Division, Municipal Division, Town or Sub-County Council for Disability as the case may be, who shall serve for a period of three years.
2. The Municipal, City Division, Municipal Division, Town or Sub-County Council for Disability shall consist of—
  - a. the Community Development Officer responsible for disability, who shall be the Secretary;
  - b. two Councillors for disability at that level, who shall be ex-officio;
  - c. one person of proven integrity and commitment to the disability matters;
  - d. one parent of a child with disability;
  - e. Inspector of Schools as an ex-officio member;
  - f. an officer in charge of health services at that level as an ex-officio member;
  - g. a representative of Non-Governmental Organisations if any, appointed in consultation with organisations of persons with disabilities at that level;
  - h. two other persons with disabilities appointed in consultation with organisations of persons with disabilities at that level and one of whom shall be a woman.
3. The Municipal, City Division, Municipal Division, Town or Sub-County Council shall elect their Chairperson and Vice-Chairperson from members who are persons with disabilities taking into consideration gender balance.

*Section 31(a): The Electoral Structure for Persons with Disabilities.*

1. The five (5) delegates at each level are to ensure representation in terms of categories of disabilities and gender, where applicable.
2. All willing persons with disabilities in each village assemble to elect five (5) executive committee members.
3. The chairperson of the persons with disabilities executive committee shall become secretary for disability affairs at village level.
4. The five (5) persons with disabilities executive committee members from each village shall assemble at parish or ward and elect five (5) executive committee members.
5. The chairperson of the persons with disabilities executive committee shall become secretary for disability affairs at parish level.
6. The district or city and sub-county, town or city division executive committee members shall elect two (2) Councillors (male and female) to the district council.
7. All parish or ward persons with disabilities executive committee members shall assemble at the sub-county or division to elect five (5) persons with disabilities executive committee members at that level and elect two (2) Councillors (male and female) to the sub-county or division council.
8. All sub-county or town or city division persons with disabilities executive committee members shall assemble at the district to elect five (5) district persons with disabilities executive committee members.
9. The five (5) persons with disability executive committee members from each district shall form the national electoral college to elect the representatives of persons with disabilities to Parliament.

**Key Message**

The National Council for Disability is a public entity established to promote the rights of PWDs. This includes promoting the inclusion of PWDs in opportunities and public services.

## National Youth Council Act, Cap 319 (as amended)

The National Youth Council Act provides for the establishment of a National Youth Council along with its composition, objectives, functions, administration and finances.

Youth constitute a considerable percentage of Uganda's population, but have faced various forms of exclusion in the quest for having their voices heard and counted, and their rights respected. The National Youth Council Act establishes the National Youth Council (NYC) to unite the youth, engage them in beneficial activities and protect them against manipulation.

**Section 1(g) of the Act defines 'youth' as a person between the ages of 18 and 30 years.**

Section 2 provides for the establishment of the National Youth Council.

Section 3 provides for the following objectives of the National Youth Council:

1. The objects of the council are—
  - a. to organise the youth of Uganda in a unified body;
  - b. to engage the youth in activities that are of benefit to them and the nation; and
  - c. to protect the youth against any kind of manipulation.

### ***Box 60: Selected provisions of the National Youth Council Act***

#### **Section 5: Composition of the Council.**

1. The Council shall consist of—
  - a. the National Youth Executive Committee;
  - b. the Chairperson of every District Youth Council;
  - c. the Secretary for Female Youths at the district level;
  - d. the Secretary for Finance at the district level;
  - e. eight representatives of Non-Governmental Organisations involved in youth activities nominated on a regional basis by the National Executive Committee in consultation with the Non-Governmental Organisations Board;
  - f. a representative of youth persons with disabilities;
  - g. four students' representatives elected by the Uganda National Students' Association, two of whom shall be female and one from a secondary school;
  - h. the executive Secretary of the National Council;
  - i. Members of Parliament, representing the youths.

2. The members of the Council in paragraphs (e), (h) and (i) of subsection (1) shall be ex-officio members who shall participate in the deliberations of the Council without a deciding vote.

**Section 6: Composition and hierarchy of youth councils.**

1. A village youth council shall consist of youths who reside in the village and who are willing to be members of the village youth council.
2. (1a) Without prejudice to subsection (1), a person who is not a citizen of Uganda shall not be a member of a youth council.
3. (1b) The decisions of a village youth council shall be binding on all youths in a village.
4. A parish or ward youth council shall consist of all the members of the village youth committees in the parish or ward.
5. A sub-county, division or town youth council shall consist of all the members of the parish youth committees in the sub-county, division or town.
6. A county youth council shall consist of all the members of the sub-county, division or town youth committees in the county.
7. A district youth council shall consist of – (a) the chairperson, vice chairperson, secretary, publicity secretary and finance secretary of each county youth committee in the district; and (b) one male representative and one female representative of each sub-county youth council in the district elected by the sub-county youth council.

**Section 8: Establishment and composition of youth committees.**

1. There is established in respect of each youth council a youth committee, which shall consist of the following—
  - a. a chairperson;
  - b. a vice chairperson;
  - c. a general secretary;
  - d. a publicity secretary;
  - e. a secretary for women youth who shall be a female;
  - f. a secretary for student affairs who shall be a student;
  - g. a secretary for labour affairs;
  - h. a secretary for sports and culture; and
  - i. a secretary for finance.

2. The members of a youth committee shall be elected by the members of a youth council from among their number.
3. A Sub-county, Division, Municipal or Town Youths Executive Committee shall consist of—
  - a. the Sub-county, Division, Municipal or Town Youths Executive Committee;
  - b. all members of the Parish Youths Committees in the Sub-county, Division, Municipality or Town;
  - c. two students elected by the Sub-county, Division, Municipality or Town Executive Committee in consultation with the Uganda National Students' Association in the District, one of whom shall be a female;
  - d. one youth with disability nominated by the organisations of persons with disabilities in the Sub-county, Division, Municipality or Town;
  - e. the two youths Councillors on the Sub-county, Division, Municipality or Town, local government council as an ex-officio member;
  - f. the Sub-county, Division, Municipality or Town community officer as an ex-officio member;
  - g. the Executive Secretary at the Sub-county, Division, Municipality or Town level as ex-officio.
5. A District Youth Council shall consist of—
  - a. the District Youth Committee;
  - b. the Chairperson of every Sub-county, Division, Municipality or Town Youth Council;
  - c. the Secretary for Women Affairs at the Sub-county, Division, Municipality or Town level;
  - d. the Secretary responsible for finance at the Sub-county, Division, Municipality or Town level;
  - e. one representative of Non-Governmental Organisations involved in youth activities in the District to be nominated by the District Youth Council Committee;
  - f. one youth with disability nominated by organisations of persons with disability in the District;
  - g. the District Officer in charge of Youth Affairs;
  - h. two student representatives nominated by the Uganda National Students' Association in the District one of whom shall be female;

- i. the two Youths Councillors on the District local government council;
  - j. the Executive Secretary of the District Secretariat.
6. The members of the Council in paragraphs (e), (g), (i), (j) shall be ex-officio members who shall participate in the deliberations of the Council without a deciding vote.
  7. A District Youth Council shall be a body corporate and may sue or be sued in its corporate name and shall carry out any other activities carried out by a body corporate.

**Section 9: National youth executive committee.**

1. There shall be a national youth executive committee which shall be responsible for managing the affairs of the council.
2. The national youth executive committee shall be elected by the members of the council from among their number and shall consist of—
  - a. a chairperson;
  - b. a vice chairperson;
  - c. a general secretary;
  - d. a publicity secretary;
  - e. a secretary for women youth who shall be a female;
  - f. a secretary for student affairs;
  - g. a secretary for labour affairs;
  - h. a secretary for sports and culture;
  - i. a secretary for external relations;
  - j. a secretary for finance; and
  - k. a secretary for legal affairs.

**Section 15: Election of representatives of the youth in Parliament.**

1. The conference shall, at its first meeting, elect five youth representatives, at least two of whom shall be female, from the members of the council to represent the youth in Parliament.
2. The qualifications, tenure of office and other matters relating to the membership of a member of Parliament elected under subsection (1) shall be governed by the provisions of the Constitution and any other written law in force relating to them.
3. In electing the five youth representatives under subsection (1), the conference shall ensure that one representative is elected from each of the following regions: Northern, Western, Eastern, Central and Buganda.

**Key Message**

The NYC is a statutory agency for uniting and mobilising youth to engage in beneficial activities while protecting them from manipulation. The NYC Act provides for the election of youth leaders at various levels wherein inclusion of youth across gender and geographical locations is provided for.

## The National Youth Policy, 2001

The purpose of the Uganda National Youth Policy is to provide a guiding framework for different stakeholders in the provision of quality services to youth to enable them to enhance their competencies for improved participation in national development.

This National Youth Policy defines youth as all young persons, female and male, aged 12 to 30 years. The definition does not look at youth as a homogeneous group with clearcut age brackets but rather as a process of change or a period of time where an individual's potential, vigour, adventurism, experimentation with increased risks and vulnerabilities, show themselves in a socially meaningful pattern.

### Principles underlying the policy include:

- Respect for cultural, religious and ethical values. The policy respects the various cultural, religious and ethical values and cultural background of the people and will remain in conformity with universally recognised human rights without distinction of any kind such as that based on gender, origin, age, language, religion, political affiliation or social status.
- Equity and accessibility. The policy seeks to promote the principle of equity in opportunities and in the distribution of programmes, services and resources. It serves to promote equal access to socio-economic and employment opportunities commensurate with ability, potential and the needs of youth.
- Gender inclusiveness. The policy underscores the need to address disadvantaged and marginalised youth. It seeks to promote the principle of advancing gender equality, including the elimination of gender discrimination and violence.

### The objectives of the policy include the following:

- i. To initiate, strengthen and streamline all programmes and services targeting the youth;
- ii. To promote social and economic empowerment of the youth.
- iii. To build capacity and provide relevant training and information to the stakeholders;
- iv. To promote growth in the development of the youth through actions that protect
- v. To empower and prepare the youth for adulthood;
- vi. To provide psycho-social support and other services to youth in conflict situations and difficult circumstances, and to the disadvantaged groups;
- vii. To increase youth involvement in decision-making, leadership, community-based and other development programmes; and
- viii. To mobilise resources for youth programmes and projects at all levels.

## The strategic priority areas in the policy include the following:

- a. Employment and enterprise development: Advocate the formulation and implementation of an appropriate National Employment Policy that addresses and responds to the concerns of the youth such as discrimination on the basis of age, gender and experience;
- b. Youth involvement, participation and leadership: Advocate increased, effective youth representation and participation in key positions of decision-making, leadership and management at all levels of Government and in civil society;
- c. Advocate the review and harmonisation of the National Youth Council Statute, 1993, the Local Governments Act, 1997 and the Decentralisation Policy to support the Youth Council structures and other youth programmes;
- d. Strengthen and promote youth networks at all levels and ensure their integration with internal networks; and promote and support youth institutions for peace and conflict resolution;
- e. Advocate the realisation of the rights of the youth with disabilities and ensure their participation in all youth programmes.

## The National Women's Council Act, 1993 (as amended)

The National Women's Council Act provides for the establishment of a National Women's Council and its composition, functions, objects and powers.

Women have historically faced various forms of exclusion and marginalisation, and this has also occurred in Uganda. The National Women's Council Act establishes the National Women's Council (NWC) to unify the women of Uganda and engage them in beneficial activities.

Section 1 (e) defines 'women' as all females aged 18 years and above.

Section 3 provides for the following objectives and functions of the council.

1. The objects of the council are—
  - a. to organise the women of Uganda in a unified body; and
  - b. to engage the women in activities that are of benefit to them and the nation.

### ***Box 61: Selected provisions of the National Women's Council Act***

#### **Section 5(a): Composition of National Women's Council.**

1. The Council shall consist of—
  - a. the Chairperson of each District Women's Council;
  - b. a representative of women with disabilities to be elected from among themselves through their structures;
  - c. three women representatives of non-governmental organisations involved in women's affairs or business to be determined by the National Women's Council;
  - d. a representative of the Ministry responsible for gender and women advancement;
  - e. the secretary for female youth on the National Youth Executive Committee;
  - f. a representative of women Parliamentarians elected from among the women members of Parliament; and
  - g. the Executive Secretary of the National Women's Council.
2. The members of the Council in paragraphs (c), (d), (e), (f), and (g) of subsection (1) shall be ex-officio members who shall just participate in the deliberations of the Council without a deciding vote.

**Section 6: Composition and hierarchy of women's councils.**

1. A Village Women's Council shall consist of women who reside in the village and are willing to be members of the village council.
  - a. Without prejudice to subsection (1), woman who is not a citizen of Uganda shall not be a member of a Village Women's Council.
  - b. The decisions of a Village Women's Council shall be binding on all the women in a village.
  - c. A parish or ward women's council shall consist of all the members of the village women's committees in the parish or ward.
  - d. A County Women's Council shall consist of all members of the sub-county, division or town women's committees in the county.
  - e. A District Women's Council shall consist of all members of the county women's committees in the district and women's representatives in Parliament.
2. A District Women's Council shall be a body corporate and may sue or be sued in its corporate name and shall carry out any other activities carried out by a body corporate.

**Section 7: Establishment and composition of women's committees.**

1. There is established in respect of each women's council, a women's committee, which shall consist of the following—
  - a. a chairperson;
  - b. a vice chairperson;
  - c. a secretary;
  - d. a publicity secretary;
  - e. a secretary for finance;
  - f. Women members of Parliament in the case of district women's committee.
2. The members of a women's committee shall be elected by the members of a women's council from among their number.
3. A sub-county or division women's council shall consist of—
  - a. all the members of the Parish or Ward Women's Executive Committees;
  - b. a representative of women with disabilities elected from among the disabled women in the sub-county or division through their structures;
  - c. Secretary for female youth on the sub-county or division Youth Executive Committee;
  - d. two women representatives of non-governmental organisations or community-based organisations involved in women's affairs or business, registered and recognised by the sub-county or division to be determined by the sub-county or Division Women's Council;
  - e. the officer responsible for gender and women advancement in the sub-county or division; and
  - f. the sub-county or division women representative in the district local council;
  - g. Secretary for gender in the sub-county or division local council.

4. (3A) The members of the Council in paragraphs (c), (d), (e), (f) and (g) shall be ex-officio members who shall just participate in the deliberations of the Council without a deciding vote.
5. A District Women’s Council shall consist of—
  - a. the Chairpersons of the Sub-County, Division or Town Women’s Councils;
  - b. a representative of women with disabilities elected from among disabled women in the district through their structures;
  - c. Secretary for female youth on the District Youth Executive Committee;
  - d. two women representatives of non-governmental or community-based organisations involved in women’s affairs or business, which are registered and recognised by the district, to be determined by the District Women’s Council;
  - e. the officer responsible for gender and women advancement at the district;
  - f. the District Woman Representative in Parliament;
    - a. the secretary in charge of gender in the District Local Council; and
    - g. the head of the Secretariat of the District Women’s Council.
6. The members of the Council in paragraphs (c), (d), (e), (f), (g), and (h) of subsection (5) shall be ex-officio members who shall just participate in the deliberations of the Council without a deciding vote.

**Section 8: National Women’s Executive Committee.**

1. There shall be a National Women’s Executive Committee which shall be responsible for managing the affairs of the council.
2. The National Women’s Executive Committee shall be elected by the members of the council from among their number and shall consist of—
  - a. a chairperson;
  - b. a vice chairperson;
  - c. a secretary, except at the district level;
  - d. a publicity secretary;
  - e. a finance secretary;
  - f. in the case of the District and sub-county or Division Women’s Council Committee—
    - i. the District Women Representative in Parliament at the District Council;
    - ii. the sub-county or division women representative in the district local council at the Sub-county Council;
    - iii. the officer responsible for gender and women advancement at the district or sub-county as the case may be;

- iv. the representative of women with disabilities in the council elected under section 7;
  - v. Secretary for female youth on the District and sub-county or division Youth Executive Committee as the case may be;
  - vi. the two of the women representatives of the nongovernmental organisations elected under section 7;
  - vii. the Secretary in charge of gender in the District local council and sub-county or division local council;
  - viii. the Executive Secretary of the District Women Council.
3. The members of a Women's Committee referred to—
    - a. in paragraphs (a), (b), (c), (d) and (e) of subsection (1) of this section, shall be elected by the members of the Women's Council from among their number;
    - b. in paragraph (f) are the ex-officio members in the Council and shall just participate in the deliberations of the Committee without a deciding vote.
  4. The Executive Secretary of the District Women's Council shall be the Secretary to the District Executive Committee.

## The Uganda Gender Policy, 2007

The purpose of the Uganda Gender Policy is to establish a clear framework for the identification, implementation and co-ordination of interventions designed to achieve gender equality and women's empowerment in Uganda.

The policy is a guide to all stakeholders in planning, resource allocation, implementation and monitoring and in the evaluation of programmes with a gender perspective.

The policy defines gender as the social and cultural construct of roles, responsibilities, attributes, opportunities, privileges, status, access to and control over resources and benefits between women and men, boys and girls in each society.

### Guiding principles for the implementation of the Uganda Gender Policy

#### *Gender equality.*

Gender equality is an integral part of national development processes and reinforces the overall development objectives in the country. This policy emphasises Government's commitment to the elimination of gender inequalities and to the empowerment of women in the development process.

#### *Gender cuts across all sectors and levels.*

The attainment of the gender equality goal depends on the extent to which public and private sector institutions and agencies engage both women and men as providers and/or producers and beneficiaries of services and investments. All actors (state and non-state) are mandated to take appropriate action to address gender inequalities within their areas of mandate. Women and men are required to play an active role in shaping development directions and choices in all sectors and at all levels.

#### *Affirmative action.*

Bridging gender gaps in the various development sectors requires that preferential attention be paid to the disadvantaged. Affirmative action as enshrined in the Constitution is pursued to redress historical and present forms of discrimination against women and girls in the political, economic and social spheres.

#### *Household and family relations.*

Intra-household power relations determine the appropriation, ownership and control of livelihood assets among women and men, girls and boys.

#### *Promotion of GAD and WID approaches.*

Advancement of gender equality requires the promotion of two approaches: The *Gender and Development (GAD) approach*, which is based on the understanding of gender roles and social relations between women and men, with emphasis on the disadvantaged; and the *Women in Development (WID) approach*, which focuses specifically on improving the conditions of women. This calls for all data and information that inform planning and decision-making at all levels to be disaggregated by sex, gender, age and other socio-economic characteristics, such as disability.

Policy priority action areas or interventions are arranged into four thematic areas, namely livelihoods, rights, governance and macro-economic management. The responsibility for undertaking these interventions lies with central government Ministries, Departments and Agencies (MDAs), local governments, civil society organisations (CSOs) and the private sector.

### *Gender and livelihoods.*

- Livelihoods refer to the means of earning a living. These include sources of revenue, employment, occupation or trade. Gender has a strong influence on improved livelihoods.

### *Gender and governance.*

- Good governance entails respect for the rule of law, democratisation, participation in decision-making, transparency and accountability, and the protection of human rights. Gender equity is critical to good governance as it ensures the effective participation of women and men in the democratisation process, leadership, decision-making and law enforcement.

Implementing the Uganda Gender Policy is multi-sectoral. It is premised on the acknowledgement that the pursuit of gender equality and women's empowerment is a responsibility for all sectors in the development arena. All actors in the public and private sectors have a role to play in the implementation of this policy. Institutions are expected to identify entry points and opportunities for networking and collaboration to ensure synergy and maximum impact in addressing gender inequality.

The Ministry of Gender, Labour and Social Development (MGLSD) has the overall responsibility for spearheading and co-ordinating gender-responsive development, and in particular ensuring improvement in the status of women. In performing this role, the Ministry will work within the systems and mechanisms of public policy management.

## **The role of the Ministry of Local Government is to:**

- ensure that the local government development plans, programmes and budgets benefit women, men, boys and girls;
- monitor gender mainstreaming in local governments to ensure that services benefit women, men, boys, girls, PWDs and people living with HIV/AIDS (PLWAs);
- collaborate with MGLSD on matters of gender mainstreaming; and
- ensure disaggregation of data and information on local governments by sex and gender, where applicable.

## **The role of the Higher and Lower Local Governments and administrative units is to:**

- translate the Uganda Gender Policy into local government- and administrative unit-specific strategies and activities;
- build the capacity of staff and leadership in gender analysis, planning and budgeting;
- monitor and evaluate local government and other programmes for their impact on gender equality;

- commit adequate resources to the implementation of gender-related activities;
- disaggregate data and information by sex and gender, where applicable;
- collaborate with gender and women's empowerment organisations, e.g. Women Councils, CBOs and NGOs, on matters of gender mainstreaming and women's empowerment;
- enact gender-specific laws and ensure that by-laws enacted redress gender-based discrimination; and
- institute and implement affirmative action measures.

## The role of the Equal Opportunities Commission:

- To promote affirmative action and non-discrimination in the treatment and enjoyment of human rights irrespective of gender and age;
- To promote public awareness and acceptance of the equal opportunities and gender equality and treatment in employment and occupation;
- To publish and disseminate guidelines for the implementation of equal opportunities and gender equality;
- To guide the communities and other organisations regarding awareness of acts, practices, usage, customs, traditions or cultures that undermine equal opportunities, gender equality, treatment in employment, education, social and cultural construction of roles and responsibilities in society; and
- To examine any law, policy, culture, tradition, usage, custom or plan which is likely to impair equal opportunities and gender equality for persons in employment or the enjoyment of human rights.

## The Uganda National Land Policy of Uganda, 2013

The goal of this National Land Policy is to ensure efficient, equitable and optimal utilisation and management of Uganda's land resources for poverty reduction, wealth creation and overall socio-economic development.

The objectives of the policy include redressing historical injustices to protect the land rights of groups and communities marginalised by history or on the basis of gender, religion, ethnicity and other forms of vulnerability to achieve balanced growth and social equity.

The guiding principles of the National Land Policy include equitable access to land for all citizens of Uganda to hold, own, enjoy, use and develop land 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; transparency and accountability in democratic land governance.

# Conclusion

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This handbook has summarised the legal framework for accountability, public resource management and gender inclusion at the local government level in Uganda. In doing so, it has highlighted specific provisions of individual laws and policies. Readers are encouraged to refer to specific legal documents whenever they require details beyond what is summarised in this handbook.

The outlines of the various laws and policies show that Uganda has an elaborate framework for public sector accountability, public resource management and gender inclusion. This has been achieved over time since the promulgation of the 1995 Constitution and the subsequent enactment of various laws and policies as well as regular reviews and amendments to respond to changing social dynamics and challenges. It is expected that this piece of work will constitute a reference tool for civil society and other actors seeking to promote positive change in Uganda's local governance by encouraging them to align their actions to an enforceable legal framework.

Readers of this handbook will appreciate that laws change when there is an amendment. This handbook has presented the legal provisions as at the time of publication. Based on amendments that may be made to specific referenced laws, this handbook, too, may have to be updated.

## Konrad-Adenauer-Stiftung

Konrad-Adenauer-Stiftung (KAS) is a German political foundation working worldwide in over 120 countries to promote democracy, good governance, human rights, accountability and the rule of law.

KAS, with financial support from the European Union under the DINU and the Office of the Prime Minister, is implementing a 30-month project entitled “Strengthening Performance and Accountability through Community Engagement (SPACE)” in 6 districts of Northern Uganda: Gulu (in Acholi sub-region), Lira (in Lango sub-region), Amuria (in Teso sub-region), Arua (in West Nile sub-region), Moroto and Napak (both in Karamoja sub-region).

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