



# Legal Instruments related to Culture and Cultural Institutions in Uganda

Compiled by



The Cross-Cultural  
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## PREFACE

The Cross-Cultural Foundation of Uganda (CCFU) has in the last few years examined the relevance of culture in governance and contemporary development. While traditional governance systems have, to a large extent, been replaced by ‘modern’ structures and systems at national level, they are still considered relevant at local levels in many parts of the country. A few attempts have been made to find points of convergence and to utilise knowledge from either system, but more could be done to ensure that the enabling aspects of the ‘modern’ legal instruments and traditional law are known and utilised.

In the course of its work with representatives from cultural institutions, the Foundation has also found that while the Constitution, policies and other laws provide a framework specifically outlining the roles, responsibilities and privileges of such institutions, these are not widely known or uniformly interpreted. This gap has often been highlighted and has at times resulted in unnecessary conflict.

To fully benefit from Uganda’s legislative framework with regard to cultural institutions, the relevant laws and policies need to be easily accessible to the direct beneficiaries. Aspects that are considered inadequate because of changing needs can only be tested and verified against the existing legal frameworks, with which cultural leaders and communities need to be conversant.

The Cross-Cultural Foundation of Uganda has therefore produced this compendium of legal instruments related to culture and cultural institutions as a resource to support actions and decisions taken by the leadership of cultural institutions.

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## **CONTENTS**

<b>1.0</b>	<b>SUMMARY OF INTERNATIONAL LEGAL INSTRUMENTS .....</b>	<b>5</b>
1.1	The Universal Declaration on Human Rights (UDHR), 1948 .....	5
1.2	International Covenant on Economic, Social and Cultural Rights, 1966 .....	5
1.3	The 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage.....	6
1.4	The 2003 UNESCO Convention for Safeguarding the Intangible Cultural Heritage (ICH) .....	6
1.5	The 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural expressions. ....	6
<b>2.0</b>	<b>SUMMARY OF NATIONAL LEGAL INSTRUMENTS .....</b>	<b>7</b>
2.1	The 1995 Constitution of Uganda .....	7
2.2	The National Cultural Policy, 2006 .....	8
2.3	The National Land Policy, 2013 .....	8
2.4	<b>ACTS OF PARLIAMENT .....</b>	<b>10</b>
2.4.1	The Witchcraft Act, 1957 .....	10
2.4.2	The Land Acquisition Act, 1965.....	10
2.4.3	The Historical Monuments Act, 1967 .....	10
2.4.4	The Traditional Rulers (Restitution of Assets and Properties) Act, 1993 .....	10
2.4.5	The Local Government Act, 1997; amended 2002.....	11
2.4.6	The National Environment Management Act, 1998.....	11
2.4.7	The Land Act, 1998.....	11
2.4.8	The Mining Act, 2003 .....	11
2.4.9	The Petroleum (Exploration, Development and Production) Act, 2013 .....	12
2.4.10	The Equal Opportunities Commission Act, 2007.....	12
<b>3.0</b>	<b>SELECTED LEGAL INSTRUMENTS RELATED TO CULTURE AND CULTURAL INSTITUTIONS IN UGANDA – IN FULL .....</b>	<b>14</b>
3.1.	<b>THE UGANDA NATIONAL CULTURE POLICY (2006) .....</b>	<b>14</b>
3.2	<b>THE INSTITUTION OF TRADITIONAL OR CULTURAL LEADERS ACT, 2011.....</b>	<b>30</b>
3.3	<b>THE TRADITIONAL RULERS (RESTITUTION OF ASSETS AND PROPERTIES) ACT, 1993, CAP 247 .....</b>	<b>36</b>
3.4.	<b>THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES, 2007.....</b>	<b>38</b>

The legal framework on culture and heritage in Uganda consists of national and international legal instruments. These include international conventions to which Uganda is a state party, the 1995 Constitution of Uganda (provisions for culture and heritage), national policies and Acts of Parliament. Below is a brief outline of various instruments that are of relevance to the culture sector.

## **1.0 SUMMARY OF INTERNATIONAL LEGAL INSTRUMENTS**

### **1.1 The Universal Declaration on Human Rights (UDHR), 1948**

The UDHR was the first internationally recognised legal instrument to provide for the protection and promotion of cultural heritage through cultural rights. The Declaration came into existence partly as a result of the desire to protect the cultural rights of people from the effects of wars. Uganda has adopted the UDHR and is member state of the United Nations (UN) since 25-10-1962. Article 27 (1) and (2) state that:

- (1) “Everyone has the right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits”
- (2) “Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author”

The following should be noted about the Declaration:

- 1) Other categories of human rights in the Declaration have rather overshadowed cultural rights for a long time;
- 2) The Declaration provides guidelines for international conventions relevant to the protection and promotion of cultural rights, such as the 2005 UNESCO Convention on the Promotion and Protection of the Diversity of Cultural Expressions.

### **1.2 International Covenant on Economic, Social and Cultural Rights, 1966**

The Government of Uganda ratified this Covenant in 1987. The Covenant emphasises that all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 15 of the Covenant urges the States Parties to the Covenant to recognise the right of everyone:

To take part in cultural life:

- 1) To enjoy the benefits of scientific progress and its applications;
- 2) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

The Covenant also urges State Parties to:

- 1) Undertake to respect the freedom indispensable for scientific research and creative activity.
- 2) Recognise the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

### **1.3 The 1972 UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage.**

The Government of Uganda ratified this Convention in 1987. The Convention encourages State Parties to conserve and protect their heritage. It provides for the protection of both natural and cultural aspects of heritage. It also laid the foundation for other international and national legal instruments related to culture.

However, the framers of the Convention then did not consider new categories of heritage/heritage sites for instance, the mixed sites and the intangible cultural heritage. It was only at a later stage that UNESCO State Parties realised that heritage is dynamic; hence new heritage categories and conventions are continually introduced, to provide adequate protection depending on the prevailing situation.

### **1.4 The 2003 UNESCO Convention for Safeguarding the Intangible Cultural Heritage (ICH)**

The Government of Uganda ratified this Convention in 2009. State Parties are required to identify, define and devise appropriate means of preserving Intangible Cultural Heritage (ICH). The Convention offers an opportunity to Uganda to derive benefits from sharing international best practices, and ensuring its heritage is protected and recognised in global development.

The Convention provides possibilities to “decolonise” Uganda’s heritage, which has been for many years dominated by museums and monuments. A further benefit of the Convention is that ICH contributes to social cohesion and nation-building. The Convention is explicit that communities, groups, and non-governmental organisations should be involved in its implementation.

### **1.5 The 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural expressions.**

This Convention has not yet been ratified by the Government of Uganda. It recognises the distinctive nature of cultural goods and services and affirms in international law the right of countries to apply policies to support their cultural industries.

The Convention provides for the protection and promotion of the cultural expressions, cultural diversities, cultural industries, cultural activities, goods and services so that they flourish and freely interact in a mutually beneficial manner. It reaffirms the importance of the link between culture and development, and support action undertaken nationally and internationally to secure recognition of the true values of this link.

Article 11 of the Convention acknowledges the fundamental role of civil society in protecting and promoting the diversity of cultural expressions and calls for their participation. Thus, ratification will not only result in financial benefits, but also create opportunities for mainstreaming culture in sustainable economic development.

However, all these international conventions, by their nature, do not provide stringent measures for enforcement or adherence to their provisions.

## 2.0 SUMMARY OF NATIONAL LEGAL INSTRUMENTS

### 2.1 The 1995 Constitution of Uganda

The 1995 Constitution is the first legal instrument in the history of Uganda to directly provide for the protection and promotion of our heritage. It is also the first legal instrument to provide for the promotion and development of Ugandan languages as part of our culture.

The 1995 Constitution of Uganda recognises the importance of Ugandan cultures and supports the promotion and preservation of those cultural values and practices which enhance the dignity and well-being of Ugandans. It encourages the development and preservation of Ugandan languages as part of culture and encourages the protection and promotion of Uganda's built heritage.

Objective XXIV of the Constitution thus states that *“cultural and customary values that are consistent with the fundamental human rights and freedoms, human dignity and democracy and with the Constitution of Uganda may be developed and incorporated in all aspects of Ugandan life”*. Objective XXV also mandates the State and citizens to preserve and promote public property and Uganda's heritage.

Article 3 of the Constitution (Amendment) (No.2) Act 2006 mandates Regional Assemblies under the Regional tier system of governance to handle cultural matters relating to the traditional or cultural leaders, clan and sub-clan leadership, cultural and traditional practices and cultural institutions by establishing specialised committees for them. However, these Regional Assemblies are yet to be established.

With regard to the right to culture and similar rights, the Constitution (Art. 37) states that “every person has a right as applicable to belong to enjoy, practice, profess, maintain and promote any culture, cultural institution, language, tradition, creed or religion in community with others.”

Concerning minority groups' rights, the constitution states in Article 21 that “all persons are equal before the law in all spheres of political, economic social and cultural life...” and that “a person shall not be discriminated against on the ground of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social and economic standing, political opinion or disability”. The Article further states that “nothing in this article shall prevent Parliament from enacting laws that are necessary for implementing policies and programmes aimed at redressing social, economic, educational or other imbalances in society.” Article 36 also stipulates that “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.

The following articles are relevant to cultural institutions: Article 26 states protection from deprivation of property, either individually or in association with others and that no person shall be compulsorily deprived of property (unless for public use and fully compensated for). Article 29(2) states that every Ugandan shall have the right to move freely throughout Uganda and to reside and settle in any part of Uganda”. Article 246 addresses the specific issue of traditional or cultural leaders:

“(1) Subject to the provisions of this Constitution, the institution of traditional leader or cultural leader may exist in any area of Uganda in accordance with the culture, customs and traditions or wishes and aspirations of the people to whom it applies.

“(2) In any community, where the issue of traditional or cultural leader has not been resolved, the issue shall be resolved by the community concerned using a method prescribed by Parliament.

“(3) The following provisions shall apply in relation to traditional leaders or cultural leaders—

- (a) the institution of traditional leader or a cultural leader shall be a corporation sole with perpetual succession and with capacity to sue and be sued and to hold assets or properties in trust for itself and the people concerned;
- (b) nothing in paragraph (a) shall be taken to prohibit a traditional leader or cultural leader from holding any asset or property acquired in a personal capacity;

- (c) a traditional leader or cultural leader shall enjoy such privileges and benefits as may be conferred by the Government and local government or as that leader may be entitled to under culture, custom and tradition;
  - (d) subject to paragraph (c) of this clause, no person shall be compelled to pay allegiance or contribute to the cost of maintaining a traditional leader or cultural leader;
  - (e) a person shall not, while remaining a traditional leader or cultural leader, join or participate in partisan politics;
  - (f) a traditional leader or cultural leader shall not have or exercise any administrative, legislative or executive powers of Government or local government.
- “(4) The allegiance and privileges accorded to a traditional leader or a cultural leader by virtue of that office shall not be regarded as a discriminatory practice prohibited under article 21 of this Constitution; but any custom, practice, usage or tradition relating to a traditional leader or cultural leader which detracts from the rights of any person as guaranteed by this Constitution, shall be taken to be prohibited under that article.
- “(5) For the avoidance of doubt, the institution of traditional leader or cultural leader existing immediately before the coming into force of this Constitution shall be taken to exist in accordance with the provisions of this Constitution.
- “(6) For the purposes of this article, “traditional leader or cultural leader” means a king or similar traditional leader or cultural leader by whatever name called, who derives allegiance from the fact of birth or descent in accordance with the customs, traditions, usage or consent of the people led by that traditional or cultural leader.”

## 2.2 The National Cultural Policy, 2006

The National Cultural Policy of 2006 is the first comprehensive instrument taking into account the diversity of Ugandan cultures. It recognises the importance of culture in Ugandan’s development processes and the institutions responsible for the promotion of culture.

The National Policy defines culture as the sum total of the ways in which a society preserves, identifies, organises, sustains and expresses itself. The policy aims at promoting culture and enhancing its contribution to community empowerment through cultural industries, research and development, performing art, indigenous knowledge, language and literary art, cultural beliefs, traditions and values and cultural sites and monuments.

The policy recognises institutions that promote culture such as the traditional/cultural institutions, the institution of the family, statutory institutions, civil society organisations and the private sector.

Details of this policy can be found in Section 3 of this document.

## 2.3 The National Land Policy, 2013

The Policy states, among other provisions:

- A. To ensure appropriate holding and management of strategic natural resources, Government shall:
  - (i) “Protect the land rights and land resources of customary owners, individuals and communities owning land in areas where mineral and petroleum deposits exist or are discovered;
  - (ii) “Allow to the extent possible, co-existence of customary owners, individuals and communities owning land in areas where petroleum and minerals are discovered;
  - (iii) “Provide for restitution of land rights in event of minerals or oil being exhausted or expired depending on the mode of acquisition;
  - (iv) “Guarantee the right to the sharing of benefits by land owning communities and recognize the stake of

cultural institutions over ancestral lands with minerals and petroleum deposits; and

- (v) “Adopt an open policy on information to the public and seek consent of communities and local governments concerning prospecting and mining of these resources.”

B. With regard to customary tenure, the policy recognises that the majority of Ugandans hold their land under customary tenure, although this form of tenure is often “disparaged and sabotaged” in preference for other forms of registered tenures. The Policy therefore states that

- (i) “The State shall recognize customary tenure to be at par (same level) with other tenure systems;
- (ii) “The State shall establish a land registry system for the registration of land rights under customary tenure and issue Certificates of Title of Customary Ownership based on a customary land registry that confers rights equivalent to freehold tenure;
- (iii) “Facilitate conversion of customary land which is already privatised and individualised into freehold tenure;
- (iv) “Make an inventory of common property resources owned by communities and vest these resources in the communities to be managed under their customary law.

To facilitate the design and evolution of a legislative framework for customary tenure, Government shall (among others):

- (i) “Recognise the role of customary institutions in making rules governing land, resolving disputes and protecting land rights;
- (ii) “Define family and individual land rights, from communal rights under customary land tenure and distinguish the rights and obligations of customary institutions vis-à-vis those of the community and individuals; and
- (iii) “Provide for registration of customary land held under trusteeship by traditional institutions or cultural leaders on behalf of communities in the names of trustees.

C. Land rights of pastoral communities will be guaranteed and protected by the State, by taking measures to:

- (i) “Ensure that pastoral lands are held, owned and controlled by designated pastoral communities as common property under customary tenure;
- (ii) “Protect pastoral lands from indiscriminate appropriation by individuals or corporate institutions under the guise of investment;
- (iii) “Promote the establishment of Communal Land Associations and the use of communal land management schemes among pastoral communities;
- (iv) “Establish efficient mechanisms for the speedy resolution of conflict over pastoral resources in pastoral communities and sedentary communities; and
- (v) “Consider land swapping, resettlement or compensation for pastoral communities displaced by government from their ancestral lands.

D. To restructure and re-engineer the land administration system, Government will take measures (among others) to:

- (i) “Further decentralise land rights administration functions to traditional customary land governance levels;
- (ii) “Re-design the hierarchy of the land rights administration to enable traditional customary institutions to operate as the tiers of first instance in respect of land held under customary tenure;
- (iii) “Ensure full judicial backing for traditional institutions as mechanisms of first instance in respect of land rights allocation, land use regulation and land disputes for land under customary tenure;
- (iv) “Develop guidelines and procedures under customary land law for the allocation and distribution of land complying with the principles of equality and natural justice

- (v) “Recognise and grant legality to operations of customary land administration institutions under the Registration of Titles Act;
- (vi) “Accord precedence to indigenous principles and practice in dispute management institutions in respect of disputes over land held under customary land tenure;
- (vii) “Empower customary/traditional institutions to keep proper written records of all disputes dealt with under their jurisdiction

## **2.4 ACTS OF PARLIAMENT**

There are a number of Acts of Parliament related to culture, ranging from those dealing with heritage preservation to those concerning land and cultural institutions. Some of these Acts are recent, others have evolved over time while others are yet to be updated.

### **2.4.1 The Witchcraft Act, 1957**

The Witchcraft Act is the oldest legal documents related to cultural issues in Uganda. The Act provides for the prevention of witchcraft and the punishment of persons practicing witchcraft.

Section 1 stipulates “For the purposes of this Act, “witchcraft” does not include bonafide spirit worship or the bonafide manufacture, supply or sale of native medicines.” The Act stipulates offences and penalties in relation to Witchcraft. For instance, any person who directly or indirectly threatens another with death by witchcraft or by any other supernatural means commits an offence and is liable on conviction to imprisonment for life. The Act however promotes the making and selling of traditional medicines, and makes a clear distinction between witchcraft and traditional medicines.

### **2.4.2 The Land Acquisition Act, 1965**

This Act provides for the compulsory acquisition of land for public purposes. Article 3 states that “whenever the Minister is satisfied that any land is required by Government for public purposes, he or she may, by statutory instrument, make a declaration to that effect”. Under this Act, the government can take possession of any land for public purposes especially land required for the purposes of public works. The Act provides for government support towards the identification and protection of public heritage sites and monuments.

### **2.4.3 The Historical Monuments Act, 1967**

The Act provides for the preservation, protection and promotion of historical monuments and objects of archaeological, paleontological, ethnographical and traditional interest. The Act further provides for means to list objects on the national list and stipulates how these should be protected and maintained.

Section 1 (1) states that “The Minister may, by statutory instrument, declare any object of archaeological, paleontological, ethnographical, traditional or historical interest to be a preserved object for the purposes of this Act”

Section 8 of the Act also provides for the maintenance of the objects (including sites, places, fortification etc): “For purposes of maintenance and inspection of any preserved or protected object there shall be an inspector of monuments who shall be appointed by the Minister and shall be a public officer”

### **2.4.4 The Traditional Rulers (Restitution of Assets and Properties) Act, 1993**

This Act restores to traditional rulers, the assets and properties confiscated by the State in 1967. By this Act, many sites with significant history and cultures that were deregistered from the national list of protected sites were given back to the cultural institutions/leaders.

However, restoration was partial and cultural institutions/leaders are often lacking resources, limiting their ability to function, for instance in the management of heritage sites.

#### **2.4.5 The Local Government Act, 1997; amended 2002**

The Local Government Act, 1997 lists cultural affairs as one of the decentralised services, activities and functions of the district authorities. The Act also mandates the Ministry of Local Government to assess the performance of culture in local governments and to ensure that the culture function benefits from the grants sent to the local governments. Article 178 (a) (ii) assigns responsibility for promoting local cultures to local authorities, while Article 33 (2) specifies sites/places to be preserved by local authorities.

The Local Government Act provides opportunities for local cultural resources to be protected, promoted and developed at local community levels. It also provides opportunities for culture to be integrated into local government programmes.

However culture, has been and still is being, accorded low priority in national development planning and budgeting at local and national levels.

#### **2.4.6 The National Environment Management Act, 1998**

General Principle (2 (d) of this Act provides for conservation of the cultural heritage and use of the environment and natural resources of Uganda for the benefit of both present and future generations. The Act integrates culture into environmental management principles as one way to sustainably conserve the environment.

However, the Act does not provide much information on how to integrate culture in environment management.

#### **2.4.7 The Land Act, 1998**

The Act declares all land in Uganda to be vested in its citizens and divides land tenure systems into 4 categories: customary; freehold; mailo; and leasehold.

A certificate of customary ownership may be acquired by persons holding former public land in customary tenure under section 5. A Land Committee established under section 65 of the Act shall process applications for such certificate in accordance with section 6. A District Land Board established under the Constitution shall decide on granting of a certificate on the basis of advice of a Committee under section 8.

Sections 10 concerns the conversion of customary titles in freehold titles. Communal land associations may be formed by a group of persons in accordance with sections 16 to 20. The establishment of such association shall be controlled by the Registrar or Titles and the association shall be managed by a managing committee. The Association shall set aside land for common use (sect. 24) and manage such land in accordance with rules laid down in sections 25 to 27. The area set-aside shall be managed in accordance with a common land use scheme.

Section 45 provides for the holding in trust of land of environmentally sensitive areas including wetlands, forest reserves, national parks, by the Government or local government.

#### **2.4.8 The Mining Act, 2003**

This Act states that 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

A person may however acquire the right to search for, retain, mine and dispose of any mineral by acquiring a licence. However, the holder of a mineral right shall not exercise any of his or her rights under that mineral right in respect of or on any land set apart for any public purpose, other than mining, or on any land which is (i) dedicated as a place of burial; or (ii) a place of religious significance; or (iii) the site of a public building, or near inhabited or cultivated land; or any land, which is held communally for cultural rites, without the written consent of the community concerned.

Further, “The rights conferred by a mineral right shall be exercised reasonably and in such a manner as not to adversely affect the interests of any owner or occupier of the land on which the rights are exercised”.

The owner or lawful occupier of any land subject to a mineral right is entitled to compensation under either section 82 of this Act or to a share of royalties (3%).

#### **2.4.9 The Petroleum (Exploration, Development and Production) Act, 2013**

The purpose of the Act is to operationalise the National Oil and Gas Policy of Uganda by (among others) establishing an effective legal framework and institutional structures to ensure that the exploration, development and production of petroleum resources of Uganda is carried out in a sustainable manner that guarantees optimum benefits for all Ugandans, both the present and future generations.

The Acts reiterates that in accordance with article 244 of the Constitution, the entire property in, and the control of, petroleum in its natural condition in, on or under any land or waters in Uganda is vested in the Government on behalf of the Republic of Uganda. The Government of Uganda therefore shall hold petroleum rights on behalf of and for the benefit of the people of Uganda.

With regard to surface rights, the Act states that a petroleum licensee shall not exercise any right under a licence

- a. without the written consent of the relevant authority, upon any land dedicated or set apart for a public purpose or for a place of burial, or upon land over which a mining lease, an exploration licence or a right to cultural site has been granted;
- b. without the written consent of the land owner
- c. upon any land which is the site of or which is within two hundred meters of any inhabited, occupied or temporarily unoccupied house or building;
- d. within fifty metres of any land which has been cleared or ploughed or otherwise bona fide prepared for the growing of agricultural crops or on which agricultural crops are growing;
- e. upon any land from which, during the year immediately preceding, agricultural crops have been reaped; or
- f. upon any land which is the site of or which is within one hundred metres of a cattle dip-tank, dam or water used by human beings or cattle.

A land owner in an exploration or development area shall retain the right to graze stock upon or to cultivate the surface of the land insofar as the grazing or cultivation does not interfere with petroleum activities or safety zones in the area.

The Act also states that the rights conferred by a licence shall be exercised reasonably so as to affect as little as possible the interests of any land owner of the land on which the rights are exercised; and petroleum activities shall be carried out in a proper manner.

Finally, a licensee shall, on demand being made by a land owner, pay the land owner fair and reasonable compensation for any disturbance of his or her rights and for any damage done to the surface of the land due to petroleum activities, and shall, at the demand of the owner of any crops, trees, buildings or works damaged during the course of the activities, pay compensation for the damage.

#### **2.4.10 The Equal Opportunities Commission Act, 2007**

This Act established the Equal Opportunities Commission, pursuant to articles 32 (3) and 32 (4) and other relevant provisions of the Constitution

It is meant to give effect to the State's constitutional mandate to eliminate discrimination and inequalities against any individual or group of persons on the ground 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.

The Act defines "discrimination" as any act, omission, policy, law, rule, practice, distinction, condition, situation, exclusion or preference which, directly or indirectly, has the effect of nullifying or impairing equal opportunities or marginalizing a section of society or resulting in unequal treatment of persons in employment or in the enjoyment of rights and freedoms on the basis of sex, race, colour, ethnic origin, tribe, birth, creed, religion, health status, social or economic standing, political opinion or disability;

The Act defines “equal opportunities” as having the same treatment or consideration in the enjoyment of rights and freedoms, attainment of access to social services, education, employment and physical environment or the participation in social, cultural and political activities regardless of sex, age, race, colour, ethnic origin, tribe, birth, creed, religion, health status, social or economic standing, political opinion or disability;

“Marginalisation” means depriving a person or a group of persons of opportunities for living a respectable and reasonable life as provided in the Constitution;

The functions of the Commission are to monitor, evaluate and ensure that policies, laws, plans, programs, activities, practices, traditions, cultures, usages and customs of organs of State, public bodies, private businesses and NGOs and cultural and social bodies to ensure that they are compliant with equal opportunities and regarding affirmative action in favour of groups marginalized 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.

The Commission may, among others, (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, marginalization 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.

The Commission may also consider such recommendations, suggestions and requests concerning the promotion of equal opportunities as it may receive from any source;

## 3.0 SELECTED LEGAL INSTRUMENTS RELATED TO CULTURE AND CULTURAL INSTITUTIONS IN UGANDA – IN FULL

### 3.1. THE UGANDA NATIONAL CULTURE POLICY (2006)

#### 1.0 BACKGROUND

In the pre-colonial times, traditional communities in what is now Uganda were closely knit units. Their social, political and economic organisation revolved around the family, clan and/ or the institution of the traditional leader. The daily activities of men, women and children, whether as individuals or as groups were intrinsically linked to, and determined by their cultures.

However the exposure to various influences, cultures as well as foreign rule at the end of the 19th century and the beginning of the 20th century led to the weakening of traditional socio-political setups. Aspects of culture such as indigenous knowledge and traditional health care systems were ignored or belittled. In this way, innovativeness and the whole social fabric was undermined. In spite of this, many communities continued to attach great value to their cultures and endeavored to conserve, inculcate and sustain it.

Through Information, Education and Community Development work, the colonial Government promoted culture. This was done through broadcasts in local languages, teaching of local languages in schools, and through traditional cultural festivals. After independence, Government established a Ministry of Culture and Community Development (MoCCD). The Department of Culture therein was charged with the responsibility of ensuring the preservation, promotion and Development of Uganda's cultures. The Government enacted the laws to strengthen the culture function. These included; the Historical Monuments (Amendment) Decree (No.6) of 1977, The Historical Monuments Act of 1967, Uganda National Culture Centre 1965 Amendments Act, Copyright Act of 1964(This Act has been repealed and replaced with the Copyright and Neighbouring Rights Act, 2006) and the Stage Plays and Public Entertainment Act of 1964.

Despite the above initiatives, Uganda has not had a well-documented Policy to guide and coordinate culture. This Policy has been formulated to guide the formal and informal systems of managing culture at all levels.

## 2.0 CULTURE IN UGANDA: A SITUATION ANALYSIS

### 2.1 DEFINITION OF CULTURE

Culture concerns itself with socially transmitted behaviour patterns, arts, beliefs, institutions and all other products of human work and thought. Culture includes intangible and tangible heritage, which is varied, complex, and in constant evolution. The tangible heritage includes monuments or architecture, art and crafts, sites, manuscripts, books and other objects of artistic and historical interest. The intangible heritage

includes language, oral traditions, performing arts, music, festive events, rituals, social practices, traditional craftsmanship, knowledge and practices concerning nature. There are various definitions and perceptions of culture. However in this Policy, culture will be defined as; **the sum total of the ways in which a society preserves, identifies, organises, sustains and expresses itself.**

### 2.2 UGANDA'S CULTURAL HERITAGE

The cultural heritage of Uganda includes artistic and cultural expressions. These are; language and literary arts, performing arts, visual arts and handicrafts, indigenous knowledge, cultural beliefs, traditions and values, cultural sites monuments and antiquities.

### **2.2.1 Language and Literary Arts**

Language is the means of expressing the creative arts of orature and literature. Uganda has a rich variety of indigenous languages and dialects. English is the official language of Uganda and Kiswahili is the second official language.

Literary arts as a by-product of language ensure the development of orature and literature that often depicts the culture of Uganda's people. The various languages are a unique storehouse of knowledge and have facilitated the communication between people within and outside the country. In addition, literary arts are one of the existing cultural industries in the country.

The development of languages in Uganda has not been uniform and tended to privilege some languages over others. In addition, the multiplicity of languages does not facilitate direct communication amongst communities. Information in indigenous languages has to be translated to English and vice versa if it is to be shared. This often results in gross distortions and loss of meaning. In relation to literary arts, the available literature is limited because some languages lack orthographies.

### **2.2.2 Performing arts**

The performing arts include; dance, drama, music, theatre, motion pictures, opera, traditional sports and the marching arts such as brass bands.

The performing arts in Uganda are used for self-expression, education and sensitization of communities as well as for entertainment. In the communities, traditional and modern performing arts have been popularised as a means to facilitate participation by communities in development. In addition, cultural, educational institutions and the private sector have supported the performing arts. Consequently jobs have been created for a growing number of Ugandans.

Participation by artists in the performing arts is limited because of inadequate capacity. The available opportunities in capacity building are limited to apprenticeship and are within formal institutions, which are few. The training focuses on acquisition of skills in the art and seldom includes marketing and promotion of the art. In addition, capacity building is limited to modern performing arts.

### **2.2.3 Visual Arts and Handicrafts**

The visual arts and handicrafts include among others; basketry, mats, ceramics, beads, pottery, hand-woven textiles and products, toys, jewellery, bags and ornaments, leather products, batik, wood carvings and paintings.

The raw materials used in the production of visual arts and crafts are readily available in the country. Visual arts and crafts are produced in almost all regions of the country with product differentiation based on culture and history. This has promoted the identities of the various communities and created avenues for income generation.

Some of the challenges facing the visual arts and crafts are; inadequate quantities and poor quality of products due to limited capacity of producers and marketers. There is limited research about the products and the markets and the materials from which visual arts and handicrafts are derived are threatened by environmental degradation.

### **2.2.4 Indigenous Knowledge**

Indigenous knowledge (IK) is the traditional local knowledge existing within and developed around the specific conditions of a community indigenous to a particular geographical area.

IK is diverse, accessible, affordable and acceptable to people. IK provides the basis for problem solving strategies for local communities especially the poor. IK is commonly used in agriculture, traditional medicine, health care, food preparation, education, natural resource management and a host of other activities in rural communities. IK is also characteristically relevant for women who use it to perform their traditional roles and responsibilities.

Although IK is useful to people, limited research has been done. IK is inadequately documented, quantified and developed. In some cases it has been marginalised and threatened with extinction by modern knowledge and environmental degradation. Coupled with this, is the absence of organising frameworks that would provide information to innovators on who needs the innovations, how to find the users and when to approach the users.

### **2.2.5 Cultural beliefs, traditions and values**

Ugandans have different beliefs and traditions that are deeply rooted in their cultural and religious values. The beliefs, traditions and values have contributed to the propagation of social harmony and development.

These beliefs, traditions and values sometimes conflict with modern laws. Some of these include; widow inheritance and female genital cutting. This has led some people to regard culture as retrogressive. In addition, Ugandan cultures are continuously adopting and adapting because of local and foreign influences. In some cases, this has led to the degradation of the moral fabric of the society with the most affected category being the youth.

### **2.2.6 Cultural Sites, Monuments and Antiquities**

Uganda has several cultural sites and monuments. Some of them are man-made while others are natural. These sites, monuments and antiquities are important for sociocultural and educational purposes. They promote tourism and consequently create employment for people. The natural sites also enhance the protection of the environment.

Despite their importance, the sites and monuments are not adequately maintained, documented and people's awareness of their value is low. In addition, some of the antiquities are not collected and those that are kept in the Uganda Museum are not accessible to all people.

## **2.3 THE PEOPLE OF UGANDA**

### **2.3.1 Uganda's Indigenous Communities**

Uganda has 65 indigenous communities (The Constitution of Uganda- Schedule 3) representing Uganda's diverse cultural heritage. The diversity contributes to a wealth of indigenous knowledge, languages, folklore, customs and traditions and products that can be harnessed for development. The interrelationships as a result of interactions in educational institutions, at work places, intermarriages enhance understanding of other cultures and enhances harmony and social cohesion.

On the other hand, the diversity can create tension between and within the indigenous groups. In addition, there exists indigenous minorities that are marginalised. Some of these are faced with loss of identity, which threatens their existence.

### **2.3.2 The Non-Indigenous Communities of Uganda**

There exists in the country non-indigenous communities. Some are a result of intermarriages between some indigenous people with foreigners while others are foreigners who live in Uganda. These interrelationships have not only enhanced understanding of other cultures, but have also led to the emergence of new cultures. The non-indigenous communities are however not fully accepted by the indigenous communities and in some cases they are not recognised. This leads to social tensions.

## **2.4 INSTITUTIONS THAT PROMOTE CULTURE**

### **2.4.1 Traditional/ cultural institutions**

Traditional/cultural institutions include kingdoms, chiefdoms, clans and the family. Kingdoms existed in Uganda until they were abolished in 1966. However they were reinstated in 1993. Article 246 of the 1995 constitution of Uganda provides for the revitalisation, strengthening and support of traditional/cultural insti-

tutions. To date Government recognises and supports some of the traditional/cultural institutions. The process of recognition of these institutions is continuous. Communities look up to the traditional/cultural institutions for their identity. This facilitates these institutions to support culture and use it to mobilise people for Uganda National Culture Policy 12 development. However their performance is hampered by inadequate capacity and financial support.

#### **2.4.1.1 The Family**

The family is the basic societal unit. In Uganda, there are nucleus families that comprise of father, mother and children. These are closely linked with the extended families. However due to changes in society over the years including political turbulence and the HIV/AIDS pandemic, other forms of families have began to emerge. These include the single parent families and child headed families. Research findings also indicate that there is a substantial increase in dysfunctional family relationships, which has led to a rise in crimes including robbery, murder, prostitution, child abuse and neglect. The Constitution of Uganda seeks to protect the family through Objective XIX. The protection of family members is also provided for in the Children Act Cap 59, the PEAP, the SDIP and the OVC Policy.

#### **2.4.2 Statutory institutions**

These include Ministries, Local governments, educational institutions and semi autonomous bodies such as the National Library of Uganda and the Uganda National Cultural Centre. These organisations are charged with the responsibility of promoting culture. However the performance of these institutions in relation to culture is hampered by inadequate capacity to manage the function, financing and poor coordination.

#### **2.4.3 Civil Society Organisations /Private Sector**

Civil Society Organisations and the private sector organisations are active in and benefit from the promotion of culture. They often mobilise and provide financial support for culture activities. The performance of these institutions in relation to culture is hampered by inadequate appreciation of culture and its role in development.

### **2.5 EXISTING LAWS, POLICIES AND PLANS**

#### **2.5.1 The Constitution of Uganda**

The Constitution of Uganda provides for the promotion of culture. Objective XXIV of the Constitution states that cultural and customary values that are consistent with the fundamental human rights and freedoms, human dignity and democracy and with the Constitution of Uganda may be developed and incorporated in all aspects of Ugandan life. In addition, Objective XXV mandates the State and citizens to preserve and promote public property and Uganda's heritage. Further, the Constitution (Amendment) Act 2005, Article 6 provides for use of any other language as medium of instruction in schools, and Article 3 of the Constitution (Amendment) (No.2) Act 2005 mandates. Regional Assemblies under the Regional tier system of governance to handle cultural matters relating to the traditional or cultural leader, clan and sub clan leadership, cultural and traditional practices (cultural funeral rites) and cultural institutions by establishing specialized committees for them.

#### **2.5.2 Other laws**

In addition to the Constitutional provisions, Government has in place initiatives to ensure preservation, promotion and development of Uganda's cultures. These include the establishment of statutory institutions such as the National Library of Uganda and the Uganda National Cultural Centre, which are responsible for promoting cultural heritage. There are also laws that address specific aspects of culture. These include; the Historical Monuments Act (Cap 46), Uganda National Culture Centre (Cap 50), The

Copyright and Neighbouring Rights Act 2006, the Stage Plays and Public Entertainment Act (Cap 49) and the Traditional Rulers Restitution of Assets and Properties Act (Cap 247).

Other laws that take cognisance of culture include the Local Government Act (LGA) 1997 in Part two (2) of the second schedule lists cultural affairs as one of the decentralised services and activities.

### **2.5.3 Uganda's Vision 2025**

Uganda's Vision 2025 guides interventions that are aimed at achieving stable and harmonious co-existence within a socially, culturally and economically dynamic society. Key elements of this goal include recognition and enhancement of unity in diversity, national pride and dignity and respect for/and conservation of cultural heritage. All these elements are ingrained in the vision, mission and objectives of this Policy.

### **2.5.4 Government Policies and Plans**

Government policies and plans take cognisance of culture. Key among these are the Poverty Eradication Action Plan (PEAP) and the Social Development Sector Strategic Investment Plan (SDIP).

The PEAP (2004) recognizes culture as being intrinsically valuable and an important dimension of identity and as a form of capital which, when well harnessed, can help to move people out of poverty.

In the SDIP, culture contributes to social protection through promotion of cultural industries, indigenous knowledge and also through support to actors and institutions that promote culture.

However culture, as a crosscutting issue is not yet adequately reflected in other sectoral plans and Policies.

### **2.5.5 International Laws and Conventions**

Uganda is signatory to the Universal Declaration of Human Rights (UDHR) and therefore has a moral obligation to advance the Rights spelt therein. In addition, Uganda is bound by the International Covenant on Economic, Social and Cultural Rights (ICESCR) which it ratified in 1987. Article 27 of UDHR and Article 15 of ICESCR recognise everyone's right to freely participate in cultural life.

Uganda is also signatory to the Convention on the Protection of the World Cultural and Natural Heritage (1972). To date Uganda has three sites on the list of the World heritage namely, Kasubi tombs, enlisted in 2001, Bwindi Impenetrable Forest National Park and Rwenzori Mountains National Park. In 2005, UNESCO proclaimed the art of barkcloth making in Uganda, a masterpiece of the Oral and Intangible Heritage of Humanity. At regional level, Uganda is a member of the African Union, one of whose objectives is to promote sustainable development at the economic, social and cultural level. In the

East African region, Uganda is obliged to implement the articles of the Treaty for the establishment of the East African Community, which it ratified together with other member states in 2000. In article 119, Partner States agreed to promote close cooperation in culture and sports.

## **2.6 OTHER INITIATIVES**

Other initiatives in the culture sub-sector include; cultural exchange, research and documentation such as recording traditional cultural expressions, cultural tourism, capacity building of culture practitioners, initiation of the review of culture specific laws, monitoring and evaluation of interventions among others.

Government specifically implements some of these initiatives while others are implemented by the civil society and supported by the private sector. The major challenge affecting the culture sub-sector is the absence of culture statistics, which would provide evidence of the contribution of culture to social and economic development.

## **3.0 RATIONALE FOR THE CULTURE POLICY**

The National Culture Policy complements, promotes and strengthens the overall development goals of the country. The Policy shall inform other sectoral policies, plans and programmes.

Specifically this Policy shall provide a framework to;

3.1 Enhance the appreciation of the role of culture in National Development; Uganda National Culture Policy

- 3.2 Promote aspects of Uganda's cultural heritage that are cherished by its people;
- 3.3 Ensure effective intra and inter-cultural exchange for harmonious coexistence;
- 3.4 Facilitate community action against practices that impinge on human dignity;
- 3.5 Guide, harmonise, complement and promote the distinct and complementary interventions and roles of stakeholders at all levels; and
- 3.6 Guide the private sector, traditional/cultural institutions and civil society organisations to research on and advocate for culture promotion.

## **4.0 VISION, MISSION AND SPECIFIC OBJECTIVES**

### **4.1 Vision**

A culturally vibrant, cohesive and progressive Nation

### **4.2 Mission**

To promote culture and enhance its contribution to community empowerment

### **4.3 Specific Objectives**

1. To promote and strengthen Uganda's diverse cultural identities.
2. To enhance social cohesion, collaboration and participation of all people in cultural life.
3. To promote community action on cultural practices that promote and that impinge on human dignity.
4. To conserve, protect and promote Uganda's tangible and intangible cultural heritage.

## **5.0 CORE PRINCIPLES**

The Policy provides the framework for the promotion of culture for development and complies with international and regional instruments on culture. The core principles underlying this Policy are:

### **5.1 Promoting Unity in Diversity**

There are diverse cultures in Uganda. The Policy interventions shall therefore focus on the promotion of harmonious co-existence among the different indigenous communities and encourage intra and inter-cultural exchange.

### **5.2 Respecting one's and the others' Culture**

Respect for culture is crucial for mutual interdependence, which is a prerequisite for social harmony and cohesion. The Policy interventions shall focus on advocacy for respect of the individuals' culture and other cultures.

### **5.3 Ensuring Social Inclusion**

There are some children, youth, women, the disabled, the elderly, people living with HIV/AIDS and indigenous minorities who are marginalised by some socio-cultural practices. The Policy interventions shall therefore focus on affirmative action to ensure that these categories of people participate in and benefit from cultural life.

### **5.4 Promoting Cultural Change**

Culture is dynamic and cultural change is inevitable. It is important to catalyse change to address social and gender inequalities. The Policy interventions shall therefore encourage adapting and adopting to new ideas and approaches within the laws of Uganda.

## **5.5 Promoting Environmental Protection**

Cultural practitioners interact with and derive cultural products from the environment. However, the environment is threatened by environmental degradation, which negatively impacts on culture activities that rely on the environment. The Policy interventions shall therefore emphasise environmental protection.

## **5.6 Strengthening Partnerships**

There are various stakeholders in the delivery of cultural goods and services. It is therefore important to ensure the strengthening of existing partnerships, creation of new ones and sustaining the partnerships at all levels.

# **6.0 GENERAL STRATEGIES**

To achieve the Policy Objectives, strategies to enhance the integration of culture into development are required. The main strategies are;

## **6.1 Advocacy for Culture**

People perceive culture differently. Some appreciate it from a narrow point of view while others perceive it as retrogressive. The consequences include limited integration into National Development Processes. Advocacy for the holistic appreciation of culture shall be enhanced by;

- Facilitating the process of reviewing culture specific laws and other laws to identify culture concerns;
- Supporting the development of an advocacy strategy for culture in Uganda;
- Supporting the development of a Cultural Management Information System;
- Facilitating the collection, documentation and use of culture statistics;
- Developing and disseminating standards and guidelines on how to mainstream culture into sector policies and plans.

## **6.2 Capacity Building**

Generally capacities in the culture sub-sector are inadequate. The areas of inadequacy include; limited qualified personnel, materials and equipment, knowledge about markets for products, infrastructure and coordination. This status quo undermines the potential for culture to contribute to National Development. Capacity shall be improved by;

- Carrying out a capacity building needs assessment;
- Facilitating the development and implementation of a comprehensive capacity building plan for culture practitioners and institutions that promote culture.

## **6.3 Research and Documentation**

Research and documentation of culture is inadequate. The contribution of culture to National Development can therefore not be adequately quantified. In addition, cherished cultures are being lost and practices that impinge on the dignity of people are not being addressed. Also dissemination of available research findings is limited. Research and documentation shall be enhanced by;

- Ensuring research and documentation of intangible and tangible aspects of culture in Uganda;
- Ensuring the dissemination of research findings;
- Ensuring the establishment of Culture Resource Centres at all levels;
- Promoting public/private sector partnerships in promotion of culture.

## 6.4 Promoting Collaboration with Stakeholders

There are various stakeholders in the culture sub-sector. However there is no established coordination mechanism to consolidate the gains from the different actors. This calls for the establishment of mechanisms to intensify collaboration among all stakeholders. Collaboration will be strengthened through;

- Supporting the implementation of culture interventions through Local Governments, CSO's and the Private Sector;
- Promoting development and implementation of joint programmes;
- Facilitating the setting up of networks in culture.

## 6.5 Resource Mobilisation

The culture function is broad and therefore requires continuous mobilisation of resources to implement programmes and activities. Deliberate efforts by different stakeholders are necessary to ensure increased and sustained resource mobilisation. Resources shall be mobilised by;

- Developing specific programmes and plans to attract investment and funding;
- Sourcing for funding from Government, development partners, the private sector, and civil society organisations.

## 7.0 PRIORITY AREAS

Specifically the Policy shall promote the development of Cultural industries, Languages and literary arts, Indigenous knowledge, Cultural beliefs, traditions and values, Visual arts and handicrafts, Performing arts, Cultural Co-operation, and Cultural tourism. In addition, protection of the cultures of indigenous minorities and capacity building for institutions that promote culture shall be prioritised.

### 7.1 Development and promotion of Cultural Industries

In Uganda, cultural industries include; producing, publishing, sale, preservation and distribution of creative products such as local literature (books, magazines, and newspapers), audio-visual tapes of music and drama, art and crafts. Cultural industries have the potential to promote the livelihoods of the marginalised, the poor, and the vulnerable. Cultural industries create employment opportunities and produce economic gains and incomes at all levels. These cultural industries further contribute to cultural development by protecting and enriching cultural values, promoting creativity, optimising skills and human resources. In addition, they express and convey messages that foster understanding and peace. Cultural industries shall therefore be promoted, protected and developed.

#### 7.1.1 Key interventions:

- Provide investment incentives for the Culture sector/ cultural Industries;
- Facilitate and encourage commercialisation of cultural industries;
- Facilitate and encourage the creation of internal and external partnerships for the promotion of cultural industries;
- Encourage formation of producer groups;
- Promote and support budding craftsmen and women and any other creative artistes;
- Build capacity of practitioners in; producing cultural goods, business related fields and Intellectual property rights;
- Promote the application of appropriate technology in the development of cultural industries.

## **7.2 Development and promotion of languages and literary arts**

Language and literary arts serve as media for protection and promotion of Culture. Consequently, interventions to address the promotion of linguistic arts as a means of developing the local languages shall be promoted. This shall contribute to the expressive, socialisation and educational needs of Uganda.

### **7.2.1 Key interventions:**

- Ensure that all languages have developed orthographies;
- Ensure that languages are taught and spoken in educational and other institutions at all levels;
- Ensure the preservation and development of Orature and literature at all levels;
- Ensure the development of dictionaries in local languages.
- Promote the learning and use of local languages.

## **7.3 Development and promotion of Indigenous knowledge**

Indigenous Knowledge (IK) is a vital sub-system of culture. IK is a key factor in social and economic development as well as cultural transformation. In addition, there is recognition of the important role of local communities in contributing their indigenous knowledge systems to enhance the sustainability of development programmes.

It is important therefore to develop IK systems in Uganda to ensure that IK is maximally used for the benefit of people. Interventions shall emphasise the preservation, integration, utilisation and promotion of indigenous knowledge.

### **7.3.1 Key interventions:**

- Ensure research, documentation and dissemination of indigenous knowledge;
- Promote indigenous knowledge in formal and informal institutions;
- Evaluate indigenous knowledge for its efficacy and use;
- Facilitate the setting up of organising frameworks for innovators;
- Establish a mechanism to support institutions involved in indigenous knowledge development.

## **7.4 Promotion of Cultural beliefs, traditions and values**

The cultural beliefs, traditions and values are core to a community's mechanism for survival. These beliefs and values enhance social cohesion and sustain an acceptable moral fabric. Interventions to enhance the appreciation of these values and to mitigate social practices that are oppressive to people shall be promoted.

### **7.4.1 Key interventions:**

- Promote the role of family, religious and traditional institutions in fostering values and ethics;
- Promote beliefs, values, customs and traditions that enhance human dignity;
- Ensure action on customs and traditions that impinge on human dignity;
- Develop and promote the family code of conduct for protecting the family;
- Promote respect and tolerance among different beliefs and value systems.

## **7.5 Development and promotion of Visual arts and handicrafts**

Uganda is endowed with diverse cultures, which produce unique products including visual arts and crafts. These products are some of the raw materials on which cultural industries thrive. Visual arts and handicrafts

have the potential to reduce income poverty Uganda National Culture Policy 23 if their quantity and quality is deliberately enhanced. In addition, domestic and international markets for the products shall be sought.

#### **7.5.1 Key interventions:**

- Promote visual arts and handicrafts in formal and informal institutions;
- Ensure research and documentation on visual arts and handicrafts;
- Ensure market research for visual arts and handicrafts;
- Establish a mechanism to support institutions involved in visual arts and handicrafts.

### **7.6 Development and promotion of Performing arts**

Performing arts constitute an aspect of identity for the people of Uganda. There are traditional and modern performing arts. Traditional performing arts are used for social activities while the modern performing arts such as Theatre for Development are usually geared towards mobilisation and sensitisation of communities for community development. Interventions shall therefore be geared towards enhancing the development and promotion of traditional and modern performing arts.

#### **7.6.1 Key interventions:**

- Promote performing arts in formal and informal institutions;
- Establish a mechanism to recognise and support performing arts/artists;
- Ensure the preservation of traditional performing arts;
- Build capacity of practitioners in business related fields and Intellectual property rights.

### **7.7 Promotion of Cultural Co-operation**

Cultural co-operation aims at promoting mutual benefit, respect, understanding, shared values, enrichment and peaceful co-existence among diverse cultures and peoples. As the future of the world is being shaped by mutual interdependence of its peoples, it is important to promote cultural cooperation in a holistic sense at local, regional, national and international levels.

#### **7.7.1 Key interventions:**

- Develop and enhance mechanisms for internal and external cultural cooperation and exchange;
- Facilitate and encourage the participation of civil society and private sector in the promotion of internal and external cultural cooperation and exchange;
- Ensure the implementation and domestication, of international conventions and agreements on culture that Uganda is signatory to.
- Promote internal and external collaboration in capacity and institutional development, sharing of cultural knowledge, expertise, goods and services.

### **7.8 Development and promotion of Cultural Tourism**

Cultural tourism provides communities with opportunities for employment, income generation, education as well as recreation and pleasure. The Policy shall provide interventions that enhance the protection of the socio-cultural environment on which cultural tourism thrives.

#### **7.8.1 Key interventions:**

- Ensure the preservation, development and promotion of natural and cultural sites;
- Ensure the promotion and conservation of traditional/indigenous cultures;

- Ensure improved quality of cultural goods and services;
- Ensure community, civil society and private sector participation in the conservation and promotion of natural and cultural sites;
- Encourage domestic cultural tourism;
- Ensure the collection and preservation of artifacts.

## **7.9 Protection of the cultures of Indigenous Minorities**

Indigenous minorities in Uganda have unique cultures that are threatened with extinction by internal and external influences. Interventions geared towards promotion and protection of the cultures of Uganda's indigenous minorities shall therefore be promoted.

### **7.9.1 Key interventions:**

- Establish an inventory of indigenous minorities;
- Ensure support of the traditional/cultural institutions of indigenous minorities;
- Research, document and disseminate the cultures of indigenous minorities;
- Establish a mechanism to recognise and support indigenous minorities.

## **7.10 Development and promotion of Institutions that promote culture**

Culture thrives in institutions. Some of these are traditional/cultural while others are public and private institutions. The capacity of these institutions to deliver quality culture services has been hampered by inadequate resources, coordination and skills. Interventions shall therefore be geared towards revamping these institutions so that they can contribute significantly to the socio-economic development of the country.

### **7.10.1 Key interventions:**

- Encourage communities to support the traditional/cultural institutions and the family ;
- Ensure support for traditional/cultural leaders;
- Establish and expand institutions and facilities that promote culture;
- Build capacity of institutions that promote culture to foster people's participation in cultural life;
- Develop a Family Code;
- Strengthen the involvement of the private sector, civil society and development partners in the promotion of culture programmes and activities;
- Establish mechanisms for co-ordination of institutions that promote culture.

## **8.0 CULTURE POLICY INSTITUTIONAL FRAMEWORK**

Government takes cognisance of cultural issues in other policies. The implementation of the National Culture Policy shall therefore be a shared responsibility by all stakeholders involved in the promotion of culture for development. While there shall be generic roles for actors such as culture impact assessment and indigenous knowledge development, all actors shall have specific roles /responsibilities. The key actors are; Ministry of Gender, Labour and Social Development and other Government Ministries, the National Planning Authority, Local Governments, the National Culture Forum, Development Partners, the Private Sector, Civil Society Organisations, Faith Based Organisations, Traditional/Cultural Institutions and Households.

Roles/ responsibilities shall be shared out broadly as follows:

## 8.1 CENTRAL GOVERNMENT MINISTRIES

### **Ministry of Gender, Labour and Social Development (MoGLSD)**

The Ministry has overall responsibility for the cultural affairs of Uganda and shall therefore take the leading role in the implementation of the National Culture Policy. The Ministry shall be responsible for:

- Ensuring the development of programmes in all areas of culture;
- Ensuring the initiation, review and dissemination of laws related to culture;
- Ensuring the development and enforcement of regulations, standards and guidelines for culture;
- Mobilising resources for culture;
- Creating awareness about culture;
- Establishing mechanisms for coordination of institutions that promote culture;
- Building the capacity of culture practitioners, service providers and institutions that promote culture;
- Ensuring the participation of young people in culture;
- Developing a National Action Plan on culture.

### **The Uganda National Cultural Centre (UNCC)**

The Centre shall:

- Provide and establish theatres and cultural centres;
- Encourage and develop cultural and artistic activities;
- Provide accommodation for societies, institutions or organisations of a cultural, artistic, academic, philanthropic or educational nature.

### **The National Library of Uganda (NLU)**

The National Library of Uganda shall:

- Promote the culture of reading;
- Preserve published national culture;
- Acquire from any person or institution, any manuscript or literature that may be considered to be of interest to the country.

### **Ministry of Education and Sports (MoES)**

The Ministry shall:

- Integrate culture issues and concerns into educational policies, plans, programmes and curricula;
- Promote the development and use of local languages in education programmes at all levels;
- Promote culture festivals in institutions of learning at all levels;
- Promote the development of traditional sports in institutions of learning at all levels.

### **Ministry of Health (MoH)**

The Ministry shall:

- Design capacity building programmes for traditional health service providers
- Train traditional health service providers;
- Promote healthy traditional nutrition programmes; Uganda National Culture Policy 28
- Research, document and disseminate findings on traditional medicine and traditional service providers;
- Develop and disseminate minimum traditional health service delivery standards, guidelines and indicators.

### **Ministry of Finance, Planning and Economic Development (MFPED)**

The Ministry shall:

- Provide funds for the implementation of the culture function;
- Mobilise resources for the culture function at all levels;
- Monitor the contribution of the culture function to National Development;
- Provide investment incentives for the culture sub-sector;

### **Uganda Bureau of Statistics**

The Bureau shall:

- Collect and disseminate statistics on culture.

### **Ministry of Tourism, Trade and Industry (MTTI)**

The Ministry shall:

- Promote cultural tourism;
- Develop and promote natural and cultural sites;
- Ensure community, civil society and private sector participation in the conservation and promotion of natural and cultural sites;
- Ensure the protection of local communities from the negative influences of tourism;
- Lobby for investment incentives for the culture sub-sector;
- Promote the development of cultural industries.

### **The Uganda Museum and Monuments Department**

The department shall:

- Collect and showcase items of cultural interest;
- Undertake research and documentation in cultural fields;
- Identify, document, gazette and present sites and monuments;
- Conserve and store cultural objects;
- Carry out educational outreach programmes on cultural heritage to schools and communities.

### **Ministry of Justice and Constitutional Affairs (MoJCA)**

The Ministry shall:

- Spearhead the formulation and revision of laws pertaining to culture.

### **Ministry of Foreign Affairs (MoFA)**

The Ministry shall:

- Ratify international and regional instruments that promote and are relevant to culture;
- Participate in negotiation and clearance of cultural agreements.
- Domesticating international and regional Conventions relating to culture.

### **Ministry of Energy and Mineral Development (MoEMD)**

The Ministry shall:

- Promote safe traditional methods of preservation of natural resources;

- Promote awareness about the value of indigenous plants and animal species.

#### **Ministry of Water and Environment (MoWE)**

The Ministry shall:

- Evaluate and disseminate findings on traditional practices of environmental management.

Uganda National Culture Policy 30

#### **Ministry of Agriculture, Animal Industry and Fisheries (MAAIF)**

The Ministry shall:

- Undertake research and dissemination on Indigenous Knowledge and plants in agriculture;
- Promote safe traditional methods of production, processing and preservation of cash and food crops;
- Promote indigenous crops, especially food crops.

#### **Ministry of Local Government (MoLG)**

The Ministry shall:

- Assess the performance of culture in local governments;
- Ensure that the culture function benefits from grants sent to the local governments.

#### **Ministry of Internal Affairs (MoIA)**

The Ministry shall:

- Ensure the enforcement of laws and regulations relevant to culture.

#### **The Department of Information-Office of the Prime Minister**

This department shall:

- Sensitise the public on culture through available media;
- Regulate the operations and usage of the media and information communication technologies with the intention of protecting people from negative foreign cultural influences;
- Promote dissemination and sharing of local cultures.

#### **The National Planning Authority (NPA)**

This Institution shall:

- Ensure the mainstreaming of culture into the National planning process.

### **8.2 THE NATIONAL CULTURE FORUM (NCF)**

To enhance the participation of the civil society and private sector in the implementation of the Policy, a private sector-led body called The National Culture Forum shall be established. It shall include all the domains of culture. Its main functions shall be:

- To provide a forum for its Members to collaborate and organise joint activities;
- To advocate and lobby for its Members;
- To network locally and internationally;
- To contribute to the implementation of the National Culture Policy;
- To build capacity of Members.

### **8.3 LOCAL GOVERNMENTS**

The local governments shall be responsible for cultural affairs in their localities. They shall therefore ensure the:

- Implementation of The National Culture Policy and the National Action Plan on Culture;
- Development of culture plans at various local government levels ;
- Establishment of appropriate local organs for implementation and management of cultural affairs;
- Mobilisation, provision of human, financial and material resources to the culture function.

### **8.4 DEVELOPMENT PARTNERS**

Development partners have played a significant role in the development of the National Culture Policy and the National Action Plan on Culture and therefore they shall be expected to:

- Support the implementation of the National Culture Policy and Plan at all levels;
- Collaborate with government, other institutions and individuals in ensuring cultural action.

### **8.5 PRIVATE SECTOR**

The private sector is a major partner in realisation of the Culture Policy. Their participation in cultural action shall include:

- Dissemination and distribution of quality cultural industry products such as books, records, video and audiotapes, films;
- Industrial/commercial patronage of culture through organization of activities for their own personnel, supporting specific activities/institutions and contributing to or setting up foundations/trusts to finance culture activities.

### **8.6 CIVIL SOCIETY ORGANISATIONS**

Civil society organisations (inclusive of NGO's) dealing with culture shall:

- Support cultural development, creativity and innovation;
- Identify talented people for recognition and support;
- Encourage people's participation in various forms of cultural expressions.

### **8.7 FAITH BASED ORGANISATIONS**

Faith-based organizations shall:

- Promote the dissemination of culture;
- Promote the conservation of culture;
- Support culture through their institutional frameworks. Uganda National Culture Policy 33

### **8.8 TRADITIONAL/CULTURAL INSTITUTIONS**

Traditional/cultural institutions shall:

- Provide resources and networks to promote culture in their specific institutions;
- Collaborate with government, other institutions and individuals in ensuring cultural action;
- Promote intra-cultural exchange;
- Promote and conserve culture in their specific institutions.

## **8.9 HOUSEHOLDS**

Culture is inculcated, consumed and developed within households. Households shall:

- Respect their culture and the culture of other people;
- Inculcate in their children cherished beliefs, values and practices
- Support traditional/cultural institutions;

## **9.0 MONITORING, EVALUATION AND REVIEW OF THE POLICY**

There shall be at all levels periodic monitoring, evaluation and review of the performance of the culture Policy to ensure that it serves the needs and aspirations of the Ugandan people and promotes the broader national development objectives. A National Action Plan with appropriate indicators shall be developed to guide Policy implementation. In addition to an annual, monitoring and mid-term review, this Policy shall be reviewed after every five- (5) years.

## **10.0 FUNDING OF THE CULTURE POLICY**

Culture is crosscutting. All sectors, Ministries and Local Governments shall therefore be required to identify culture issues within their mandate and fund these activities within their budget ceilings. In addition, funding shall be mobilised from and by the private Uganda National Culture Policy 34 sector, civil society organisations, traditional/cultural institutions, faith-based organisations as well as individuals.

## **3.2 THE INSTITUTION OF TRADITIONAL OR CULTURAL LEADERS ACT, 2011**

### **ARRANGEMENT OF SECTIONS**

#### **PART I-PRELIMINARY**

##### Section

1. Commencement.
2. Interpretation.

#### **PART II-INSTITUTION OF TRADITIONAL OR CULTURAL LEADER**

3. Existence of the institution of traditional or cultural leader.
4. Institution of traditional or cultural leader.
5. Installation of traditional or cultural leader.
6. Publication of declaration of traditional or cultural leader.
7. Capacity of institution of traditional or cultural leader.
8. Publication of abdication or cessation of traditional or cultural leaders.

#### **PART III-ROLE OF TRADITIONAL AND CULTURAL LEADERS**

9. Role of a traditional or cultural leader.

#### **PART IV-PRIVILEGES AND BENEFITS**

10. Privileges and benefits of a traditional or cultural leader.
11. Responsibility of the community where a traditional or cultural leader exists.

#### **PART V-RESTRICTIONS ON A TRADITIONAL OR CULTURAL LEADER**

12. Exercise of administrative, legislative or executive powers.
13. Traditional or cultural leaders not to join or participate in partisan politics.
14. Prohibited customs or traditions.
15. Relationship with foreign governments.

#### **PART VI-RESOLUTION OF DISPUTES**

16. Resolution of disputes.

#### **PART VII-MISCELLANEOUS**

17. Liability of traditional or cultural leaders.
18. Symbols and seals of institution of traditional or cultural leaders.
19. Power of Minister to amend Schedules.
20. Regulations.

#### **SCHEDULES**

Schedule 1--Currency Point

Schedule 2-Privileges and Benefits of Traditional or Cultural Leaders

## **THE INSTITUTION OF TRADITIONAL OR CULTURAL LEADERS ACT, 2011**

An Act to operationalize article 246 of the Constitution on the institution of traditional or cultural leaders; to provide for the existence of traditional or cultural leaders in any area of Uganda in accordance with the Constitution; to provide for the privileges and benefits of the traditional or cultural leaders; to provide for the resolution of issues relating to traditional or cultural leaders and for related matters.

DATE OF ASSENT: 26th February, 2011,

Date of Commencement: See Section 1.

BE IT ENACTED by Parliament as follows:

### **PART I-PRELIMINARY**

#### **1. Commencement.**

This Act shall come into force on a date appointed by the Minister by statutory instrument.

#### **2. Interpretation.**

In this Act, unless the context otherwise requires-

“court” means the High Court of Uganda;

“Constitution” means the Constitution of the Republic of Uganda;

“corporation sole” means a continuous legal personality that is attributed to successive holders of certain monarchical positions such as kings;

“currency point” has the value assigned to it in Schedule 1;

“institution of traditional or cultural leader:” means the throne, station, status or other position held by a traditional or cultural leader and “institution” shall be construed accordingly;

“Government” means the Government of Uganda;

“Minister” means the Minister responsible for culture;

“partisan politics” includes-

- (a) promoting, or supporting a political party or political organisation or an individual in respect of political activities;
- (b) making statements against Government or opposition policies or programs;
- (c) making statements or comments on Bills or motions under consideration by Parliament with a view to influencing their outcome;

“privilege” means a right, advantage or immunity, conferred on a traditional or cultural leader;

“traditional or cultural leader” means a king or similar traditional leader or cultural leader by whatever name called who derives allegiance from the fact of birth or descent in accordance with the customs, traditions, usage or consent of the people led by that traditional or cultural leader.

### **PART II-INSTITUTION OF TRADITIONAL OR CULTURAL LEADER**

#### **3. Existence of the institution of traditional or cultural leader.**

Subject to the Constitution, the institution of traditional or cultural leader may exist in any area of Uganda in accordance with the culture, customs and traditions or wishes and aspirations of the people to whom it applies.

### **3. Institution of traditional or cultural leader.**

- (1) A traditional or cultural leader may be instituted in the following ways-
  - (a) in accordance with the culture, customs and traditions of the people to whom it applies; or
  - (b) in accordance with the wishes and aspirations of the people to whom it applies, through a resolution of not less than two thirds of all members of the district local councils and sub county local government councils respectively in the area .
- (2) The institution under sub section (1) shall be communicated in writing to the Minister.

### **4. Installation of traditional or cultural leader.**

- (1) A person may be installed as a traditional or cultural leader in any area of Uganda if that person derives allegiance from-
  - (a) birth; or
  - (b) descent,

in accordance with the customs, traditions, usage or consent of the people led by that traditional or cultural leader.

- (2) A person shall not be installed as a traditional or cultural leader unless the person derives allegiance from birth or descent in accordance with article 246(1) to (6) of the Constitution.
- (3) Subject to Article 246(3)(d) of the Constitution, a person shall not be compelled to pay allegiance or contribute to the cost of maintaining a traditional or cultural leader.
- (4) A person who compels another person to pay allegiance to a traditional or cultural leader commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding twelve months or both.

### **5. Publication of declaration of traditional-or cultural leader**

Where a traditional or cultural leader has been declared to exist in any area of Uganda in accordance with the culture, customs and traditions or wishes and aspirations of the people, the Minister shall cause the declaration to be published in the Gazette.

### **6. Capacity of institution of traditional or cultural leader.**

- (1) The institution of a traditional or cultural leader is a corporation sole with perpetual succession and with capacity to sue and be sued and to hold assets or properties in trust for itself and the people concerned.
- (2) A traditional or cultural leader may hold any asset or property acquired in a personal capacity.

### **7. Publication of abdication or cessation of traditional or cultural leader.**

Where a traditional or cultural leader-

- (a) abdicates. the institution of a traditional or cultural leader; or
- (b) lawfully ceases to be a traditional or cultural leader,.

the Minister shall cause the abdication or cessation to be published in the Gazette.

## **PART III-ROLE OF TRADITIONAL AND CULTURAL LEADERS**

### **8. Role of traditional or cultural leader.**

A traditional or cultural leader shall-

- (a) promote and preserve the cultural values, norms and practices which enhance the dignity and well being of the people where he or she is recognised as such; and
- (b) promote the development, preservation and enrichment of all the people in the community where he or she is recognized as such.

#### **PART IV-PRIVILEGES AND BENEFITS**

##### **9. Privileges and benefits of a traditional or cultural leader**

- (1) A traditional or cultural leader shall enjoy the privileges and benefits specified in Schedule 2.
- (2) A traditional or cultural leader shall enjoy such privileges and benefits as may be conferred by the Government and local Government or as that leader may be entitled to under culture, custom or traditions which are not inconsistent with the Constitution or this Act or any other law.
- (3) Where a traditional or cultural leader exists in more than one regional government, the benefits shall be paid by the regional governments in equal proportions.
- (4) The benefits payable under this section shall be free from income tax.
- (5) The duties and responsibilities of the traditional or cultural leader may be financed through central government from the Consolidated Fund as a grant.

##### **10. Responsibility of the community where a traditional or cultural leader exists.**

- (1) The community where a traditional or cultural leader is installed shall have the primary responsibility of maintaining the traditional or cultural leader.
- (2) Notwithstanding subsection (1), a person shall not be compelled to contribute to the cost of maintaining a traditional or cultural leader or any institution of the traditional or cultural leader.

#### **PART V- RESTRICTIONS ON A TRADITIONAL OR CULTURAL LEADER**

##### **11. Exercise of administrative, legislative or executive powers.**

A traditional or cultural leader shall not have or exercise any administrative, legislative or executive powers of Government or a local government.

##### **12. Traditional or cultural leaders not to join or participate in partisan politics.**

- (1) A person shall not, while remaining a traditional or cultural leader, join or participate in partisan politics.
- (2) A traditional or cultural leader wishing to take part and seeking elective office shall abdicate his position in the institution not less than ninety days before nomination day in respect of that election.
- (3) For the purposes of this section a person joins or participates in partisan politics when that person-
  - (a) becomes a registered member or card bearing member of the political party or political organisation;
  - (b) allows a member of a political party or political organisation or individual for purposes of political activities to articulate views, aspirations and interests of that political party or political organisation or individual;
  - (c) Knowingly attends a rally or debate where the views, aspirations or interests of a political party or political organisation are articulated;
  - (d) allows a person in the employment of the traditional or cultural institution of which the person is a leader to engage in any of the activities referred to in paragraphs (a) to (c).
- (4) A person who knowingly involves a traditional or cultural leader in partisan politics commits an offence and is liable on conviction to a fine not exceeding twenty four currency points or imprisonment not exceeding twelve months or both.

#### **14. Prohibited customs or traditions.**

A traditional or cultural leader or institution shall not practise any custom, culture, usage or tradition that detracts from the rights of any person as guaranteed under the Constitution or contravenes the Constitution or any other law.

#### **15. Relationship with foreign governments**

- (1) A traditional or cultural leader shall not deal with foreign governments except with concurrence of the Government.
- (2) The Minister responsible for foreign affairs shall develop guidelines for approval to be granted under subsection (1).

### **PART VI-RESOLUTION OF DISPUTES**

#### **16. Resolution of disputes.**

- (1) Any conflict or dispute within the traditional or cultural institution or within the community shall be handled by a council of elders or clan leaders or a representative body chosen and approved by the community, in accordance with the traditions, customs and norms of dispute or conflict resolution pertaining to that community.
- (2) Where the community fails to resolve the conflict or dispute in accordance with subsection (1), the matter shall be referred to the court.
- (3) For the avoidance of doubt, the conflict or dispute referred to in subsection (1) is a conflict or dispute relating to-
  - (a) whether or not a community should have a traditional or cultural leader;
  - (b) who should be the traditional or cultural leader of the community or area of Uganda; or
  - (c) whether or not the proper procedure for installation of a traditional or cultural leader has been followed.

### **PART VII-MISCELLANEOUS**

#### **17. Liability of traditional or cultural leaders.**

- (1) A traditional or cultural leader is personally liable for any civil wrongs committed by the traditional or cultural leader or the agents or persons in the employment or acting under the authority of the traditional or cultural leader.
- (2) A person who purports to act on behalf of the traditional and cultural leader without authority or knowledge of the traditional and cultural leader is liable for any civil or criminal acts committed by him or her.

#### **18. Symbols and seals of institution of traditional or cultural leaders.**

- (1) Institutions of traditional or cultural leaders may have flags, anthems, seals, royal regalia, motto and logos.
- (2) Flags, anthems, seals, royal regalia, motto and logos of, traditional or cultural leaders existing before the coming into force of this Act shall continue to be in use.

#### **19. Power of Minister to amend Schedules.**

The Minister may, by statutory instrument, with the approval of Cabinet amend any Schedule to this Act.

#### **20. Regulations.**

- (1) The Minister may, with the approval of Parliament, by statutory instrument, make regulations for the better carrying into effect the provisions of this Act.

- (2) Regulations made under this section may prescribe in respect of contravention of the regulations, penalties not exceeding a fine of forty eight currency points or imprisonment not exceeding two years or both.

### SCHEDULE 1

#### CURRENCY POINT

A currency point is equivalent to twenty thousand shillings.

### SCHEDULE 2

#### PART I -

#### PRIVILEGES AND BENEFITS OF TRADITIONAL OR CULTURAL LEADERS

<i>Official vehicle</i>	<i>Support vehicle</i>	<i>Honorarium</i>	<i>Educational allowance</i>	<i>Travel</i>	<i>Arrangements upon death</i>	<i>Security</i>
Official vehicle: 4165cc; 4 wheel drive, 6 cylinder diesel and 5 speed: manual transmission	Support vehicle: 2800cc, 4 cylinder diesel engine, water cooled with OHC, 5 speed manual transmission	Government may provide an annual 'unconditional honorarium as tax free allowance to be reviewed from time to time by the Ministry responsible for public service.	For two biological children up to university level within Uganda.	A traditional or cultural leader may travel with a spouse by first class once a year.	Contribution by Government for burial arrangements in accordance with existing policy on handling past and present 'leaders and other dignitaries after their death	For self and family with training provided by a competent authority determined by Government.

#### PART II -

#### BENEFITS OF INSTITUTIONS OF TRADITIONAL OR CULTURAL LEADERS

<i>Rehabilitation of residence</i>	<i>Maintenance of gazetted cultural sites</i>	<i>Support for research and documentation</i>	<i>Establishment and maintenance of website</i>	<i>Publication of official list of traditional/ cultural leaders</i>	<i>Support of co-operation</i>
A contribution by Government towards the cost of rehabilitation of existing institutional or official residence to a standard determined by the Ministry responsible for works, housing and communications.	Maintenance of gazetted cultural sites at the cost of Government to a standard determined by the Ministry responsible for culture	Support for research and documentation at the cost of Government for the traditional history and cultural heritage through the Ministry responsible for culture.	Establishment and maintenance of website through the Ministry responsible for culture.	Publication through the Ministry responsible for culture.	Government to support cooperation among the traditional or cultural institutions.

### **3.3 THE TRADITIONAL RULERS (RESTITUTION OF ASSETS AND PROPERTIES) ACT, 1993, CAP 247**

#### **Arrangement of Sections**

Section

Interpretation

Restoration of assets and properties previously confiscated by the State

Reversion of certain assets and property

#### **Schedule**

*Schedule* Assets and property of the traditional ruler of Buganda.

*Commencement:* 30 July, 1993.

**An Act to give effect to article 118A of the Constitution of 1967 and to restore to traditional rulers assets and properties previously owned by them or connected with or attached to their offices but which were confiscated by the State and to make other provisions relating or incidental to, or consequential upon, the foregoing.**

#### **1. Interpretation.**

In this Act, unless the context otherwise requires, “traditional ruler” means king or ruler by whatever name called, as referred to in article 118(1) of the Constitution repealed by the Constitution (Amendment) Statute, 1993, and any successor of such traditional ruler.

#### **2. Restoration of assets and properties previously confiscated by the State.**

Subject to the other provisions of this section, any asset or property previously confiscated by the State from or in respect of or in relation to any traditional ruler under the Constitution of 1967 is, with effect from the commencement of this Act, transferred to that traditional ruler without any further assurance than this Act.

A traditional ruler to whom any asset or property is transferred under this section shall, in the case of land, have the same estate or interest as was previously held by the Uganda Land Commission in respect of that land.

Notwithstanding anything in this Act, all regalia where they exist shall vest in the traditional ruler in accordance with subsection (1), without the need for negotiation.

For the avoidance of doubt, in the case of Buganda, the assets and properties specified in the Schedule to this Act shall, on the commencement of this Act, vest in the traditional ruler of Buganda for the same estate or interest as was held by the Uganda Land Commission at the commencement of this Act.

In the case of traditional rulers other than the traditional ruler of Buganda, the Government shall hold negotiations with the traditional rulers concerned with a view to returning to them such assets and properties as may be agreed.

Subsection (5) applies to the traditional ruler of Buganda in respect of any asset or property other than those specified in the Schedule to this Act.

Where it is agreed to transfer any asset or property to a traditional ruler under subsection (5) or (6), subsection (1) shall apply to the asset or property with effect from the date approved in the agreement.

Notwithstanding any provision of the Registration of Titles Act, the registrar of titles shall take all necessary steps for giving effect to the transfer of any asset or property effected by this section free from any tax, duty

or fee whether by the alteration or cancellation of any relevant certificate of title, the issue of a fresh certificate of title or otherwise.

### **3. Reversion of certain assets and property.**

For the avoidance of doubt, any asset or property vested in the Government in respect of any traditional ruler by section 3 of the Special Pensions (Former Rulers and Constitutional Heads) Act shall, upon the commencement of this Act, be deemed to have reverted to the traditional ruler concerned under section 2 of this Act and subject to subsection (5), (6) and (7) of that section. *Schedule.s. 2.*

#### **Assets and property of the traditional ruler of Buganda.**

The Bulaange

The Lubiri at Mengo

The Butikkiro

The Buganda Court Building

Kabaka's official 350 square miles of land

Namasole's ten square miles of land

Banalinya's land

Kabaka's lake

Former Omulamuzi and Omuwanika's official residences of Mengo

Land adjacent to Lubiri on which three Buganda Ministerial houses used to stand

All Bassekabaka's Tombs

Buganda Works Building at Kakeeka

Basiima House

Nalinya's house at Lubaga

**History:** Statute 8/1993.

#### **Cross References**

Constitution of 1967

Constitution (Amendment) Statute, Statute 7/1993.

Registration of Titles Act, Cap. 230.

Special Pensions (Former Rules and Constitutional Heads) Act, Act 19/1967.

### **3.4. THE UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES, 2007**

This was adopted by the United Nations General Assembly during its 61st session in New York on 13 September 2007.

*The General Assembly,*

*Guided* by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

*Affirming* that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

*Affirming also* that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

*Affirming further* that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

*Reaffirming* that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

*Concerned* that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

*Recognising* the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

*Recognizing also* the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

*Welcoming* the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

*Convinced* that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

*Recognising* that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

*Emphasising* the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

*Recognizing in particular* the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

*Considering* that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

*Considering also* that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

*Acknowledging* that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights<sup>2</sup> and the International Covenant on Civil and Political Rights,<sup>2</sup> as well as the

Vienna Declaration and Programme of Action,<sup>3</sup> affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

*Bearing in mind* that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

*Convinced* that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

*Encouraging* States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

*Emphasising* that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples, See resolution 2200 A (XXI), annex. 3.A/CONF.157/24 (Part I), chap. III<sup>4</sup>

*Believing* that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

*Recognising and reaffirming* that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

*Recognising* that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

*Solemnly proclaims* the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

#### *Article 1*

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights and international human rights law.

#### *Article 2*

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

#### *Article 3*

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

#### *Article 4*

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

*Article 5*

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

*Article 6*

Every indigenous individual has the right to a nationality.

*Article 7*

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

*Article 8*

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
2. States shall provide effective mechanisms for prevention of, and redress for:
  - (a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;
  - (b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;
  - (c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;
  - (d) Any form of forced assimilation or integration;
  - (e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

*Article 9*

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

*Article 10*

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

*Article 11*

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

*Article 12*

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their re-

ligious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

*Article 13*

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

*Article 14*

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

*Article 15*

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.
2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

*Article 16*

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.
2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

*Article 17*

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.
2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.
3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.

*Article 18*

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision making institutions.

*Article 19*

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

*Article 20*

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

*Article 21*

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, inter alia, in the areas of education, employment, vocational training and re-training, housing, sanitation, health and social security.
2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

*Article 22*

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

*Article 23*

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

*Article 24*

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.
2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realisation of this right.

*Article 25*

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

*Article 26*

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

*Article 27*

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

*Article 28*

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.
2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

*Article 29*

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.
2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.
3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

*Article 30*

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.
2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

*Article 31*

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognise and protect the exercise of these rights.

*Article 32*

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

*Article 33*

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.
2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

*Article 34*

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

*Article 35*

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

*Article 36*

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.
2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

*Article 37*

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.
2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

*Article 38*

States, in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

*Article 39*

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

*Article 40*

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies

for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

*Article 41*

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilisation, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

*Article 42*

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

*Article 43*

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

*Article 44*

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

*Article 45*

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

*Article 46*

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.
2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.
3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.





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