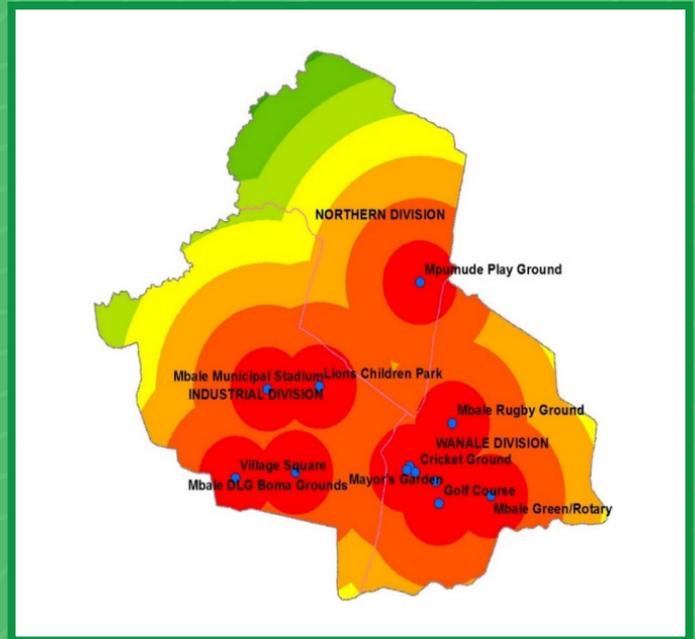
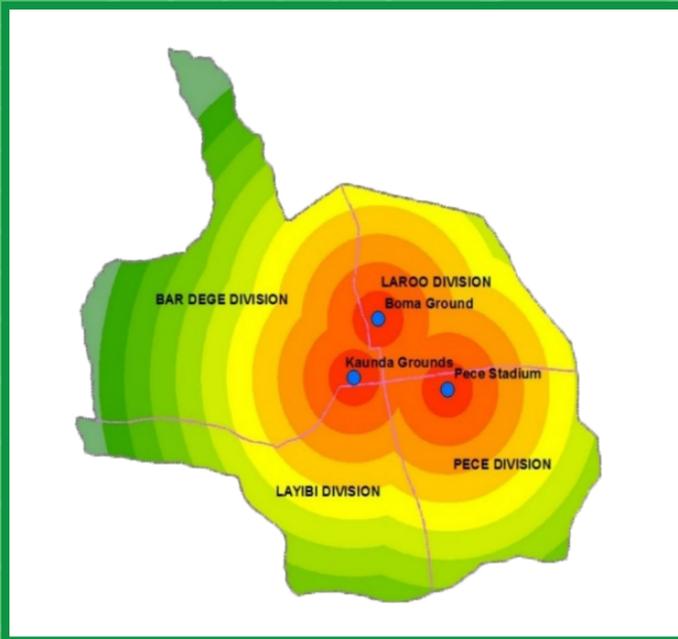




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Cities Without Slums



# LOSING GROUND?

The Unprecedented Shrinking of Public Spaces and Land in Ugandan Municipalities

A publication of the Cities Alliance Joint Work Programme for Equitable Economic Growth in Cities  
By Paul. I. Mukwaya, Dmitry Pozhidaev, Denis Tugume, and Peter Kasajja

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# SUMMARY

There is increasing importance being attached to public spaces and other municipal assets, such as land, in promoting inclusive and resilient cities. Urban land is a municipality's most valuable resource, but it is liable to misuse. The issue of land in Uganda has been a contentious one, resulting in sometimes violence, murders and chaos. As urban areas grow, public spaces and land risk becoming occupied, reallocated and grabbed. It is a distressing reality of many municipalities across Uganda that their public spaces and land are shrinking and disappearing altogether. The Auditor General of Uganda in his reports has expressed concern at the rate at which government land is being lost to encroachers at unprecedented scales with little or no concern from the respective government entities. The most affected lands are government schools, Ministry of Agriculture, universities, the Uganda police force and the defence forces (Wamajja, 2016), but urban areas have not been spared either. The shrinkage of public spaces and land across many municipalities, including many rural areas in Uganda, has raised political, media and public concern.

This study is designed to stress the urgency of the continued loss of public lands by establishing a reliable evidence base with respect to prevailing practices and approaches to public space and land management in Uganda. It uses a broader national approach to explore and explain the drivers of public space and land losses across Mbale and Gulu Municipalities. Through a review of grey and scholarly literature, systematic audit and inventory of the respective public space, examination of land management mechanisms, integrated with community consultations and Town Hall meetings, the study drew valuable insights into how the relevant authorities in these two municipalities, but also other local governments in Uganda, could improve provision of public services for equitable growth.

This study was conducted in the framework of the Cities Alliance Joint Work Programme (JWP) on Equitable Economic Growth in Cities. The JWP is implemented in a number of countries, including Uganda. Recognizing the needs and capacities of cities and local governments, the JWP works with development partners to produce global knowledge, facilitate policy dialogues and support city-level diagnostics and policy recommendations. The goal

is to promote economic growth that benefits ALL citizens. The Joint Work Programme implements its partnership approach through three components:

1. Global Policy Dialogue. Promoting structured global policy dialogue to explore and address the role of local public goods and services in stimulating growth and reducing inequalities in cities.
2. Generating Global Knowledge. Addressing key knowledge gaps by producing peer-reviewed global knowledge products to inform practitioners and policy makers at the global, national and local levels.
3. Equitable Economic Growth Campaign Cities. Facilitating local partnerships in selected cities in partner countries, supporting the promotion of equitable access to public goods and services based on local needs, capacities and priorities.

The study has established that the early planning of most colonial towns in Uganda was built on the neighbourhood principle, which provided a network of public spaces and municipal assets including land, such as golf courses, cricket grounds, children parks, rugby grounds, Central Forest Reserves, playgrounds, stadiums, school playgrounds and so on. Table 1 provides a breakdown of public spaces in Mbale and Gulu Municipalities. The researchers for this study observed that residents of the two municipalities are not well served with public spaces. The distribution of public spaces across the selected municipalities is so skewed that a large section of the public has been denied access to them. The amount of public space in municipalities varies widely and for the two selected municipalities, results indicated that Mbale Municipality has twice the amount of public spaces (in fact, 2.16 times more) as Gulu Municipality. There are many internationally recommended indicators of the size of public space (in hectares) for every 1,000 people ranging from 1.2 to 14.2 hectares/1,000 for the City of Regina (Canada) and World Urban Parks (2014), respectively. This study found that current provision level of public space per 1,000 residents was 0.85 and 0.92 hectares for Gulu and Mbale respectively, which fall well below standard recommended by the City of Regina.

**TABLE 1: SIZE OF PUBLIC SPACES BY CLASSIFICATION IN MBALE AND GULU MUNICIPALITIES**

	Mbale Municipality		Gulu Municipality	
	#Sites	Hectares	#Sites	Hectares
Stadium	1	3.548	1	2.413
Green/ Open Spaces	11	41.074	10	31.035
Playgrounds	12	6.656	1	15.973
Markets	5	3.834	10	30.468
School Grounds	8	18.234	11	33.189
Natural Areas	1	222.575	1	25.077
Cemetery	2	2.635	0	0
Library	1	0.127	1	NA
Total	41	298.683	34	138.154

To quantify how much public space was available and how much is required, the gap analysis showed that currently the municipalities require 107.22 ha and 180.37 ha of public space for Mbale and Gulu Municipalities, respectively. Based on projected population increases, future public space supply is estimated to drop substantially to 0.429ha/1,000 residents and 0.676ha/1,000 residents in Mbale and Gulu Municipalities, respectively, by 2030, if the two respective authorities take no decisive action to reverse current trends. The proportion of public space could drop even further to 0.19ha/1,000 residents and 0.519ha/1,000 residents in both cases respectively under a business-as-usual scenario by 2050. These findings show that the municipalities are anticipated to remain deficient in the future with regards to public space supply. Moreover, once proper planning is done in the two municipalities and given the current population growth rates, the projected future public space needs by 2030 would amount to 212.96 ha and 245.16 ha for Mbale and Gulu Municipalities, respectively. This would increase to 482.82 ha and 319.21 ha by 2050 for the two municipalities, respectively. This demonstrates the need for the municipal authorities to be very proactive in providing more public space and to take decisive action to enforce the protection and maintenance of existing public spaces.

The observed shrinkage of public space and land management environment in the two municipalities results from many related and interacting processes, structures and at several and multiple spatio-temporal and governance scales. Overall, the study's reviews were cross-checked during community consultations,

and this examination revealed that public lands in all urban areas across the country are under threat. In some cases, individuals have fraudulently acquired public lands by colluding with land officers and high profile government officials to the detriment of municipal residents. However, the shrinkage of public spaces is attributed to many factors, structures and processes: (1) demographic trends and processes of municipal urbanization; (2) multiple public space and management actors; (3) existence of powerful land cartels and syndicates; (4) weak municipal planning institutions; (5) fragmentation of public space planning and manipulation of legal regimes; (6) inadequate municipal land regulation and enforcement of development controls; (7) inadequate municipal budgets.

As the two municipalities clamour for a city status, they are challenged in a constantly changing environment to provide high-quality public spaces and manage urban lands appropriately. This situation places additional responsibility on the municipality planners, politicians, developers and the community to work together to provide a common vision for their public space system. The researchers of this study observed that it is still a huge challenge to manage public spaces and land in both municipalities, and their recommendations arise out of discussions with technical personnel, including discussions with public space users and expert judgment from the observations and spatial analyses conducted throughout the whole exercise. The following recommendations need to be considered both in the short and long-term.

## POLITICAL LEADERSHIP AND COUNCILLORS

1. The political leaders in the municipalities, including the municipal mayors should take a deliberate stand to champion through formal and established institutional channels to protect municipal public spaces and land. Protection of municipal public spaces should become a recurrent theme in their interactions with the citizens during meetings, discussions ceremonies and other public events. Political leaders should make a better use of traditional values, particularly the sense of community life, respect to common properties, including through approaches, such as *Obuntubulamu*,<sup>1</sup> for promoting a sense of ownership and honour for well-kept and properly used public space and land, especially among young people.
2. Municipal Councils should regularly, at least once a quarter, discuss the issues of public space and land use at their meetings. Municipal Councils should hold regular public meetings and consultations to sensitize the public about the importance of effective public land management, expose the cases of land misuse and illegal occupation, and mobilize the public opinion and direct action.
3. Councillors should reach out to their various constituencies, including civil society organizations, professional groups, neighbourhood associations, private businesses and others to encourage their initiative and specific contributions to the design, development and maintenance of public space and land.
4. Municipal Council should become the guardian of an inclusive and participatory city planning process involving all groups affected by planning decisions, particularly women and the urban poor, including residents in informal settlements and the informal workforce, to ensure broad-based support for land use decisions and socialize protection of public space and land. They should encourage public participation in planning decisions among their voters and make sure that local government officials create conditions for such processes and duly reflect the results in final plans.

## MUNICIPAL ADMINISTRATION

### Short-term

1. Municipalities should immediately embark on development of forward-looking and realistic strategies and actionable and adequately resourced plans for public space and land management. For example, in the revised Municipal Development Strategy for Mbale Municipal Council, there is a need to demonstrate the importance and allocations that have been given to public spaces and land. Municipal public space and land management plans should be closely aligned with and integrated in municipal revenue mobilization action plans and asset management plans. The timing is very opportune as both Gulu and Mbale Municipalities (as well as a number of others) are getting technical and financial support from the government and some development partners (including UNCDF) for their revenue mobilization and asset management plans.
2. As part of such action plans, concrete provisions should be made to provide the Municipality Enforcement Unit (MEU) with sufficient staff and equipment and technologies to apprehend illegal developers, protect public spaces from further encroachment, misuse, vandalism and destruction. Municipalities should analyse the existing capacity gaps in the MEU and implement a resourced action plan to address such gaps systematically.
3. Effective management of public spaces and land MUST start with adequate data and information to ascertain who are the custodians of municipal lands and public spaces. Municipalities should undertake surveying, registration and titling exercise of **ALL** public lands and spaces to secure them from grabbers. This exercise should be part of the annual work plan of each municipality and part of the broader strategy to create a municipal asset register and database. Land titles that were fraudulently issued should be cancelled and development on the land halted while encroachers must relocate.

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<sup>1</sup> <http://global-ssmart.org/en/solution/obuntubulamu-promoting-peace-and-development-uganda-through-cultural-values>.

4. The property-related tax is a valuable but grossly under-utilized source of finance for maintenance of public spaces and urban development. Whereas any amendments of the regulatory framework will take time and effort, municipalities must focus on what they can do immediately to increase property-related tax collection. Updating municipal property registers, application of adequate valuation techniques and use of effective collection methods must become priority tasks for municipalities. In doing so, municipalities should establish and demonstrate a clear link between the collected property tax and actual improvements in publicly available spaces and associated infrastructure to encourage the public willingness to pay the property and other land-related taxes.
5. Municipal authorities should institute without further delay safety reviews or evaluations that incorporate checklists of mandatory criteria to be performed regularly of all public spaces, as well as periodic surveys of residents' safety concerns with an emphasis on the results from women.
9. Municipal authorities should carefully design and protect public space in view of the specific safety and security needs of women and girls. Some of the required features include the following: public restrooms, adequate signage, shade structures, sitting facilities, well-maintained paths, street lighting, and road furniture. It is also recommended planning for mixed land uses to generate users throughout the day, particularly in more secluded public spaces, such as parks to improve women's safety.
10. The human capacity of all heads of department in the Municipal Councils to which public space and land matters are closely associated needs to be built. The envisaged training should be in municipal asset management, land surveying, titling, spatial analysis, revenue management and broader real estate management.
11. Since the public, certain individuals and a section of the municipal officials largely treat most public spaces and lands as empty, idle and free, there is a need for the municipal authorities to conduct a thorough study on their potential socio-cultural and economic value. This should include the cost and benefits of public spaces and other public assets in influencing economic, inclusive and equitable growth in municipalities. An elaborate public education campaign on the importance and benefits derived from public spaces is also required.

#### Medium- and long-term

6. The land use and urban planning regulations that guide public space and land management in municipalities should be streamlined to deter bribery and fraudulent behaviour in existing municipal land transactions. This also requires action at a national level and calls for a collective action by Ugandan municipalities through their apex organizations, such as the Urban Authorities Association of Uganda (UAAU).
7. The reliance on volunteers, whistle blowers, coincidence and sometimes complaints from affected residents as a means of identifying illegal developments on public spaces and land should be strengthened. The use of social media, sharing of photos and "name and shame" data online using reporting by citizens could be helpful and should be encouraged.
8. Adequate budgetary appropriations and funding allocations by all municipal accounting officers should be made to ensure that surveying, registration and titling (acquisition of title deeds) of all municipal public spaces, land and other municipal assets are secured. If municipalities do not prioritize and provide funds to the different departments under whose mandate public spaces and land falls, they will continue to lose land. Cases involving schools losing land, police stations losing land, and so on will continue un-abated.
12. Municipalities have to find creative and innovative ways of financing the management of public spaces and land. This can be done by encouraging partnerships with the private sector, such as World Embrace and Rotary International in Gulu and Mbale Municipalities, respectively, to invest in public spaces and share the returns on investment with the municipalities. Likewise, municipalities should develop arrangements for engaging non-profit organizations in development and maintenance of public space and lands and reach out to them proactively.
13. Another financing option includes instituting land value capture mechanisms that introduce land-based financing instruments (such as levies and taxes) for development and maintenance of public spaces.

## CIVIL SOCIETY AND THE PRIVATE SECTOR

1. Civil society organizations should integrate issues of the use, maintenance and protection of public space and land in their programmes and activities. The concerning trend of a continued loss and deterioration of public properties underlines the need for active and meaningful engagement by all kinds of civil society organizations: faith-based because of the cultural and religious aspects, sports clubs and associations due to the need for exercise and physical development, environmentalists because of the ecological concerns and so on. CSOs should raise their concerns using all kinds of communication, in meetings, via media and so on. They should apply more pressure on local politicians and municipal administrations to tighten control over public assets and regularly account for their use to the public.
2. Professional groups, local communities and neighbourhood groups, vendor associations and other groups with non-economic and economic interests in public space and land should proactively look for opportunities and engage with municipal administrations over management initiatives on a not-for-profit

basis to design, maintain and develop public spaces for particular uses. Such management arrangements may concern parklets or other green areas, bicycle parking, market stalls, sport grounds and other types of public space that can have a larger impact on neighbourhoods and cities.

3. Private businesses should consider their engagement in the design, development and maintenance of public space from two perspectives, as corporate social responsibility and as a value-adding activities that improves their bottom line by expanding their customer base or inspiring brand loyalty. Like non-profits, private businesses need to integrate public space and land into their business models and be on the watch out for opportunities proactively engaging with municipal administrations as well as with local communities.

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# 1 INTRODUCTION

## 1.1 Background

The African continent is urbanizing at a historically unprecedented rapid rate. The share of urban residents has increased from 14 per cent in 1950 to 40 per cent today. By the mid-2030s, 50 per cent of Africans are expected to become urban dwellers. Urbanization is likely to continue and level off at about 56 per cent around 2050 (AfDB, 2016). Without a doubt, urbanization presents immense opportunities from a strategic development perspective. It holds great potential to catalyse social, political and economic transformation through wealth generation, prosperity and improvement in the quality of life. The challenge is that while urbanization offers a wide range of opportunities, it also comes with a multiplex of challenges.

Urbanization potentially has a powerful transformative effect as an engine for growth and development (SDSN, 2013), and yet, urbanization in itself is an insufficient condition for development. Many countries that are more than 50 per cent urbanized still have low-income levels. Urbanization per se does not bring economic growth, and rapid urbanization does not necessarily correlate with fast economic growth (AfDB, 2016). Subsequently, planning and managing the urbanization trajectory is very critical if the country is to fully exploit the potential benefits it presents. When urbanization is harnessed sustainably, it can create employment, reduce poverty and vulnerability, ensure greater inclusiveness, build more resilient communities, improve living standards and promote sensible exploitation of natural resources. Otherwise, the negative impacts of poorly planned infrastructure investments and urban land-use systems can be hard to reverse (SDSN, 2013). Needless to say, failure to plan and manage such urban 'hardware' can cascade

down the socio-economic chain, resulting in slum proliferation, deprivation, unemployment, insecurity, inequality, exclusion, vulnerability, crime and violence. In the absence of effective and responsive regulatory frameworks, the cumulative impact of these aspects on the environment and on human welfare can be very severe.

The protection, provision and maintenance of public lands and spaces are core activities that are delivered by municipalities throughout the world. It may be perceived differently from other public services (such as firefighting, water supply or waste management), but this service is critical for the production and reproduction of cities' social and economic life and for their orderly development. UN-Habitat (2015) and Bellagio Accord for Public Spaces in African Cities (HealthBridge Foundation of Canada, 2016) consider public spaces "a vital ingredient of successful cities", the places in the city that build a sense of community, culture, social capital, and community revitalization. However, in many cities, especially in African countries, public spaces are not seen as a basic public service and as a result, these areas are often chaotic, poorly planned and maintained, if they exist at all (HealthBridge Foundation of Canada, 2016). The share of public space for parks and roads in Africa's urban land is about 15 to 20 per cent, which is half of the world's average of 30 to 40 per cent. According to UN-Habitat (2013), the generally accepted minimum standard for public space in urban areas is 45 per cent, broken down into 30 per cent for streets and sidewalks and 15 per cent for green spaces. This standard aims to achieve a minimum density of 150 inhabitants per hectare.

### BOX 1: WHAT ARE PUBLIC SPACES?

Public spaces capture a wide range of environments (Ontario Land Trust Alliance, 2015). Public spaces are literal commons: the common ground where people come together as friends, neighbours and citizens. The International Charter of Public Space (2013), MLHUD (2011) National (Uganda) Physical Planning Standards and Guidelines and UN-Habitat (2013) define public spaces as the sum of the areas of the built-up areas of cities devoted to streets and boulevards – including walkways, sidewalks, and bicycle lanes – and the areas devoted to public parks, squares, recreational green areas, public playgrounds and open areas of public facilities. These areas are publicly owned or of public use, accessible and enjoyable for all for free and without a profit motive and include recreational parks, schoolyards, playgrounds, play lots, play fields, forest lots, agricultural zones, public gardens, roads, sidewalks, waterfronts, beaches, museums, community gardens, markets, public buildings and cemeteries. They are set aside, usually by planners, governments, local urban councils, and private individuals to add a bit of "humanity" to the concrete jungle.

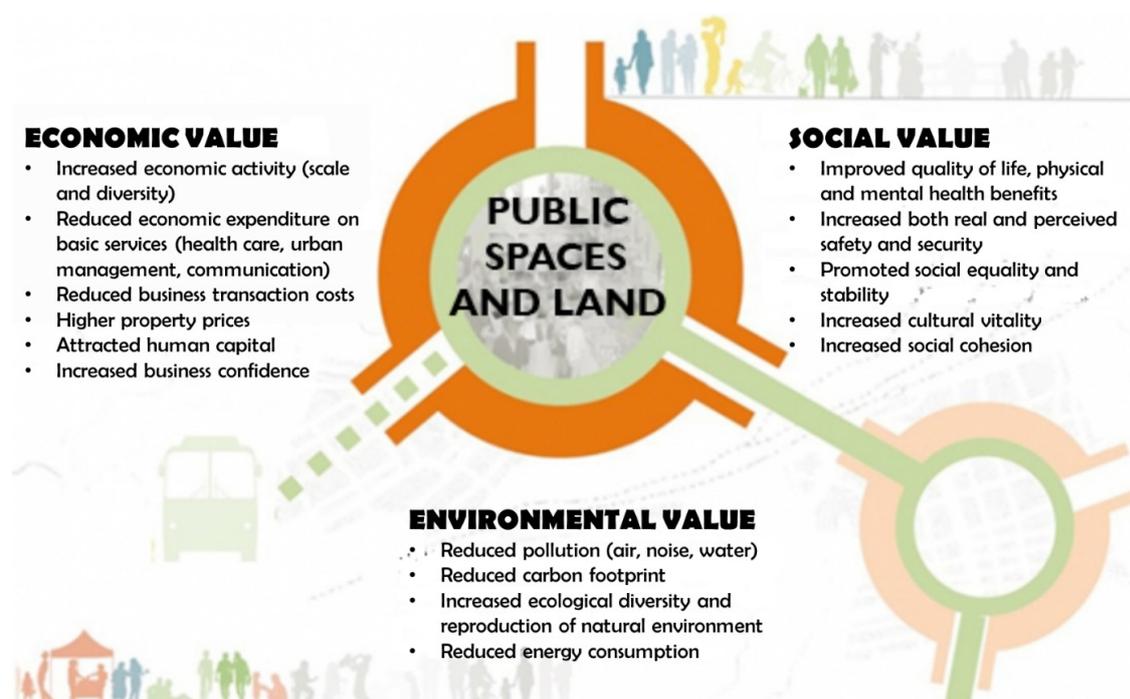
A key feature of successful public spaces is their capacity to provide multiple benefits to urban communities (Dunnet, Swanwick and Wooley, 2002) and these benefits are illustrated in Box 2. The loss of public spaces and land is not a new phenomenon. For centuries, communities have been intimidated to abandon – or have been forcibly removed from – their

land, especially in sparsely populated rural areas. However, we are now witnessing an unprecedented loss of public spaces and land in urban areas too. As municipalities are dispossessed of their core assets, whole community fabric is being destroyed and the potential benefits arising out of public spaces are lost too.

## BOX 2: EXAMPLES OF BENEFITS OF PUBLIC SPACES

- Parks reduce storm water runoff, absorb pollutants, reduce carbon footprint and contribute to increased ecological diversity and reproduction of natural environment
- Parks promote active living and help raise the physical activity levels of park users, reduce their obesity rates, increase vitamin D levels, improve blood pressure, bone density and cardiorespiratory fitness (AARP, 880 Cities and The Trust for Public Land, 2018). When people live close to a park or trail, they walk more (Beckford, 2017).
- Parks provide mental health benefits. Access to parks and natural areas has been shown to provide these benefits: reduce physiological stress, anger, mild depression and aggression; improve coping abilities; reduce stress indicators, lessen social isolation; enhance relationship skills; and improve cognitive function. For children, learning in natural environments can boost reading, math, science and social studies skills. Time spent in quality outdoor spaces can enhance creativity and problem-solving, reduce hyperactivity, and improve focus, attention and behaviour (AARP, 880 cities and The Trust for Public Land, 2018 and Dunnet, Swanwick and Wooley, 2002). Recent estimates show that physical inactivity, linked to poor walkability and lack of access to recreational areas, accounts for 3.3 per cent of global deaths (Lodaya, 2017).
- Public spaces define cities or neighbourhoods, thereby, building a sense of community, civic identity, values, culture and history of a place. They are locations where community comes alive, where bonds among neighbours are strengthened and where a sense of belonging is fostered.
- Public spaces, if utilized and designed well, create added social value and can revive municipalities by giving them character, enhancing architectural diversity and promoting cultural activities.
- Public spaces are productive assets for the livelihoods of many urban informal workers, which now constitute the norm rather than the exception in many cities in the global south. Public spaces, both open air and buildings, facilitate the movement of goods and people and are the settings for the day-to-day livelihood activities of workers in the informal economy, including street vendors and waste pickers (Chen et al, 2018).
- Public spaces promote democracy, inclusion and social cohesion allowing people from various socio-economic backgrounds to share common ground to celebrate, recreate, to remember, to reflect or protest (Beckford, 2017).
- Public spaces add value and reduce costs in terms of both direct economic value and municipal cost savings, which can be measured by increased property values (generating increased tax revenues) (AARP, 880 cities and The Trust for Public Land, 2018 and Dunnet, Swanwick and Wooley, 2002).

**FIGURE 1: VALUES OF PUBLIC SPACES AND LAND**



Source: Authors, based on World Bank, <http://blogs.worldbank.org/endpovertyinsouthasia/public-spaces-not-nice-have-basic-need-cities>.

This report results from a detailed study of public space and land management in Gulu and Mbale Municipalities, but it attempts to place the public space and land management challenges in the broader urban context in Uganda. The results of this report are consistent with Agenda 2030 (the Sustainable Development Goals [SDGs]) and the New Urban Agenda. Both agendas consistently address public space. Sustainable Development Goal 11 considers making cities and human settlements inclusive, safe, resilient and sustainable. Target 11.7 emphasizes providing universal access to safe, inclusive and accessible, green and public spaces, especially for women and children, older persons and persons with disabilities by 2030. What is more, the New Urban Agenda contains a specific commitment to “promoting safe, inclusive, accessible, green and quality public spaces, including streets, sidewalks and cycling lanes, squares, waterfront areas, gardens

and parks, that are multifunctional areas for social interaction and inclusion, human health and well-being, economic exchange and cultural expression and dialogue among a wide diversity of people and cultures, and that are designed and managed to ensure human development and build peaceful, inclusive and participatory societies, as well as to promote living together, connectivity and social inclusion” (para 37).

The report is structured in four main sections. The next section describes the selected case study municipalities, and this is followed by Section Three with a description and analysis of the data to address the drivers of public space and land losses in Mbale and Gulu Municipalities. The report concludes with Section Four that provides a summary of the findings, including recommendations to improve management of public space and land in the two municipalities.

## 1.2 Economics of Public Space

As for any other public good, the forces of supply and demand determine the provision of public space and its economically efficient level of delivery results when marginal social costs equal marginal social benefits ( $MSC = MSB$ ). Yet, public space has some specific characteristics worth considering before presenting the specific findings of this study (Hubacek and Vazquez, 2002; Brueckner, 2011; Weimer and Vinning, 2016).

**Factor of production.** Unlike all other public goods delivered by municipalities, public space and land is not only a good (service) but also a production factor (public space shares this unique characteristic with water supply delivered by municipalities). As with other public goods, provision of public space requires public resources for its development and maintenance; however, unlike other public goods, public space and land can also generate revenue in addition to social benefits, directly (for example, through a rent) or indirectly by enabling other revenue-generating activities. The potential of public land as a factor of production and capacity to produce private benefits makes it particularly attractive and susceptible to private consumption, thus encouraging land grabbing in the absence of prevention mechanisms. The sad story of Mbale Municipal Stadium described further in this study demonstrates this unfortunate trend.

**Relatively fixed supply.** Urban land is a finite commodity. Unlike some other services (for example, firefighting or waste management), provision of public space is limited because of fixed supply of land, both quantitatively and qualitatively, particularly in already built-in areas. Not every piece of land (even if publicly owned) can be used for public space purposes.

**Seemingly unlimited demand.** Whereas supply is to some extent fixed, demand seems to be unlimited. If demand for other services is limited by their maximum coverage of physical space (say, the maximum demand for water provision will be reached once it serves the entire population of a locality), there is no apparent limit to demand of physical space itself. The fulfilment of all society's needs is based on land. Specifically, demand for recreation calls for open space, nice scenery and infrastructure, such as roads and hotels. Access to public land is often an important ingredient of promoting communal economic activities. Other communal activities, spiritual, cultural and such, also depend on land to the extent that such activities involve some production of goods. Each of these demand categories has direct land requirements, as well as indirect land requirements, for the production of all the inputs necessary to produce the final product.

**Open access resource.** Unlike pure municipal public goods, non-rivalrous and non-excludable (for example, policing or street lighting), public land and

space are open-access resources. Consumption of such goods is rivalrous. In the case of open access and common property resources, consumers respond to marginal private costs rather than marginal social cost, resulting in overconsumption, rent dissipation and underinvestment in presentation. In this context, Chen et al. (2018) note that over-use of urban public space is different than the over-use of rural natural resources: as it is the quality, not the quantity, of urban public space that tends to be depleted by over-use, unless the public space is appropriated for exclusive use by the state and/or non-state actors. In addition, there is nothing in the inherent nature of public space that would preclude excludability (for example, by enclosing it), although for institutional reasons this is not always desirable as it may undermine the purpose of public space. The rivalrous and potentially excludable nature of land consumption makes it particularly susceptible to private seizure which is facilitated further intense pressures by today's global economy to privatise, commercialise and securitise public space are intense. As Chen et al. (2018) argue, city governments often tolerate or even encourage infringements or appropriations of public space by private vested interests, particularly when regulatory controls are weak. This study provides examples of not only a conspicuous lack of action by municipal authorities but also their direct complicity in illegal privatisation of public space. However, the same characteristic (rivalrous and excludable consumption) also creates conditions for common ownership and management of some public spaces in the sense that a fixed number of users may share collective user rights to the good. This study will mention some positive examples of such collective schemes for development and management of public spaces. Even when the examples are not so positive (such as the takeover of a public land by a group of about 400 army veterans to run a makeshift market), the examples may still represent vivid evidence of the collective management potential if it is properly organized and channelled.

**Heterogeneity.** Whereas the study refers to public space and land as one standard good or service, in reality it involves many different types of this good serving various purposes (economic, cultural, and social) and possessing different qualities. This heterogeneity calls for clearly identifying different functions and their priority – for example, school yards should have a wide recognition of value as part of public education; urban forest (even narrow tree-lined stretches along roads) valued for provision of shade and air quality; open plazas for community events, music festivals, and so on. Even the same type of open space is in reality never the same. No public square is the same as another public square, even if they serve the same purposes. In this respect, provision of public space and land is different from goods, such as waste collection or street lighting,

which can be easily defined with relevant service standards. Heterogeneity of public land coupled with spatially determined patterns of its consumption further exacerbate the challenge of determining marginal social benefits (demand) for this service. Although some residents may care in the abstract about the open space in their cities and suffer an amenity loss when it is developed, others may place little or no value on open space that is far from their residences. As long as some public space exists in the vicinity, such individuals may have little interest in preserving open space on the urban fringe or somewhere else in the city. Since preserving open space is a major requirement, this uncertainty about social benefits is problematic and complicates open space advocacy and public mobilization to fight illegal public land occupation.

As this study documents, residents of the two Ugandan towns covered by the research consider protection of public spaces as the sole responsibility of municipal authorities. This underscores the need for public education about benefits of public space, such as improving air quality and children's health in particular (also from parks and playgrounds), storm drainage, flood and mudslide control (from protected lowland areas and hillsides), and so on. The recommendations presented at the end of this study reflect the importance of public education and social mobilization around the protection of the benefits offered by public space.

**Principal-agent challenge.** Public land provision is a public service and as every public service is affected by the principal-agent problem. However, this impact may be greater than for other public services because of the nature of the service. Municipal officials (agents) exercise public land provision on behalf of the population (principal). Public executives generally operate in environments characterized by great asymmetry of information, which allows agents to pursue their own interests without informing the principal. Probably nowhere is this asymmetry greater than in the domain in public land management. This study will document cases of manipulation with land titles, shadow insider dealings, outright forgery and other techniques based on information available only to public officials. This information asymmetry calls for transparency and sharing of information publicly, such as through open data techniques, social media, and so on – yet another recommendation that this study offers.

**Environmental Kuznets Curve.** The 'Environmental Kuznets Curve' (EKC) named after the Nobel-prize winning American economist Simon Kuznets refers to the relationship between economic growth and environmental quality. Similarly, to the better-known Kuznets Curve that describes the relationship between economic development and inequality, it has the same inverted U-shape. EKC relationship is characterized by deteriorating environmental quality in the initial stages of economic development, followed by a turning point, and environmental improvements

at later stages of the growth path. As many African countries (including Uganda) go through early stages of economic development and to the extent that public space and land is part of environmental resources, one can expect quantitative and qualitative deterioration in this resource. Indeed, recent studies confirm that developing regions follow an EKC in the aggregate (Hubacek and Vazquez, 2002). In fact, this study confirms the rapidly shrinking public space in the two Ugandan municipalities. However, the estimated turning point may be so high that the question remains whether the developing countries will reach the turning point in land use before their reserve of potentially usable land for specific purposes has been fully converted. The specific characteristics of public space and land make them especially liable for overconsumption, neglect and conversion to other, often private, purposes.

**Gender-differentiated demand.** Gender comes as the proverbial "last but not least". Whereas the demand is unlimited, this study provides examples of gender differences in demand for public space. In a way, gender differences in preferences are not unique and are common to many other goods and services (such as, education or healthcare). What is rather unique about public space is the extent of its impact on the socio-economic situation of women. Neighbourhoods, public spaces and cities designed for homebound women constrain women physically, socially, and economically and perpetuate their inferior status. The significance of public spaces for social cohesion and transformation and economic competitiveness is well recognized (Madanipour, 2004).

Not only men and women derive different utility from the same type of public space, they also derive utility differently from different public spaces. In the first case, women's utility may be circumscribed by the restrictions on use. The most important restriction is inadequate safety. Rape is the first sexual experience of almost a quarter of Ugandan women aged 15 to 49, and 39 per cent of women in this age group have been subjected to sexual violence, according to Uganda's 2016 Demographic and Health Survey. Furthermore, violence, physical and psychological, against women and girls is on the rise: Uganda's 2016 police crime report indicates a 34 per cent increase in defilement and an 11 per cent increase in rape. Uganda saw a spate of violent crime against women in 2017. More than 30 women murders were reported in 2017 around Wakiso and Kampala alone and more women continue being kidnapped and killed in the same gruesome manner. These crimes are happening in public spaces: in streets, parks, parking lots, and so on. Women's utility of public space is limited socially and economically in that it forces them to work or use public spaces for recreation and other socio-economic purposes (such as running errands) at certain times of day and in specific areas. In the worst-case scenario, insecurity and violence may completely exclude women from certain types of activity occurring in public space, such as informal trade. This study provides specific

examples how lack of security and relevant facilities, for example public toilets, negatively affects female street vendors and service providers who make up the majority of informal businesses in the two municipalities.

Further, women may derive more utility from the characteristics that are less relevant (or not relevant at all) to men. Several studies suggest that women tend to exhibit social preferences such that others' payoffs (or utilities) enter into their utility function to a greater degree than men (Croson and Gneezy, 2009). In particular, women's utility with respect to public space is correlated with the degree to which it can cater for their traditional economic and social functions, such as care of the family members. Patriarchal traditions are strong in Uganda, and so is the social pressure on women to comply with their traditional roles. As a result, women display higher elasticity of demand than men. Once the price of public space use in terms of social disapproval or strained marital relations increases, women's consumption of public space reduces precipitously. Conversely, adding childcare facilities to informal markets where women make up most of the traders (through projects supported by many development partners, including United Nations Capital Development Fund [UNCDF]) has resulted in a larger number of women traders, longer operation times and higher earnings.

Next, gender-differentiated demand also implies different indifference curves for men and women, a factor of particular importance in the context of this study. Men are willing to accept a larger amount of lower quality public spaces in exchange for better public spaces (safer, nearer, and so) of the same destination than women who can accept a significantly smaller amount of lower quality space for the reasons discussed above. As the amount of good public spaces decreases (for example, due to illegal occupation), men keep their total utility at the same level by moving along the indifference curve to increase the consumption of less suitable space. This is not an option of women who, because of their steep indifference curve, have no room for substitution and are pushed out below the indifference curve into a suboptimal area with less consumption of public space and, therefore, lower total utility.

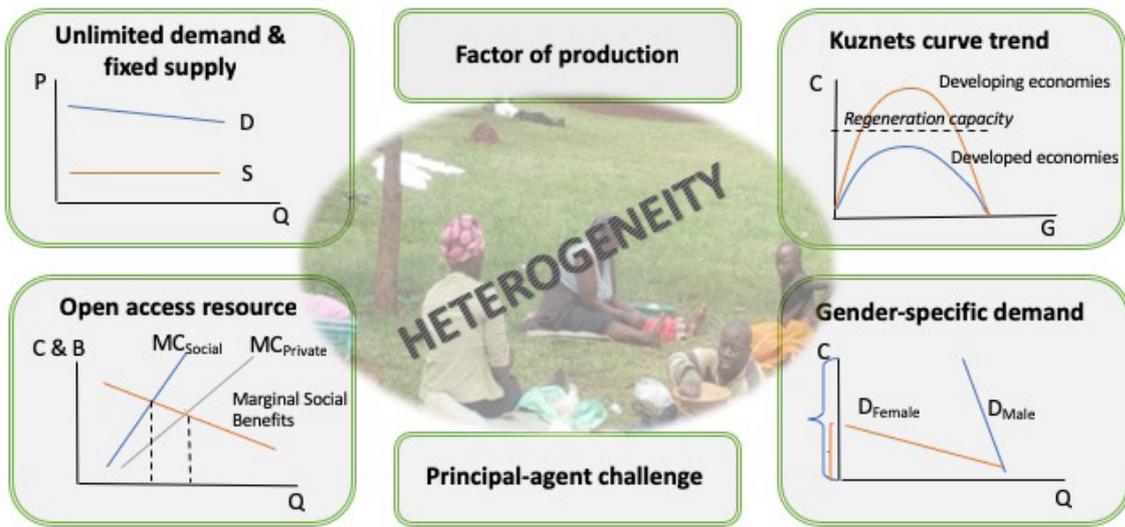
Ugandan cities have been designed primarily by men for men and this has changed little despite the

changing roles of women in the job market and in family structure over the past half century. Hence, this study emphasizes how critical it is to involve all groups affected by planning decisions, particularly women, in city planning. It also recommends planning for mixed land uses to generate users throughout the day, particularly in more secluded public spaces, such as parks. It also recommends safety reviews or evaluations that incorporate checklists of mandatory criteria to be performed regularly of all public spaces, as well as periodic surveys of residents' safety concerns with an emphasis on the results from women.

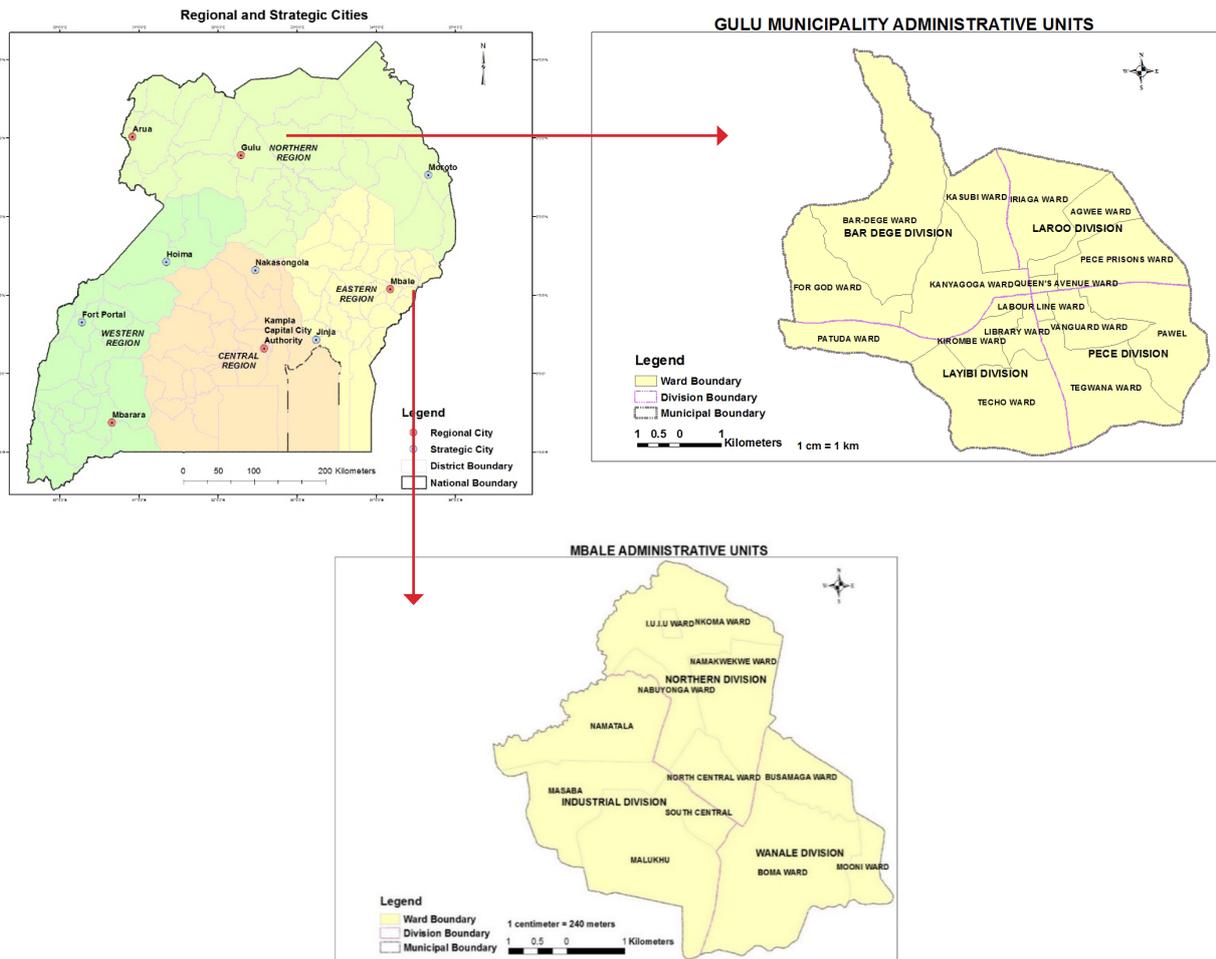
### 1.3 The Case Studies: Mbale and Gulu Municipalities

The results of this report rely heavily on the in-depth study of public space and land management challenges in Mbale and Gulu Municipalities (Figure 2). However, the report attempts to position the key findings in the broader urban environment in Uganda. For the last 50 years, Mbale and Gulu have been principal nodes in Uganda's urban system. Mbale Municipality is a thriving commerce, industrial and trade hub in the Mt. Elgon region. It was the first town to be granted the status of an urban authority after independence (Ladu, 2015). It was declared a township by the British colonial government on June 26, 1906. Mbale town is nearly 110 years old, with its origins traced as far back to the late 19th century, when Arab slave traders venturing into the interior of East Africa set up a commercial outpost at the foot of Wanale Ridge, which is a part of Mt. Elgon (UN-Habitat, 2011). Later, Indian labourers working on the Uganda railway also moved to the town to engage in trade and commerce. In contrast, Gulu Municipality is the administrative centre of Gulu District, located 332 kilometres north of the capital, Kampala. Gulu, one of the oldest towns in the country, started out as a colonial outpost for buttressing British colonial control over the region. The town derives its name from a word in the Acholi language that means 'pot' because of its location in a low-lying area (GMDS, 2015). By 2014, the national housing and population census recorded a population of 96,189 and 152,276 for Mbale and Gulu Municipalities, respectively (UBOS, 2014).

**FIGURE 2: KEY CHARACTERISTICS OF PUBLIC SPACES AND LAND**



**FIGURE 3: GULU AND MBALE MUNICIPALITIES IN UGANDA**



## 2 DATA AND METHODS

To examine the shrinkage of public space and land across urban areas in Uganda, the study undertook several activities, which are described below.

### 2.1 Reviewing of Grey and Scholarly Literature

The researchers of this study attempted, for the most part, to review existing urban space and land management literature relevant for urban areas across the country. They paid greater attention to reviewing existing laws, policies, development guidelines and local practices in Gulu and Mbale Municipalities to ascertain whether the urban development strategies that these cities have adopted relate to national and global commitments particularly with respect to having inclusive cities. Given that public space and urban land issues in Uganda have attracted public attention nationally and internationally, attempts were also made to integrate data and information from the national and municipal documents with political statements and public opinion and anecdotes found in print and electronic media. The review of these documents informed the following: (1) alignment of the town land management framework with the broader development agenda as formulated in the national development plans; (2) capacity of the municipal administration, including town/division land committees and District Land Board, to plan, regulate and enforce land regulations based on the quality and completeness of the relevant planning and implementation frameworks, procedures and data; and (3) clarity in the division of labour between the District Land Board, division land committees and area land committees.

### 2.2 Ground Truthing, Systematic Auditing and Spatial Analysis of Public Spaces

The researchers captured several locations and Global Positioning Systems (GPS) way points to generate appropriate maps locating the public spaces on different interactive Geographical Information Systems (GIS) layers. They employed the buffering tool, a geo-processing tool in the ArcToolbox, to undertake proximity analyse and generate Euclidean buffer polygons, or offsets around selected public spaces in the municipalities. They considered 500 metre categories to generate Euclidean buffers for the main public spaces in each municipality. These buffers appear as perfect circles when drawn on flat maps for each of the municipalities.

### 2.3 Community Consultations and Public Space User Surveys

The researchers consulted key stakeholders, including youth, women, slum dwellers, local planning committees, civil society groups and private developers in Gulu and Mbale Municipalities on various issues regarding urban public space and land management issues (Figures 3 and 4). This was a critical step towards identifying the drivers of shrinkage of public spaces and land. Most importantly, the engagement of stakeholders was vital to understand the intricate socio-political dynamics of public space and land management (including its gender dimension). The expected outcome of this engagement was a better understanding of the embedded power relations, influence and interests of different actors and how these relations played out in terms of their impact on public space and land management.

The researchers held meetings and focus group discussions (FGDs) with a number of key actors across the municipalities: market vendors, municipal division councillors, slum dwellers, Municipal Development Forum officials and sector leaders at each municipality. Six focus group discussions (three each in Mbale and Gulu Municipalities) were used to generate local knowledge on public space and land management. In addition, the FGDs were used to obtain information on how marginalized groups have coped with land management-related issues and access to public space for economic activities, and thus the extent that municipal authorities directly or indirectly, play influential roles.

### 2.4 Data Analysis

The researchers employed a mix of analysis techniques, including synthesizing literature and municipal practices to identify challenges and opportunities in accessing public spaces. They presented synthesized narratives to explain gaps and solutions to foster access to public space and improved land management for equitable and inclusive growth. While qualitative data was analysed through synthesis and presented using narratives, they applied GIS analytics to establish the spatial distribution and access to public space and land management.

**FIGURE 4: CONSULTATIONS WITH SLUM DWELLERS FEDERATION IN MBALE MUNICIPALITY**



**FIGURE 5: PUBLIC ENGAGEMENT WITH COMMUNITIES IN LIMU MEDICAL FLATS, LAROO DIVISION, GULU MUNICIPALITY**



# 3 FACTORS, SYSTEMS AND PROCESSES DRIVING THE SHRINKAGE OF PUBLIC SPACE AND LAND

## 3.1 Introduction

This section explores the different factors, systems and processes driving the shrinkage of public spaces and land in Uganda. The study uses the urban governance perspective as the conceptual analytical framework. Urban governance is defined as “the sum of the many ways individuals and institutions, public and private, plan and manage the common affairs of cities. It is a continuing process through which conflicting or diverse interests may be accommodated and cooperative actions can be taken. It includes formal institutions as well as informal arrangements and the social capital of citizens” (UN-Habitat, 2007).

As Roberts (2014) argues with respect to secondary cities, there are five dimensions of effective urban governance. In the context of urban public space and land management, four dimensions as described below stand out because of their impact on public space and land management.

**TABLE 2: DIMENSIONS OF URBAN GOVERNANCE**

Governance Dimension	Outcome
Participatory democracy in planning, budgeting and management of development.	Active public participation in designing municipal policies on public land use and specific public space development and renovation projects; community mechanisms for managing and maintaining public spaces; public advocacy coalitions and platforms to protect public spaces and lands.
Coordinated project management and budgeting for the delivery of basic infrastructure and services delivery to communities.	Effective mechanisms for horizontal and vertical coordination of public land issues between national and local relevant government agencies and with non-government stakeholders; adequate and sustainable funding available for development and maintenance of public spaces and lands; effective application of land-based financing and other approaches based on land value capture.
Urban management capacity.	Effective and efficient management of public spaces and lands based on comprehensive and regularly updated asset registers and valuation techniques.
Transparency and efficiencies in the operations of markets.	Continuous engagement with local and national land and real estate markets to regulate and leverage their participation in the development, maintenance and management of public spaces and lands.

Source: Roberts, 2014.

This study has identified a number of key drivers, linked to these four dimensions, of the shrinkage of public spaces and land in Uganda, especially for Mbale and Gulu Municipalities. These drivers include four key broad related factors, systems and processes.

1. Participatory democracy in planning, budgeting and management of development:
  - Weak municipal planning institutions
  - Inequities in participation.
2. Coordinated project management and budgeting for the delivery of basic infrastructure and services delivery to communities:
  - Fragmentation of public space planning and manipulation of legal regimes
  - Multiple public space and management actors
  - Inadequate municipal budgets.
3. Urban management capacity:
  - Demographic trends and processes of municipal urbanization
  - Inadequate municipal land regulation and enforcement of development controls.
4. Transparency and efficiencies in the operations of markets:
  - Existence of powerful land cartels/ syndicates.

The following sections analyse each of the above factors, starting with the demographic trends and processes of municipal urbanization.

## 3.2 Demographic Trends and Processes of Municipal Urbanization

The percentage of the population living in urban areas in Uganda increased from 12.3 per cent in 2002 to 18.6 per cent in 2014 (NPA, 2015). By 2014, there were 197 gazetted urban areas in Uganda and data from UBOS indicated that the urban population was 6.4 million (Table 3). On the other hand, the 2009 World Urbanization Prospects indicate that the urban population in Uganda was projected to increase from 13.3 million in 2010 to 20 million in 2030. However, Lall (*undated*) suggests that urbanization rates in Uganda are higher than official estimates if one looks at an alternate measure – the Agglomeration Index (AI), which considers density, urban size and proximity to the urban centre. In fact, this can be thought of as the shadow of the core urban area – with vibrant economic and social interactions with the urban core. Using this index, Uganda’s urbanization moves up from 13 per cent to 25 per cent using proximity to cities of 50,000 people; however, the index drops to 14 per cent if cities of 100,000 or more people are considered. The AI is estimated to have increased 7 percentage points between 2002 and 2010. The AI is highest in the central region (54 per cent in 2010) and growing rapidly in the Eastern region (11.5 per cent points). In 2010, the Western region is the least agglomerated and had the slowest pace of urbanization (Lall, *undated*). What is important, however, are the rates of urban growth fluctuating between at 4.5 per cent (Lall, *undated*) and 5.2 per cent (UBOS, 2017 and NPA, 2015) per year.

**TABLE 3: NUMBER OF URBAN CENTRES BY TYPE, CENSUS YEAR AND URBAN POPULATION (1969 –2016)**

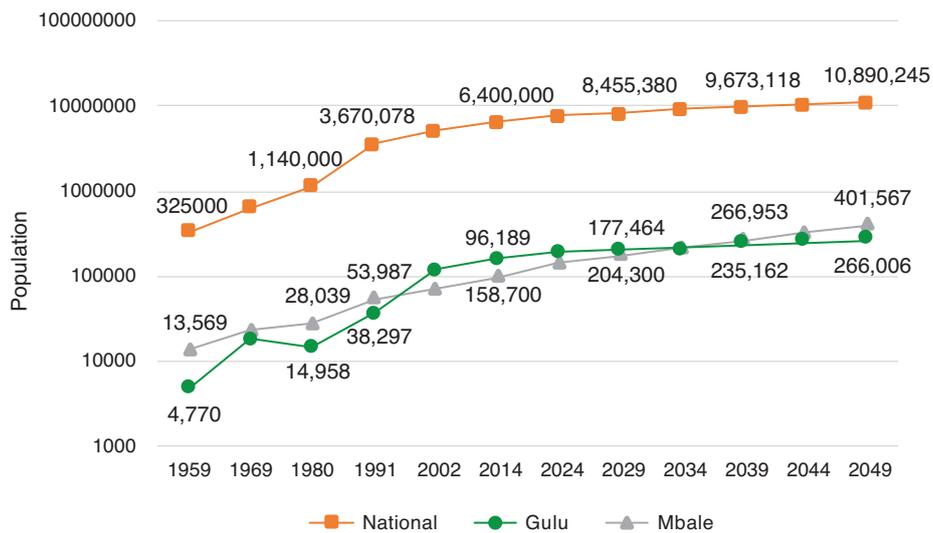
Index	1969	1980	1991	2002	2014
Number of Gazetted Urban Centres	NA	41	150	75	197
City	NA	1	1	1	1
Municipalities	NA	2	13	13	22
Town Councils	NA	34	33	61	174
Town Boards/ Township	NA	4	18	20	NA
Urban Population	634,952	938,287	1,889,622	2,921,981	7,425,864

**NB:** The figures in 1969, 1980 and 1991 are as per the 1991 definition, while those for 2002 and 2014 are as per the 2014 definition of urban areas. **NA:** Information Not Available

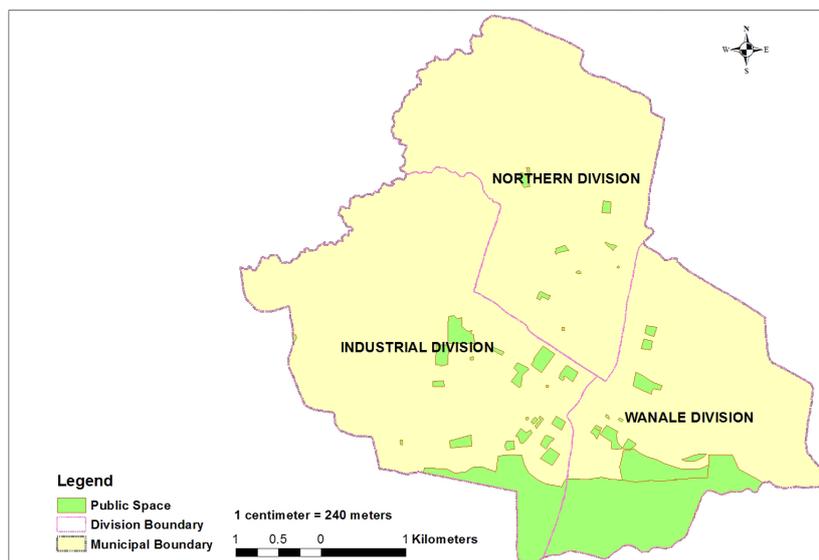
Since their establishment in 1906 and 1911 respectively, Mbale and Gulu Municipalities have experienced rapid population growth (Kalyango, Amony and Kindi, 2018), but key infrastructure to support urbanization and enhance the residents' quality of life, such as the provision of public open spaces, has not increased at comparable rates. The 2014 national population and housing census data indicate that Gulu and Mbale Municipalities were the seventh and sixteenth largest urban areas in Uganda,

respectively. After the independence period, the implementation of the physical development plans for the two municipalities was largely abandoned because of the political turmoil the country experienced. Therefore, the same public spaces (Figures 7 and 8) that were intended to serve 13,569 and 4,770 in Mbale and Gulu Municipalities in the 1950s, today serve over 96,000 and 160,000 (Figure 6) people, respectively.

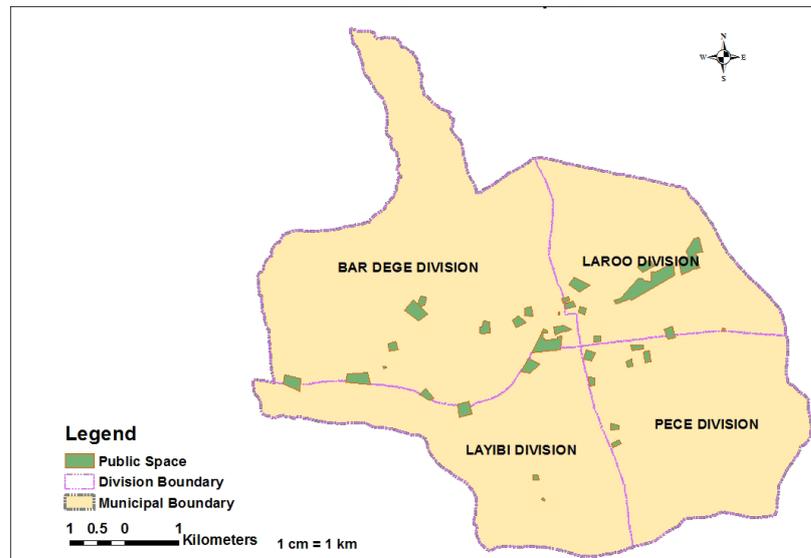
**FIGURE 6: HISTORICAL AND PROJECTED URBAN POPULATION FOR UGANDA, MBALE AND GULU MUNICIPALITIES 1959-2050**



**FIGURE 7: PUBLIC SPACES IN MBALE MUNICIPALITY**



**FIGURE 8: PUBLIC SPACES IN GULU MUNICIPALITY**



The shrinkage of public spaces and land has become a natural indicator of the municipal urbanization process experienced across the country. This shrinkage is associated with population dynamics and their associated demands, together with the spatial expansion of urban areas themselves. Mbale and Gulu Municipalities could be considered as population hotspots and as with most other towns in Uganda, their public spaces face competition from other land uses. The two municipalities' growing populations have set in motion a process of land use competition, with increasing encroachment on public spaces and land on the rise as urban communities struggle to build meaningful livelihoods. In fact, housing and agriculture rank highest among the emerging land uses that are fuelling competition for land with public space in the two municipalities. This situation has placed severe pressure on land and water resources, as well as on forests (Kakuru and Ssekyana, 2009), including urban forests and greenbelts (Zake, 2018). Consequently, most of the central forest reserves and public spaces in urban areas have been destroyed and degraded through encroachment and other illegal activities (Zake, 2018).

Table 4 presents the size and breakdown of public spaces that were considered for this study, and Figures 6 and 7 show their distribution across the two municipalities. The researchers observed that residents of the two municipalities are not well served with public spaces. The amount of public space in municipalities varies widely and results indicated that Mbale Municipality has twice the amount of public spaces (in fact, 2.16 times more) than Gulu Municipality (Table 4). To determine the level of public space provision in the two municipalities, there are several standards available across the world, ranging from 1.2ha/1,000 people (City of Regina, 2007) to 14.4ha/1,000 people (World Urban Parks, 2014). The researchers employed one of the most conservative standards: the City of Regina (2007) standard, which suggests that if a community association has less than 1.2 ha/1,000 people of open space, a deficit exists. If it has in excess of 1.6 ha/1,000 people, a surplus exists. Results in Table 4 indicate that the current provision level of public space per 1,000 residents was 0.85 and 0.92 hectares for Mbale and Gulu Municipalities, respectively, which falls well below what the City of Regina recommends. To quantify how much was available and what is required, the gap analysis showed that currently the municipalities require 107.22 ha and 180.37 ha of public space for Mbale and Gulu Municipalities, respectively (Table 5).

**TABLE 4: SIZE AND BREAKDOWN OF PUBLIC SPACES BY CLASSIFICATION IN MBALE AND GULU MUNICIPALITIES**

	Mbale Municipality		Gulu Municipality	
	#Sites	Hectares	#Sites	Hectares
Stadium	1	3.548	1	2.413
Green/ Open Spaces	11	41.074	10	31.035
Playgrounds	12	6.656	1	15.973
Markets	5	3.834	10	30.468
School Grounds	8	18.234	11	33.189
Natural Areas/Forest Reserves	1	222.575	1	25.077
Cemetery	2	2.635	0	0
Library	1	0.127	1	NA
Total	41	298.683	34	138.154

When the population of the two municipalities was projected to incrementally increase up to 2050 (Figure 4), the predictions indicated that their populations would reach 492,546 and 281,844 by 2050 for Mbale and Gulu, respectively. As a consequence, there are two likely effects of this growth: (1) very few lands will be available for public spaces and provision will decline substantially; and (2) arising out of increasing awareness, exchange and access to important information about the value of physical fitness and other health related benefits of active and passive recreation, people will demand more public spaces.

Based on projected population increases, future public space supply is estimated to drop substantially to 0.43ha/1,000 residents and 0.68ha/1,000 residents in Mbale and Gulu Municipalities, respectively, by 2030, if the two respective authorities take no decisive action to reverse current trends. The proportion of public space could drop even further to 0.19ha/1,000

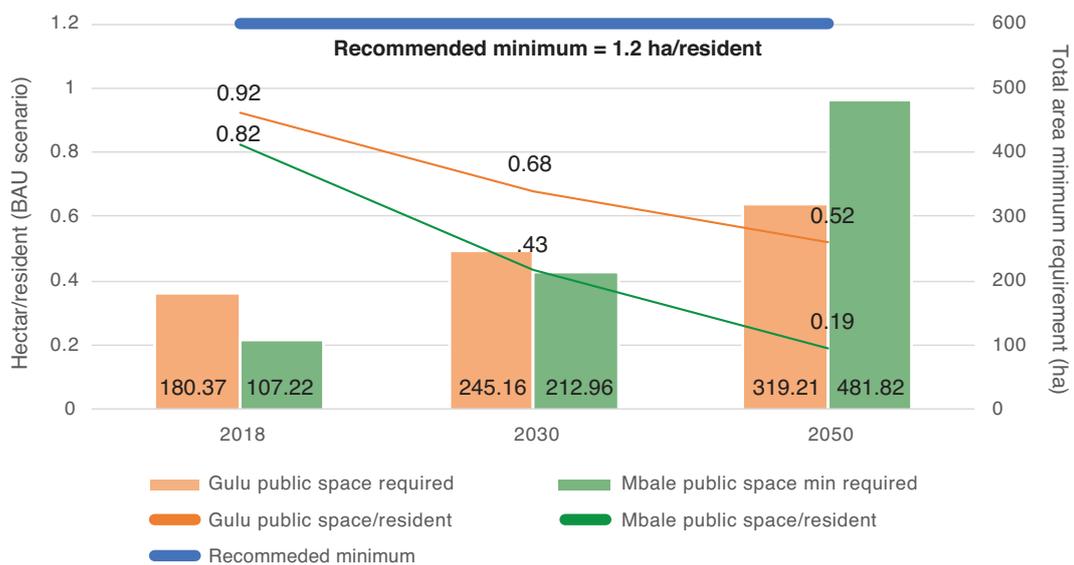
residents and 0.52ha/1,000 residents in both cases, respectively, under a business-as-usual scenario by 2050. These findings show that the municipalities are anticipated to remain deficient in the future with regards to public space supply. To note, once proper planning is done in the two municipalities and given the current population growth rates, the projected future public space needs by 2030 would amount to 212.96 ha and 245.16 ha for Mbale and Gulu Municipalities, respectively. This would increase to 482.82 ha and 319.21 ha by 2050 for the two municipalities, respectively. These deficiencies do not consider any future envisaged spatial expansions of the municipalities; thereby, demonstrating the need for the municipal authorities to be very proactive in providing more public space but also take decisive action to enforce the protection and maintenance of existing public spaces.

The chart below demonstrates this situation by showing simultaneously the growing requirement for public spaces in the two municipalities under the population pressure until 2050 as well as the diminishing public space availability under the “business as usual” scenario against the minimum recommended public space of 1.2 hectares per resident.

The study’s field observation noted that the rates of urban population growth, high population densities (Figure 10) and the growth of informal settlements have encroached on the public and green spaces, including wetlands within and at the periphery of Gulu and Mbale Municipalities. The number of informal settlements in Gulu and Mbale has increased over the past three decades (UN-Habitat, 2011) and public space has become more endangered as squatter settlements continue to proliferate on marginal lands, such as wetlands, and forest reserves. In Mbale Municipality, this is very visible in two areas:

1. Namatala informal settlement, which has largely encroached on the water fronts or river banks of River Namatala (Figure 9). Other notable slum areas in Mbale include Kikamba, Barracks, Mutukula, Kiteso, Bulago, Bujoloto cells, Kiduda, Karimojong, Sisye and Muvule wards (UN-Habitat, 2011). This intensification leads, amongst others, to a need for the widening of roads and utilization of open spaces for non-compatible urban land uses.
2. The loss of Independence Square/Uhuru Park<sup>2</sup> for other land uses and redesign of Republic Street into an exclusively motorable four-lane carriageway.

**FIGURE 9: PUBLIC LAND SITUATION FORECAST FOR MBALE AND GULU MUNICIPALITIES 2018-2050**

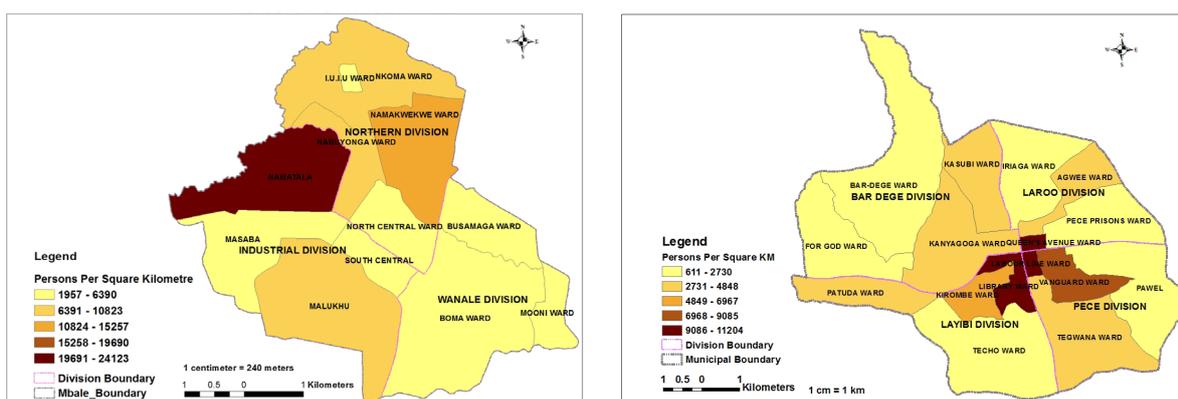


<sup>2</sup> Mbale Independence Square, locally known as Uhuru Park, is a revered ground, which symbolizes Uganda’s Independence from colonial rule in 1962. In 2008, it was dubiously allocated to private developers by the Uganda Land Commission.

**TABLE 5: PUBLIC SPACE PROVISION IN MBALE AND GULU MUNICIPALITIES**

Municipality/ Division		Population	Available space provision		Required (Preferred) Public Space Provision				
			2017		2017		Projected future public space needs (Size/ha)		
			Size (ha)	Ha/1,000	Size (ha)	Deficit/Surplus (ha)	2030	2050	
Gulu	Bar-Dege	40322	54.7	1.36	48.39	6.32	Surplus	<b>245.16</b>	<b>319.21</b>
	Laroo	27313	66.71	2.44	32.78	33.93	Surplus		
	Pece	45466	12.95	0.28	54.56	-41.61	Deficit		
	Layibi	37205	3.79	0.102	44.65	-40.86	Deficit		
	<b>Total – Gulu Municipality</b>	<b>150306</b>	<b>138.15</b>	<b>0.92</b>	<b>180.37</b>	<b>-42.21</b>	<b>Deficit</b>		
Mbate	Northern	37908	17.33	0.46	45.49	-28.16	Deficit	<b>212.96</b>	<b>481.82</b>
	Wanale (with forest reserve)	11047	191.09	17.3	13.26	177.83	Surplus		
	Wanale without forest reserve		35.14	3.18	13.26	21.89	Surplus		
	Industrial (with forest reserve)	40395	89.87	2.22	48.47	41.39	Surplus		
	Industrial (without forest reserve)		23.64	0.59	48.47	-24.84	Deficit		
	Total Municipality - (with forest reserve)	89350	298.68	3.34	107.22	191.46	Surplus		
	Total Municipality - (without forest reserve)		<b>76.11</b>	<b>0.85</b>	<b>107.22</b>	<b>-31.11</b>	<b>Deficit</b>		

**FIGURE 10: 2014 POPULATION DENSITIES IN MBALE AND GULU MUNICIPALITIES**



Data from UBOS (2014)

**FIGURE 11: PARTS OF NAMATALA SLUM IN MBALE MUNICIPALITY**



In fact, as Musasizi (2014) reports the loss of public land and spaces is on the rise in Uganda – because of the exploding human population and activities such as agricultural development, where vast lands are cleared without conservation considerations, large-scale peri-urban housing projects development, fuel wood generation, uncontrolled forest harvesting including poaching for logs and poles. A similar situation has been experienced in Kampala City and surrounding municipalities when the urban authorities have been engaged in running battles with encroachers of wetlands and railway reserves.

As the demographic characteristics of both towns evolve over time, so will the public space needs, which are most likely to become even more pronounced. Although the frequency of active recreation generally declines with increasing age, in contrast more passive activities, such as walking, picnicking, sitting and socializing remain universal activities regardless of age.

There are other challenges that public space users face across both municipalities. One female operator in Gulu Central Market observed:

*“It is a new market, where lots of money were spent but access to particular sections of it, is problematic. The market is sealed on its southern section we only have two entrances instead of the four, at the bare minimum. The functionality of the market is another double challenge given that access to one section of the market is not possible, it is totally dark on one side of the market and we have failed to operate the generator in such circumstances.”*

The focal group discussion sessions in Northern Division, Mbale Municipality observed the following:

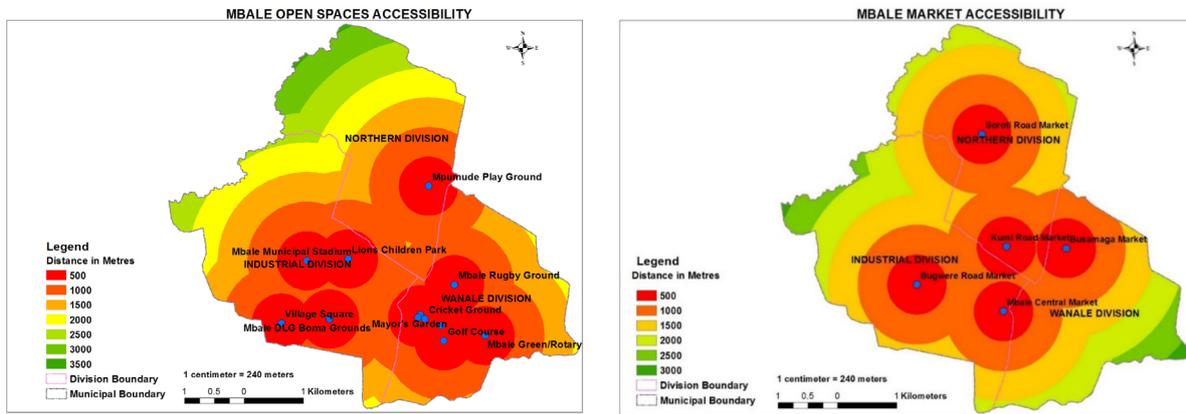
*“Kikindu local market, Nkoma and a periodic market are the other markets in the municipality which are especially affected during the rainy season, they become muddy, drainage is poor and this makes operating in them very difficult. All public toilets were divested or sold off by the municipal council, so where do all the many boda-boda operators in the town go? On Sundays and Thursdays, the population of the town swells, where do all these people go if we don’t have public sanitation facilities?”*

Other users of public spaces indicated that access to available public spaces was very expensive. This was most critical for private education institutions that do not own their own playgrounds and other facilities for their children in Mbale Municipality. These schools have to seek alternative sites with neighbouring schools or privately- managed grounds, such as Gymkhana Grounds. One of their teachers observed the following:

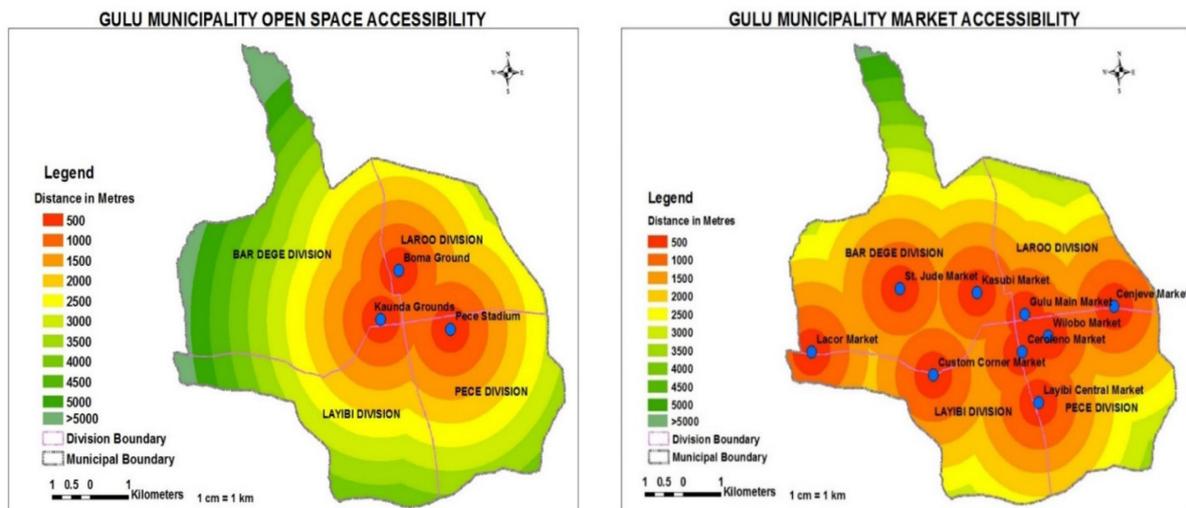
*“It is very expensive for us as a school, given that access to Gymkhana Asian Community Park was paid for at a rate of 30,000 UGX per month while access to the Cricket ground is at 120,000 UGX per month, so that’s the main reason the school uses the former ground instead. It is sometimes bushy and we have to pay for maintenance when those in charge haven’t done the maintenance as expected.”*

Figures 12 and 13 show that in the study municipalities, not all neighbourhoods are within the acceptable walking distance to public spaces. This is not a unique situation as evidence in Figure 14 shows a very similar pattern in Kampala and other Ugandan towns.

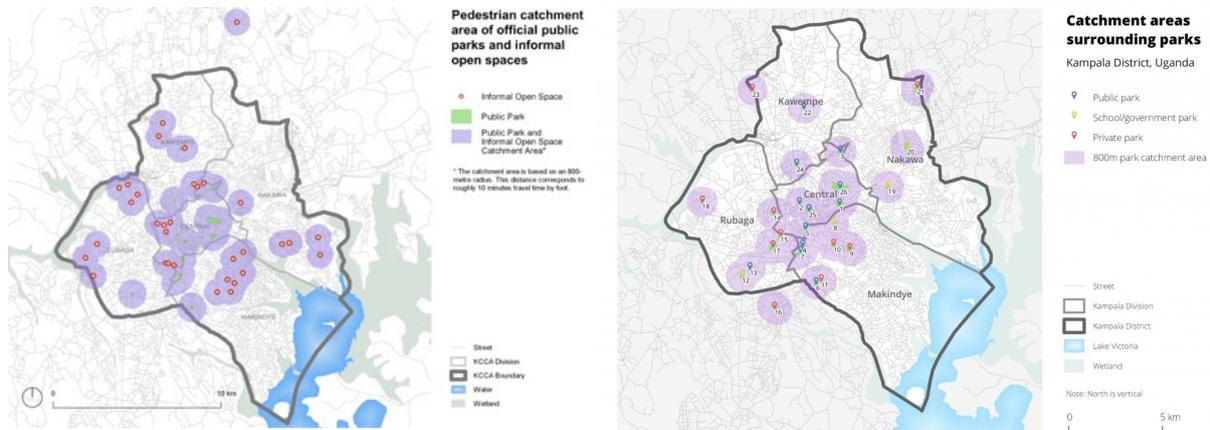
**FIGURE 12: EUCLIDEAN BUFFERS AND PUBLIC SPACES ACCESSIBILITY IN MBALE MUNICIPALITY**



**FIGURE 13: EUCLIDEAN BUFFERS AND PUBLIC SPACES ACCESSIBILITY IN GULU MUNICIPALITY**



**FIGURE 14: PEDESTRIAN CATCHMENT AREAS OF OFFICIAL PUBLIC PARKS AND INFORMAL OPEN SPACES (LEFT) AND CATCHMENT AREAS SURROUNDING PARKS IN KAMPALA CITY (RIGHT)**



Source: *Advocates for public spaces (undated)*.

Public spaces in the two municipalities must respond to the complex demands wrought by highly dynamic and evolving urban demographics. Here are some critical demographic factors that will require careful consideration by the authorities and other relevant actors to develop comprehensive and realistic public space and land management plans:

1. The size of the youthful population (under 30 years) according to the 2014 Uganda National Census was 76.1 per cent and 79.2 per cent in Mbale and Gulu Municipalities, respectively. The same census states that 53.3 per cent and 49.1 per cent of the population was below 17 years. These categories and their influence on public space demands in the two municipalities, including their influence on outdoor recreation facilities, such as the needs for soccer or football pitches across the municipalities, is substantial.
2. The size of the adult population (population aged 60 years and over) is very small, at about 4.6 per cent and 2.6 per cent in Mbale and Gulu, respectively, and therefore their needs for recreational activities and public spaces is relatively small. However, as the municipalities grow and as their population becomes older following the national trend,<sup>3</sup> their public space needs for walking (safe walkways, park furniture, and appropriate lighting) and elite sports, such as golf, need to be planned for accordingly.

3. Mbale Municipality also acts as a magnet on a daily basis for a big commuting population from surrounding areas, including the rapidly growing Nakaloke Town Council, Nabumali Town Council and Bugema, which are all within a radius of about 15 kilometres. Unless these growing urban centres establish their own public spaces, the demands on Mbale Municipality public spaces will inevitably increase substantially. The vision of Gulu Municipality as it clamours for a city status is a sprawling city and after amalgamating the sub-counties of Patiko, Bungatira, Unyama and Kochongako, its population would increase to more than 290,000 people (Owiny, 2017). The rural sub-counties close to Gulu Municipality are by and large devoid of any planned and gazetted public spaces and expansion of the boundaries of the municipality from 8.5 square kilometres to 13.7 square kilometres (Chowoo, 2015) will ultimately create extra demands for public spaces, unless attempts are made to establish new public spaces. The amalgamation of such rural sub-counties requires that the municipalities take critical measures to acquire and protect new spaces wherever they may occur.

<sup>3</sup> According to the World Bank, Uganda's population aged 65 and above has increased by 27.85 per cent in the past ten years between 2008 and 2017 (<https://data.worldbank.org/indicator/SP.POP.65UP.TO?locations=UG>).

- The researchers of this study observed that the existing public spaces all across the municipalities provided great spaces for studying, meetings, clubs, socializing and working collaboratively with peers and associates (Figure 13). All urban areas across the country are attracting a sizeable business community, such as the Eastern Corporate Club (Figure 14) in Mbale Municipality (bringing together banking institutions, mobile telecommunication companies, fuel companies and other specialized firms in Eastern Region of Uganda) and several educational institutions.

The number of growing educational institutions and business companies is increasing in all urban councils, including the Islamic University in Uganda, Mbale School of Hygiene and Clinical Officers (Busitema University Faculty of Health Sciences), Livingstone International University, Uganda Management Institute, Uganda Martyrs University, Uganda Christian University (Mbale Campuses), Gulu University and several hundred of primary and secondary schools, whose demands for public spaces are immense.

**FIGURE 15: RESIDENTS REST AT LUGAZI MAYOR'S GARDENS, WHICH THE MEHTA GROUP WANTS TO REPOSSESS**



Source: Ssebwami, 2017.

**FIGURE 16: CRICKET GROUNDS USED BY EASTERN CORPORATE CLUB IN MBALE MUNICIPALITY**



### 3.3 Public Space and Gender

The focus group discussions revealed that access to the public spaces varies by gender. It should be emphasized that public spaces in the two municipalities were designed, as in many urban areas elsewhere, based on the traditional conception of the family and a traditional division of labour among women and men (men as workers in the public space and women as caretakers and home keepers in the home and private space). The Extremely Vulnerable Individuals (EVIs) comprising of women, children, former abductees, the sick, disabled and certain sectors of youth do not always enjoy full and equal access to public spaces and suffer as public space shrink across both municipalities.

The researchers' observations showed that most public spaces were patronized by men, while women argued that their use of the existing public spaces is a cause of great anxiety. Women were hesitant about going out to visit and use public spaces that existed in both municipalities. The existing public spaces were perceived to be unfriendly, unsafe and insecure to visit and use, whether in groups or as individuals. Most public spaces are devoid of safety and clean sanitary facilities, good lighting, safe walkways and related facilities, which creating disincentives for many potential women users. The researchers' surveys of all public spaces in the two municipalities showed that there was only one public space; that is, the cricket grounds that had put in place infrastructure for women team sport focusing on netball only.

The focus group discussions clearly reflect women's concern for security as the primary cause of dissatisfaction with urban public spaces. Women experience spaces with a larger number of users where sexes mix as more safe and secure than more secluded public spaces, such as parks (Table 6).

Dissatisfaction in general runs quite high. But whereas women and men do not differ much in their dissatisfaction with public spaces, such as streets, markets, playgrounds and parking lots, the difference is clearly observable in higher levels of women's dissatisfaction (running as high as 80 per cent) with places such as the stadium (a predominantly young men's domain), and municipal gardens and recreation parks, because of their seclusion and therefore higher insecurity as well as because of the lack of relevant facilities for women and children.

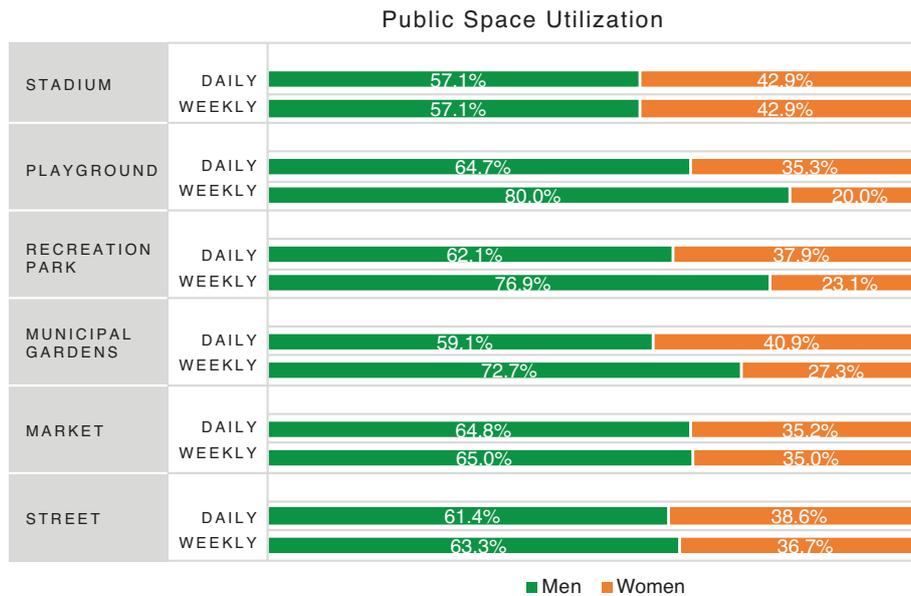
Studies elsewhere by Vaiou (1992) showed that after marriage, going out alone or with personal friends becomes more infrequent (for women), trips to local shops and food markets increase as women take responsibility for a new household. Mothers are restricted by children's schedules and household tasks. They are more likely to go out during the day and for specific reasons: shopping for food, taking children to and from school, and so on. Family responsibilities condition their use of time and space.

The gendered patterns of public space use were clearly observable in the focus groups (Figure 15). Men make up the majority of the regular users of public spaces daily and weekly (around 60 per cent on average). Their dominance is particularly visible in the use of sports and recreation facilities, such as playgrounds (64.7 per cent of daily users and 80 per cent of weekly users), recreational parks (62.1 per cent and 76.9 per cent respectively) and municipal gardens (59.1 per cent and 72.7 per cent). Had these results been drawn from a representative random sample, the gender difference would have been significant at 5 per cent level.

**TABLE 6: LEVEL OF DISSATISFACTION WITH URBAN PUBLIC SPACES**

Completely or partially dissatisfied	Male	Female
Streets	67.4%	62.8%
Markets	61.9%	57.3%
Playgrounds	50.0%	44.4%
Parking lots	71.4%	62.5%
Stadium	60.0%	72.7%
Municipal gardens	50.0%	80.0%
Recreation parks	62.5%	80.0%

**FIGURE 17: PUBLIC SPACE UTILIZATION BY GENDER**



The small gender gap in the use of stadiums requires an explanation. In practice, stadiums function as multi-purpose facilities for a broad range of commercial and social activities, of which sport is a part of the activities, but not very significant. The other activities that routinely take place on the stadiums include markets and bazaars, religious ceremonies, weddings, cultural events, and so on. As will be discussed, some parts of the existing stadiums are being converted into other uses, such as crop cultivation or cattle holding grounds.

Safety concerns and lack of appropriate facility restrict the type of public spaces that women use. But the other significant, and often overlooked, factor is the distance. Women are generally less mobile than men. First, women’s ability to move in

communities in cities is regulated; there is a long history of controlling and regulating female physical mobility in Uganda. First, concerns that women who moved out of the home will engage in “immoral activities” or not take care of family duties have restricted the movement of women (Kinyanjui, 2014). Second, women have less access to the means of transportation than men. They rarely own a vehicle or any other transport – in fact, Ugandan women are five times less likely to own a bicycle than men (UBOS, 2013). Public transportation is virtually non-existent whereas other means of transportation, such as taxi or *boda boda*, may be prohibitively expensive because of women’s lower disposable income. Hence, as the distance increases, public spaces become less and less accessible to women.

*“I was frying chips in Mission cell in 2013, but Council came and chased us away. They broke my bucket, my table was confiscated and the person I was working with was arrested, I lost the business until 2016 when I resumed with something else”*

*(Female FGD in Northern Division, Mbale)*

*“I was operating in the park, one-day Council came and evicted me, and the rich men took over the area and I was forced out. I lost some of my stock and I had nowhere to shift my business to. I resorted to temporary employment for some time; I bought a fridge and started selling beverages”*

*(Female FGD in Industrial Division, Mbale)*

Accessibility of public space may be affected by other factors, such as municipal regulation of economic activities involving mostly or predominantly women. In particular, this is the case for semi-formal and informal trade and services. Our research as well as a sister research on local economic development and equitable economic growth (UNCDF and Cities Alliance, 2018) clearly demonstrate the disproportionate effect of adverse municipal public space regulation on women.

Despite the availability of markets, street vendors, boda boda riders and other businesses were found to be widespread in Mbale and Gulu municipalities. The findings reveal that over 40 per cent of the respondents have their businesses located on the street, about 70 per cent of them run by women. Although the central government and development partners have supported LED through construction of markets, informal settlement workers are still constrained in working in formal markets. Among the women, common activities include operating salons, food vending, barkeeping, trading in produce, fish products, boda-boda and selling food items in the market. Most of these businesses are not registered and operate informally.

24 per cent of survey participants reported to have ever been evicted from their workplaces. This was higher among females (33.3 per cent) than males (15 per cent). 37 per cent were evicted because of vending on the streets (UNCDF and Cities Alliance, 2018). Such evictions led to confiscation of stock by the Municipal Council and closure of some businesses, among others. Eviction from street vending is a common practice by Municipal Councils aimed at forcing workers to go into organised markets. Unfortunately, the prohibitive costs of renting in the markets and the poor market governance keeps many traders outside the markets.

### 3.4 Multiple Actors and Unclear Ownership

Any person that traversed some of the public spaces and lands across the urban areas in Uganda must have observed that many are vast and empty. Others view these huge chunks of land slightly differently, as idle and non-productive (Barnabas, 2012). They have attracted inherently the interest of a wide spectrum of stakeholders. Table 6 presents the myriad of stakeholders. Many individuals, including the rich and poor, wrongfully presume that these enormous lands and public spaces do not have owners, and they have seized the opportunity to settle illegally (for lack of alternatives), turning this alleged "idle land" into commercial ventures, making profits at the expense of the rightful managers, the urban authorities. However, these actors exhibit diverse interests, targets and mandates, which creates different niches in the public space and land management ecosystem. The engagement of these different actors, working with varying capacities and at different scales, is underpinned by a complex web of institutional frameworks composed of a myriad of (in)formal laws, regulations, policies, and procedures. Box 3 discusses the four types of land tenure systems in Uganda, of which three types (customary, freehold and leasehold tenure types) are prevalent types in Gulu and Mbale Municipalities. For purposes of this study, reference is made to leasehold and freehold land, and the multiplicity of actors has created multiple meanings of what public spaces and land are, therefore, affecting their management across both municipalities.

**TABLE 7: KEY ACTORS IN PUBLIC SPACE MANAGEMENT IN GULU AND MBALE MUNICIPALITIES**

	National Actors	District Level Actors	Municipality Actors
Public Space	<ul style="list-style-type: none"> <li>Uganda Land Commission</li> <li>Gertrude Njuba State House Land Desk (SHLD)/Task Force</li> <li>Land Protection Squad under Maj. Jacob Assimwe</li> <li>Military Land Board</li> <li>Aidah Nantaba Land Committee (LC)</li> <li>Police Land Protection Unit (PLPU)</li> <li>Multinational Corporations</li> <li>Uganda Parliament [Parliamentary Committee on Physical Infrastructure**]</li> <li>The Commission of Inquiry into Land Matters (commonly referred to as the Justine Catherine Bamugemereire Commission***)</li> </ul>	<ul style="list-style-type: none"> <li>District Land Boards</li> <li>War Veterans</li> <li>The Acholi Paramount Chiefdom</li> <li>The Kingdom the (Umukhukha) of the Bamasaba</li> </ul>	<ul style="list-style-type: none"> <li>Real Estate Agents</li> <li>Business Persons</li> <li>Municipality Technical Personnel</li> <li>Municipal Councillors</li> <li>Mbale Sports Club</li> <li>Rotary Club International</li> <li>Asian Community</li> <li>World Embrace</li> <li>National Slum Dwellers Association</li> <li>Municipal Development Forum</li> <li>Individual land grabbers****</li> </ul>
Land	<ul style="list-style-type: none"> <li>Uganda Land Commission</li> <li>Buganda Land Board</li> <li>Uganda Police Force and Top police officers</li> <li>The Military and high-ranking army officers</li> <li>The Land Registry</li> <li>Senior Pastors</li> <li>Presidential Assistants</li> <li>Powerful and wealthy businessmen</li> <li>Ministers</li> <li>Members of Parliament and Key Opposition politicians</li> <li>Non-state actors – OXFAM, Uganda Land Alliance, and so on</li> </ul>	<ul style="list-style-type: none"> <li>District Land Boards</li> <li>District Land Tribunals</li> <li>The Acholi Paramount Chiefdom</li> <li>The Kingdom the (Umukhukha) of the Bamazaba</li> <li>Land Tribunals for Sub-counties and urban areas</li> <li>Parish Land Committee</li> </ul>	<ul style="list-style-type: none"> <li>Private Land Surveyors</li> <li>Court Bailiffs</li> <li>Municipality Residents</li> <li>School Head Teachers</li> <li>Area Land Committees</li> <li>National Slum Dwellers Association</li> <li>Municipal Development Forum</li> <li>Institutional Land Owners</li> <li>Individual Land Owners</li> </ul>

\*\* The Sessional Committee on Physical Infrastructure was mandated by Parliament to oversee the activities of the Ministry of Lands, Housing and Urban Development, Ministry of Works and Transport. Other government parastatals and institutions under the Committees jurisdiction include the Uganda Land Commission and the Uganda National Roads Authority. The investigation into land scam in Mbale Municipality stemmed from a petition by Mutwalib Zandya the Mayor of Mbale Municipality to the Office of the president, Parliament, the Ministry of Internal Affairs and Ministry of Lands, Housing and Urban Development. The mayor and his councillors complained about the rate at which Uganda Land Commission was giving away gazetted public land in Mbale Municipality to private developers.

\*\*\* The commission's mandate is to probe efficiency of the laws, policies and processes of land registration, acquisition, administration and management. It is also tasked with inquiring into the effectiveness of the Uganda Land Commission (ULC) in administering public land and relevant bodies in the reservation of wetlands, forests, road reserves, and national parks, among other gazetted spaces (Twaha, 2017).

\*\*\*\* These individual land grabbers were described in various ways in the focus group discussions and meetings with municipal technical personnel and councillors, including municipal residents as the "untouchables", "invisible", "powerful", "connected", "the junta", "smart and methodical", "monsters", "fraudsters", "blatant thieves", "tycoons", "rich and privileged", and so on. These descriptions may sound polemic rather than analytical, but they just indicate character of the grabbers and the power that they hold to engage in land grabbing across the selected municipalities.

### BOX 3: URBAN LAND TENURE SYSTEMS IN UGANDA

The 1995 Constitution of Uganda and the Land Act provide that land in Uganda may be held in terms of four tenure categories only. These are Customary, Freehold, Mailo and Leasehold tenure.

1. Customary land tenure is a system of land relations, the incidences of which are not always capable of precise definition. These incidents often vary from community to community or even within communities. Customary land is that which is owned by indigenous communities and administered according to their customs. The underlying commonality in all customary law systems is that rights are derived by reason of membership in a community and are retained as a result of performance of reciprocal obligations in that community. It is defined in terms of its territoriality or clan nature, existence of rules governing community, family, or individual access to land, and perpetual ownership of land and resources.
2. Mailo is subject to the rights of occupiers or *kibanja* holders. Both groups separate the ownership of land from occupancy or ownership of developments by lawful or bona-fide occupants, which is guaranteed by the Land Act 1998. The *kibanja* holder has option to purchase and, thus, move up to the Mailo title status. The Land Act also guarantees statutory protection to the *kibanja* holder and his or her successors against any eviction as long as the prescribed nominal ground rent is paid to the land owner.
3. Freehold land tenure. About five per cent of households in Uganda hold land under this tenure. The incidents of freehold tenure, which are basically standard, include the conferment of a full power of disposition, and compulsory registration of title in perpetuity.
4. Leasehold land tenure involves the derivation and enjoyment of land rights from a superior title in exchange for conditions, including but not limited to, the payment of rent. The 1995 Constitution (under Article 237 [5]) provides that any lease, which was granted to a Ugandan citizen out of former public land, may be converted into freehold.

(Obbo, Nanziri and Ndawula, 2011)

A more critical public space management challenge with Mbale Municipal Council lies with the municipal stadium and Rugby Grounds (Box 4). The history of Mbale Municipal Stadium dates back to 1906 when Mbale gained its status as Township (Among, 2017). The stadium was established and owned by Ugandan citizens of Indian descent (until their citizenship was revoked by President Idi Amin Dada) in the 1950s until National Council of Sports (NCS) and the Ministry of Rehabilitation took over its management under President Obote's regime in early 1980. During this period, it was all green and well maintained (Isabirye, 2014). But it was not until 1980 that the NCS took over its management and since then, the stadium has gone through 10 different managerial regimes

(Among, 2017) with little to bear on its renovation and maintenance. The outcome is the rapid deterioration of the stadium characterized by deficient structural integrity of the stands, stadium walls, and playing surface. The stadium is one of the public spaces that shows an obvious and serious public space management challenge that municipalities across the country experience. Measured against any qualitative parameters, the stadium has shrunk in maintenance, beauty and functionality. Mbale Municipal Stadium has partially been converted into a holding ground for cattle and the southern part of the stadium is now cultivated. Under the unclear management authority, it will only take a few more years before it collapses altogether.

Multiple stakeholders' interests over urban land are not limited to Mbale and Gulu Municipalities. It is a challenge experienced by urban councils in Uganda. Another example is from the Lugazi Municipal Council

(Box 5) while in Kampala City, the allocation of public land has for a long time been irregular and frustrating because of competing interests of the different government agencies (Kasozi and Namyalo, 2017).

#### **BOX 4: ACCUSATIONS AND COUNTER-ACCUSATION OVER OWNERSHIP OF THE RUGBY GROUNDS (MBALE MUNICIPALITY)**

Former employees of Mbale Municipal Council and Mbale Sports Club wrangle over ownership of the Rugby Pitch. Those named in the wrangle are Edward Wodea, the former Mbale Municipal Engineer, Rose Mukite, former Assistant Town Clerk who is now a Commissioner with Uganda Lands Commission, and James Wanasolo, a former municipal surveyor. Professor Kiboma, one of the accused, says he legally acquired a plot of land in the rugby pitch in 1998 after fulfilling all the requirements set by Mbale District Land Board. Kiboma says that Mbale Sports Club has no grounds of claiming the land because they do not have any documentary evidence to back their claim of ownership. Kiboma says he, together with other people, was allocated plots in the area by council authorities to develop them into residential houses. His claims are backed by the Wanale Division local authorities who are asking Mbale Sports Club to show proof of ownership of the contested land. The assistant town clerk in charge of Wanale Division, Robert Wambede recently wrote to Mbale Sports Club and the Uganda Rugby Union asking them to show proof of ownership of the land. Wambede stated in the letter that the only land that Mbale Sports Club owns legally is the European Sports Ground and Golf Course, which they were granted lease in 1929. Dan Masaba, a member of Mbale Sports Club, however, claims that they have documents indicating that the land belongs to them. Masaba explains that the commission, which investigated corruption in Mbale Municipal Council, had in 2007 recommended that the land be given back to Mbale Sports Club and the officials implicated in the scandal be prosecuted.

*(Elunya, 2011)*

#### **BOX 5: BUIKWE OFFICIALS CLASH OVER MEHTA PLAN TO DEVELOP MAYOR'S GARDENS**

A row has erupted between the leadership of Lugazi Municipal Council and Lugazi Central Division following Mehta Group's plan to take over Lugazi Mayors' Gardens and erect a shopping mall. The land, which is about an acre, was initially the property of Mehta Group before being turned into Mayor's Gardens. In 2017, the Sugar Corporation of Uganda Lugazi (SCOUL), which the Mehta Group runs, notified the Lugazi Municipal Council Town Clerk about the company's urgent need to redevelop the land. In the same letter, they expressed shock that the Lugazi Town authorities had gazetted the land as a public open space without their consent. SCOUL was advised to apply to the National Physical Planning Board for consideration for change of land use from one public space to commercial. He added that the Mehta Group was ready to provide an alternative piece of land to the town authorities, which would create revenue for council/division. But Lugazi Municipal Mayor Deo Tuwesigye Mbabazi insists that the land on Plot No.1-3 and 5-9 was gazetted to be an open place. Interestingly, SCOUL's proposal has already been backed by Lugazi Central Division leadership. Paradoxically, the Municipal Council watered down the resolution by the Division Council and halted any plan to redevelop the land.

*(Ssebwami, 2017)*

While government entities, including urban councils, have enormous acreage of land, much of the land is not surveyed or fenced and it lacks land titles. These situations have made the land an easy target for opportunists and encroachers (Wamajja, 2016) but also for the poor who settle informally on such spaces in the absence of any other options. A case in point is Limu Medical Flats in Gulu Municipality (Figure 18). This is a gazetted open space by Gulu Municipal Council but at the time of the survey, more than 800 households informally occupy the land. A similar example can be found in Mbale Municipal Council where the expanding Namatala informal settlement have encroached on parts of Nabuyonga Waterfront. According to a 2016/17 report by the Auditor General, out of the 156 local governments that were assessed, 46 representing 29 per cent of them lacked land titles for the land where [urban] councils' properties were located, while 11 of them had their land already encroached on (Ampurire, 2018).

Further, bureaucratic delays coupled with long and frustrating planning processes force developers and other individuals in municipalities to evade the required planning procedures and embark on

unauthorized land projects. There are delays in processing land registration documents, ranging from 13 to 134 days, contrary to the prescribed period of 2 to 20 days and the low registration of land, which is as low as 5 per cent in rural areas (Ampurire, 2018). These situations result in massive encroachment into green space environments by commercial and residential activities.

Furthermore, the poor involvement of urban residents, coupled with limited sensitization and awareness on the benefits of public spaces, has been identified as another challenge within the Gulu and Mbale urban landscape. This situation has caused town residents to consider public spaces' protection as the sole responsibility of municipal authorities, resulting in significant destruction and vandalism of facilities in the public spaces by the local people and the conversion of the land into dump sites. In Gulu, for instance, no sooner had the municipality planted trees and grass to beautify along the newly Uganda Support to Municipal Infrastructure Development Programme (USMID) constructed roads than it witnessed stray animals eating up the plants.

**FIGURE 18: LIMU MEDICAL FLATS PUBLIC SPACE OCCUPIED BY MORE THAN 800 HOUSEHOLDS**



The inadequate surveys and titling of land is not restricted to municipalities only. Several government agencies also suffer the same predicament. Uganda Police Force (UPF) and National Agricultural Research Organization (NARO) are named amongst the institutions that have lost much of their land to encroachers. The other victims are National Forestry Authority, Dairy Development Authority, Uganda National Meteorological Authority, Uganda Wildlife Research and Training Institute and National Animal Genetic Resource Centre and Data Bank (Ampurire, 2018). The government has failed to secure titles for several public entities, as well as protected area, such as forests, swamps and wetlands, making it difficult to protect this land from encroachers (Ampurire, 2018). Uganda Police Force has 665 pieces of land in the 106 districts, but most of them do not have titles, while 145 pieces of land had been surveyed pending deed plans, and 418 pieces of land were pending survey (Wamajja, 2016). Findings by the Auditor General for the financial year 2016/17 indicated that local councils have encroached upon police land offered to police posts in Namasiga, Namaganga, Kamigo, Bunyala, Buwenda, Mpumudde and Bugembe police barracks. In Tororo, the National Social Security Fund (NSSF) has encroached upon police land; Bugembe police land had been encroached on by 55 illegal occupants, while Natete police land had been encroached on by 65 illegal occupants (Ampurire, 2018). The irony is that the police force has a land protection unit. If they cannot protect their own land, how can they help to protect other peoples' land? (Wamajja, 2016).

The Uganda Army has equally been hit. The 3rd Division Headquarters located within Mbale Municipality occupies an area of approximately 600 acres but the land did not appear in the inventory of government lands. Meanwhile, Moroto Barracks land and the 2nd division head-quarters' land in Mbarara Municipality had gone to encroachers (Wamajji, 2016).

Even the most fortified land – Mbuya Army headquarters was heavily encroached by individuals who built permanent houses. Because the government has taken little or no action, this has encouraged the vice to grow. For Makerere University, in most cases there was delayed renewal of lease agreements and land encroachment on university land by various individuals claiming ownership of the land. Without evidence of ownership, it was difficult to confirm that the land actually belongs to Makerere University. The same goes for Makerere University Business School (Wamajja, 2016). Further reports in 2018 indicated that several acres of Makerere

University prime land located in Kololo, Makindye, Katanga and Katalamwa, all in various parts of Kampala City, have been irregularly doled out to private developers. In fact, all of the land belonging to Makerere University was labelled (at its boundaries) by pillars standing up to about 1 meter, in the colours of Makerere University with the black and green colours standing out clearly, but these markings have been methodically uprooted.

### 3.5 Land Cartels and Syndicates

Grabbing of public lands is as old as Uganda itself, reaching crisis proportions in the recent decades<sup>4</sup>. It has become a common practice in all municipalities to wake up in the morning to find government property, including public spaces and land, fenced off with iron sheets. A number of commissions of inquiry on land matters have been constituted over the last ten years or so in Uganda to unearth the problems of land (re) allocations, shrinkage of public lands and spaces that are rampant across the country. For purposes of this report, two commissions of inquiry are relevant:

1. The Parliamentary Committee on Physical Infrastructure
2. The Commission of Inquiry into Land Matters (commonly referred to as the Justice Catherine Bamugemereire Commission).

The Commission of Inquiry into Land Matters continued to unearth cases of suspected land fraud and forceful evictions, beyond what the media and several other studies seemed to present. What is visible across all public spaces and lands in both municipalities is the magnitude of grabbing. Although the actual land grabbers appear(ed) invisible, the researchers of this report believe that there is a worrying trend of high placed individuals colluding to rob urban areas of public spaces and land. Many scholars have reported that the (re)allocations of public spaces or green belts have been 'exported' from Kampala City to up-country towns and this arises out of the 'greed' of the generation (Sejjaaka, 2017).

<sup>4</sup> A long chronology of land grabbing cases involving the military and persons in government for the last 30 years or so can be found at Perils of Africa at <http://perilofafrica.com/pictures-pictures-military-land-board-another-museveni-tool-for-land-grabbing/>, <http://perilofafrica.com/musevenis-forced-rural-urban-migration-scheme-is-behind-the-massive-land-grabbing/>, <http://www.monitor.co.ug/News/National/officials-looted-Shs158-billion-Land-Fund/688334-4602900-12g217bz/index.html>.

The greed for land, power, wealth, housing, and anything potentially productive has further been captured by Sejjaaka (2017):

*“Our generation doesn’t seem to understand the importance of communally owned resources. I see you guys are cutting up and sharing public land for selfish interests but if we had done the same, would you have any common heritage?” It’s just like a bunch of barbarians have been let loose on the city! Surprisingly, the people undertaking the mutilation of our once beautiful and restful city are some of the most travelled Ugandans! “*

The systematic (re)allocations of lands and public spaces in the municipalities are well orchestrated and the problem is so far attributed to forgery and fraudulent transactions between several government departments and selfish individuals. Although some of the municipality councillors that the researchers consulted would like to refer and sanitize the fraudulent transactions as the ‘systematic allocations of land,’ the problem has not spared the municipalities’ public spaces and lands either. Although land giveaways and (re)allocations are of a national character, what characterizes them in municipalities is the impunity with which they are methodically conducted.

There exist powerful land cartels and syndicates involving Members of Parliament, ministers, members of area land committee, municipal councillors, municipal technical personnel, real estate companies, the military (UPDF) soldiers, army veterans and security operatives, businessmen, lawyers, and other private citizens, and these groups of people continue to influence the Uganda Land Commission (ULC) to illegally sell off public lands (Elunya, 2011b). This web and racket of individuals have carefully hatched plans and developed sophisticated mechanisms to acquire and grab large tracts of un-surveyed public spaces and land. In most cases, this racket uses other people using fake companies as fronts to acquire huge chunks of land and then sell the land off. What is more disheartening, some government officers connive and collude with unscrupulous developers to circumvent laws and policies that are meant to protect such public spaces and land.

In some cases, incidents of outright fraud had been identified in land registration, including multiple titling, forgeries of letters of administration and court orders to illegally obtain registration, on top of outright forgeries of registration particulars (Twaha, 2017). This resonates closely with the statements made by the District Police Commander (Mbale) to the Bamugemereire Commission, thus:

*“My Lord, I will tell you, that recently I was in Kampala on official duty and I received a call that somebody had come to Central Police Station (CPS) Mbale trying to inquire about the Plot number and ownership of CPS Mbale. So, my Lord, as you move around the country doing this work, the land grabbers don’t sleep. Every other day, they are looking for an opening, of a new opportunity. My Lord, it is the weaknesses in the system, right from the District Land Boards to the registry and some loopholes in the court process.”*

A number of municipal politicians and technical officers are benefiting from the seemingly chaotic and lawless land use and public space environment. While appearing before the Parliamentary Committee on Physical Infrastructure on land grabbing in Mbale Municipality, the former Minister for Housing, Hon. Gafabusa Werikhe reported:

*“I challenge anyone who thinks, I have either profited directly or indirectly to come up and mention. Because Lorry Park, I have told you the person who is lead, who is the lead person in this is Juma Seiko. He is not from Mbale but is one of those people. You go to Busoga Lane; you have Ambrose Wepukhulu of Uchumi in Mbale. Hon. Wakikona’s wife, wanted to get a plot, I think innocently, she thought may be the opportunity was presenting itself, she did!! The councilors themselves got land from Busoga Lane purportedly for Divisional Offices, i.e. Industrial Division. Instead, they ended selling up this land.”*

Individuals exploiting their political connections or wealth to manipulate state institutions affect some of the public space and land losses. In most cases, the types of actors involved in land grabbing and illegal acquisitions of land are so powerful given that, as Ladu (2015) reports, the Municipality Mayor, His Worship Mutwalib Zandiya Mafabi was attacked by a powerful developer.

*“The mayor is also candid about the challenges. He is aware about the mess that the town has since become, and “sober enough” to understand that the chaos cannot be sorted in flash. It will take a hard shift, some dangerous, like in an incident earlier in the year where a pistol was pointed at him. The scuffle ensued when the town’s leaders were enforcing a*

*court injunction stopping a construction along a sewer line. The proprietor of the building, Alii Boto, drew a pistol and threatened to shoot Mafabi before the municipal law enforcement officers brought him to order.”*

Other developers that have encroached on and fenced off municipal land in several areas in Mbale Municipality, pinned posters of the then presidential candidate Yoweri Kaguta Museveni to scare away residents who were concerned about the illegal structures that were coming up. One of the encroachers, Deo Matsanga, a security operative constructed a lock-up shop at Sleeping Baby Roundabout near Mbale Bus Park and when Uganda National Roads Authority (UNRA) ordered him to demolish the structure, on grounds that it would affect the smooth flow of traffic on Tororo road, Matsanga insisted that he would accept to be buried by the graders that would be brought to demolish his building. He argued that he erected the structure because everyone who had the money was building in any vacant place in Mbale town without consent of the authorities. Matsanga was not alone; a group of about 400 army veterans had also forcefully taken over Uganda Broadcasting Corporation land in Namatala and turned it into a makeshift market. The group led by retired Lt. Siraj Lubwama said that they were forced to take over the land to conduct economic activity, because the government failed to resettle them (Elunya, 2010). Similar cases of the military officers grabbing land have been reported elsewhere in both urban and rural areas. For example, Major General Otema Awany is jointly accused with Dr. Fred Oola, Captain Martin Labeja and the Nwoya District Water Engineer of land grabbing and violent

eviction of more than 6,000 families belonging to the Jonam community in Purongo and Apwoyo sub-counties in the Nwoya district. It is alleged that between March and April 2018, Otema, the UPDF Reserve Force Commander, deployed armed soldiers and forcefully evicted hundreds of families from their ancestral grounds where they have lived since time immemorial (Olanyo, 2018b). The two cultural institutions in Mbale (the Umukhukha) and Gulu (King Rwot, the Paramount Chief of Acholi) have a direct influence on land under their control and would defend longstanding claims over land, but beyond this, they can only be advocates and protectors of traditional land rights, which are rapidly disappearing in urban areas across the country. Box 6 presents a related example involving the military, politicians and business persons.

The effect of the land grabbing is not only felt by the municipalities themselves, but many innocent families are facing the brunt of land grabbing. But importantly, the vulnerable and less powerful municipality residents who are seeking to eke a livelihood in a precarious and uncertain economic environment are the most affected. Concerned market vendors in Bugwere Market in Mbale Municipality observed the following:

*“We look like orphans here in Bugwere Market. We have requested for the land title to the market but the Municipal Council has failed to secure the land. The only thing that we see are private individuals that come with certificates of ownership of the market land. The lady chopped off the land and then Galandi has recently come in with his own certificate of ownership.”*

## **BOX 6: MUSEVENI’S BROTHER NAMED IN LUZIRA WETLAND GRABBING**

President Museveni’s brother, Mr. Shadrack Nzeire, has been accused before the Commission of Inquiry into land matters of brokering illegal acquisition of land titles in wetlands and on the shores of Lake Victoria in Luzira, Nakawa Division. Mr. Nzeire presented application for lease of Plot 3 at Luzira, near Lake Victoria with a view of establishing a landing site. But allegedly the same plot was later subdivided into a number of plots, which were later turned into freehold. Other purported developers, according to Mr. Kalema, include Lala Apartments owned by businessman Ephraim Ntaganda, Moskam Contracting owned by city lawyer and former Nakawa Division Area land committee chairman, Mr. Moses Kamoga and Godfrey Mutabaazi. Other people who own land titles in the wetland include former Minister of State for Economic Monitoring, Mr. Henry Banyenzaki and some prominent business people. It is alleged that the developers fraudulently acquired the disputed land titles in contravention of the laws and procedures leading to encroachment on natural reserves, but the titles have been used to claim billions in compensation from government as it seeks to implement infrastructural projects in Namanve Central Forest Reserve and Bukasa wetland. The projects include the Bukasa inland port, Namanve-Luzira and Mutundwe-Entebbe power lines, the Standard Gauge Railway (SGR), the Kampala-Jinja Expressway and the Southern Bypass.

*(Kasozi and Namyalo, 2018)*

This study could not derive reliable estimates of the gender dimensions of public space losses in both municipalities, including the number of women, for example, that have been affected by their shrinkage. It is clear that women are affected disproportionately, the reason being gender-specific requirements to public space. As this study confirms, land grabbers often aim for locations with a higher economic value – more developed, better located, and so on. Such locations are by definition also safer and more usable for women. As public space is pushed out from more central locations to remoter and less developed areas, women get affected in two respects: one, safety and lack of adequate facilities; two, the distance. As discussed in Section 1.3, women are generally less mobile than men. As usable public space moves farther away, women's access (already lower than men's as shown in Figure 9) decreases at a higher rate than men's access.

In general, women, particularly the poor ones, suffer greatly from land and property grabbing, both public and private. For example, a 2015 report by the International Justice Mission indicates that 40 per cent of widows experience actual or attempted property grabbing in their lifetime (Ssenkaaba, 2018). The case of Teddy Nansubuga who was conned of more than Shs1.4b by her lawyer is a vivid example. Ms. Nansubuga owned more than 200 hectares of land in Kibaale District, which can tell the magnitude of the problem. She inherited land from her deceased parents and in the course of the Bamugemereire commission hearings, it became apparent that Ms. Nansubuga, who is illiterate, was taken advantage of by her lawyer, Mr. Richard Buzibira, who convinced her to transfer her powers of attorney to him. In explaining to Ms. Nansubuga what had happened to her, the commission's deputy lead counsel, Mr. John Bosco Suuza, perhaps summarized it best:

"These thugs, these thieves, they took advantage of you – a poor lady with limited education and exposure. They lied to you and they conned you out of all those millions that I have told you. Not only that, they used your name and went to the highest office in the land and claimed to be acting on your behalf. Somewhere along the way, a minister [Ms. Betty Amongi] got involved. More money was paid in your name and you know nothing about it, which is tragic."

### 3.6 Weak Municipal Planning Institutions

Physical planning greatly influences the size and quality of public spaces. Early planning of the two municipalities was built on the neighbourhood principle with ample provision of public spaces. Mbale Municipality was dominated by ample open spaces, including Uhuru Park, Golf Course, Cricket

Grounds, Children's Park, Rugby Grounds, Mbale Central Forest Reserve, Namakwekwe Children's Park, Mpumudde Playground and several other neighbourhood parks and school playgrounds spread across the municipality. Similarly, Gulu Municipality had Pece War Memorial Stadium, Gulu Golf Course, Boma Grounds, Kaunda Grounds and Gulu Central Forest Reserve. Similarly, many other urban councils across the country that have a colonial background – including Kampala City, Jinja, Entebbe, Arua, Soroti, Fort Portal, Kasese, Masaka, Mbarara, Masindi and Kabale – had an established network of public spaces and a recognized assembly of public lands. However, existential realities have far surpassed the capacities of these spaces, which were planned more than 50 years ago. In recent years however, a number of institutional challenges that militate against appropriate management of land and public spaces are prevalent, leading to the observed patterns of public space shrinkage. Some of these are presented in the next sections.

The Government of Uganda recommends that urban development plans must integrate public spaces into them. The Directorate of Housing in the Ministry of Lands, Housing and Urban Development (MLHUD), stresses that regulators and municipal governments should emphasize the allocation of public spaces in all development plans before they are approved. In Mbale and Gulu Municipalities, the local administrative authorities are directly responsible for providing, delivering, and maintaining public spaces in their respective jurisdictions. Presently, Mbale Municipal Council (MMC) and Gulu Municipal Council (GMC) have developed five-year development plans 2015/16-2019/20 with functional Technical Planning Committees (TPC). The Development Plan for Gulu Municipal Council for the period 2015/16-2019/20 represents a continued commitment of the municipal leadership to joining hands with the central government for social services delivery, including public spaces. MMC has developed a Municipal Development Strategy (MDS), which should guide strategic physical and economic development in the period 2016-2040. Gulu's strategy is embodied in the municipality vision of a *transformed sprawling industrial and commercial city for Northern Uganda* (Gulu Municipal Council 2015b).

Both municipalities also have a 10-year Physical Development Plan. MMC has the 10-year 2008-2018 Plan, while GMC has the 20-year 2015-2035 Physical Development Plan. At the time of this exercise these plans were undergoing review. The Mbale Physical Development Plan (2016-2026) broadly makes a strong case for public spaces with Mbale Stadium, the golf course, Mbale Sports Club, and Mutoto Circumcision Grounds as the most significant ones, but there is no deliberate effort to acquire land for more public spaces to serve its growing population. However, these plans lack detailed and clear protocols or standard guidelines on how they plan to

manage public spaces, let alone an existing inventory or understanding of the agencies or actors involved in public space and land management.

Some of the traditional public spaces have been affected by arbitrary change of land use without clear planning approvals by appropriate organs of government. The Minister for Justice and Constitutional Affairs, Maj Gen Kahinda Otafiire, once referred to Mbale municipality authorities as lacking the capacity to effectively handle the municipality's physical planning and development after it was discovered that gazetted spaces had been fraudulently allocated to developers by municipality technical staff and politicians (Mafabi, 2013). Several cases of public spaces that have been lost because of change in land uses without clear planning approvals include golf courses, urban forest reserves and sanitary lanes.

The change of land use has greatly affected golf courses across several urban councils in Uganda. Three specific examples have been reported in Gulu, Jinja Masaka (Box 7) and municipalities. One regular golfer in Gulu, while being interviewed by Mwanguhya (2012), observed the following:

*“If you are planning to carry some clubs and balls in anticipation of a game of golf on your holiday in Gulu town, you can as well unpack. Ordinarily, your golf equipment would have served you better had you made your visit 30 years back when the Gulu Golf Course, located in Senior Quarters and just near the Acholi Inn, was still in place. Around 1976-77, the then town clerk called Obwol (RIP) demarcated the entire area for development and in the early 1980s, building on the site unfortunately started.*

*Unfortunately, the Municipality and country planning board then changed its user clause in the 1990s into a residential area. The former course, just a kilometre outside the central business district, is now an affluent residential area covered with plush tiled buildings, while the erstwhile golf club house is now a leisure center. The district had gazetted new land for a golf course at Tedam, about 4km from Gulu town, but there are squatters and compensating them would be quite a task.”*

Central forest reserves are another significant public space that has continued to shrink and deliberately been planned for degazetting across most urban councils in Uganda (CFRs) (Office of Auditor General [OAG], 2012). Although the law<sup>5</sup> prohibits such forest appropriation given that the government has not approved their degazetting (Tajuba, 2016), the Uganda Land Commission has continued to grant land titles to individuals and institutions within forest reserves. While Mbale Central Forest Reserve should be considered as the biggest public spaces (constituting about 74.5 per cent of the available public space) in the municipality, Kazungu (2016) reported that the National Forestry Authority (NFA) had entered into a memorandum of understanding with the municipality, in which it had achieved 90 per cent of the requirements for which the NFA asked. As a result, NFA agreed in principle that the municipality takes over the forest pending Cabinet and Parliament approval. Reports from Gulu Municipality (including this study's field observations) indicated that parts of Gulu Forest Reserve have been reallocated to Gulu University to develop a football pitch.

## BOX 7: MASAKA GOLF COURSE EXCLUDED FROM NEW PHYSICAL PLAN

Masaka District Officials accused the Bank of Uganda of flouting procurement regulations to acquire the land to construct a currency centre. The district officials had secured a court order stopping the ongoing works, insisting that there were two titles for the Golf Course land; one of the land titles belongs to Masaka Municipality and the other to Bank of Uganda. It had also emerged that Masaka Municipal Council approved a plan to relocate the golf course from its current location to Kumbu forest reserve. Asaph Mukalazi, the Manager Laston Hotel limited, which sold the part of the Golf Course land to Bank of Uganda, said he secured the land after the change of the physical plan. Mukalazi explained that he secured a lease for the Golf course land from Masaka district land board on recommendation from the municipality. Mariam Tusiime, the former Deputy Speaker Masaka municipality confirmed Mukalazi's claims, saying they even publicized the new physical plan at all parishes and called residents to submit their views in vain. She said only National Forestry Authority raised objections, unless they were given alternatives.

*Bindhe (2017) and URN (2017)*

<sup>5</sup> S. 48, Public Lands Act.

Similarly, degazetting forest reserves is not limited to Mbale and Gulu Municipalities. Degazetting has spread across all urban councils in the country. Historically, one of the most recognized politically motivated degazettement<sup>6</sup> of Namanve Forest Reserve (1,006 ha) close to Kampala City was made in 1997 and the land use changed to the present Namanve Business and Industrial Park. Despite opposition from civil society and Members of Parliament, the then Minister for Housing insisted that Namanve Central Forest Reserve would be gazetted and relocated to Kiboga District (Obore, 2011). This was followed by the degazettement of the Wabisi Wajala Forest Reserve in Nakasongola (4,744 ha) for industrial expansion (NEMA, 1998). Thereafter, three attempts to degazette using political influence were blocked<sup>7</sup>. However, the loss of central forest reserves has gone on unabated. A total of 174 land titles were issued irregularly to private individuals in the central forest reserves (CFR) of Zirimiti in Mukono district and Kitubulu CFR in Wakiso District, while swamps in Kabojja and Lubigi in Wakiso District and Chala in Moyo District have been encroached on too. The same applies to Lake Birinzi in Masaka District (Ampurire, 2018). Mbarara Central Reserve in Mbarara Municipality, for example, lost 168 hectares that were degazetted in 2007, while Fort Portal central forest reserve, meant to serve this green and quiet town, was given away to a private developer who instead changed its use to a dairy farm (Musasizi, 2014). The forest reserve was further encroached on by Mpanga market extension, a container village and part of Mpanga<sup>8</sup> Senior Secondary School. Members of Parliament in Kabarole District want 30 of the 65 hectares of Fort Portal Forest Reserve to be degazetted and be compensated with another piece of land measuring 66 hectares, located in Kyenjojo District (Mutegeki, 2016), more than 50 kilometres away. Meanwhile, political instability during the 1970s to the 1980s led to the clearing of eucalyptus plantations near Masaka, Mbarara and Iganga towns for 'security' reasons (Makumbi, 2001).

By 2008, a total of 10 other municipalities had applied to the National Forestry Authority to degazette forest reserves so that the land could be used to expand their urban areas (Ahimbisibwe, 2008). The Ministry of Water and Environment indicated that the forest reserves that were earmarked for degazetting were in Fort Portal, Arua, Gulu, Kabale, Kitubulu (Entebbe), Kajjansi, Namanwe-Bukasa, Lira, Mbale, Mbarara, Gulu, Soroti, Kalangala, Kitgum, Nebbi, Ntungamo and Rukungiri (Tusiime, 2006, OAG, 2012 and Zake, 2018). The listed forests were awaiting environment impact assessments from the National Environment Management Authority (Tajuba, 2016). Kapchorwa CFR with an area of five hectares is wholly degraded (Mutegeki, 2016). In Arua municipality, at least three hectares of the central forest reserve has been lost to installations relating to veterans and another one hectare is now home to a government aided primary school (Tusiime, 2006 and OAG, 2012). Although most of these urban authorities have provided alternative land in exchange as required under the National Forestry and Tree Planting Act NFTP (2003), the exchange lands are far away and therefore unable to fulfil the original purposes for gazetting of the urban forests (MWE, 2016).

Sanitary lanes (alleys) are the third land use that had shrunk tremendously in urban councils. These have suffered massive encroachment and mismanagement in all municipalities. These lanes have increasingly been converted and double as shopping fronts, hair salons and restaurants (Figure 19). Data on the magnitude of conversions of these sanitary lanes into other uses are hard to come by but the study's conservative estimates indicate that all sanitary lanes in municipal central business districts have been converted into commercial areas. It should be noted, however, that it is these sanitary or service lanes, including the street spaces, that provide a living for a large number of residents in the municipality.

<sup>6</sup> The investor boom in the 1990's threatened the continued existence of the reserve and in 1997, the then legislature- the National Resistance Council (NRC) approved the de-gazettement under SI No. 1 of 1997 of 1,006 ha being approximately half of the Namanve Forest reserve to create an industrial park.

<sup>7</sup> Attempts were made to degazette Kamusenene forest reserve, Butamira forest reserve and the Gala and Towa reserves in the year 2000.

<sup>8</sup> Mpanga Secondary School was granted a leasehold title by the Uganda Land Commission in Fort Portal Forest reserve. Until the Forest Department notified them that the title was granted to them in error, the School genuinely believed they had a valid claim over the area in the Reserve.

**FIGURE 19: CURRENT USAGE OF SANITARY LANES ON REPUBLIC STREET IN MBALE MUNICIPALITY**



### 3.7 Fragmentation of Public Space Planning and Manipulation of Legal Regimes

One of the structural influences on public space and land management within each municipality is that public spaces and land matters do not fall under a single department, which makes it hard to measure and manage them. These areas are by their nature cross-cutting themes in the municipalities, such that it is difficult to tell to which department they should and must fall. Do they fall under the Municipal Engineers' Office, Community Development Office, Natural Resources Office, Education Office or broadly in the town clerks' office? But they also attract a lot of attention from actors outside the municipalities. Whichever office or department that they reside, these areas essentially raise questions of differentiated power sources, which ultimately

influence the outcomes of use and management styles in the municipalities. All across urban areas in Uganda, open spaces and cemeteries fall under the Natural Resources Office, public libraries fall under the Community Development Office, street space falls under the Municipal Engineers Office, and land matters are the responsibility of the Physical Planning Office, while school lands are under the Education Office.

However, there is no elaborate effort to coordinate public space and land management activities across all the municipal departments. This fragmentation of responsibility for overseeing the management of public space and land across different departments within each municipality is a barrier to coordinated, efficient and effective action, as well as optimal community inclusion and participation. The Physical Planning Act 2010 requires that each urban authority shall establish an Urban Physical Planning Committee (PPC), which shall consist of the town clerk (who

should be the chairperson), the urban physical planner (who should be the secretary), the city or municipal or town engineer, the district environment officer, a land surveyor, an architect and a physical planner in private practice appointed by the council on the advice of the town clerk.

The maintenance, and general management of public spaces, within the Municipal Councils is fragmented, which is a major barrier to efficiency but also contributes significantly to the shrinkage of public spaces and public dissatisfaction with their current status. A typical example of this fragmentation was revealed in the researchers' meeting with the current stadium manager of Mbale Municipal Stadium. While giving a long history of the evolution of Mbale Municipal Stadium and how its management has changed through time, the stadium manager observed the following:

*“The fragmentation of roles and responsibilities goes to the heart of the municipal council. There is no coordination between Industrial Division Offices and the Municipal Town Clerk’s officer over the management of the stadium. Apart from seeing the stadium degenerate rapidly in the last two decades, no deliberate effort has been made on the part of each administration to revive and restore and most importantly, improve the stadium. There is no office that is trying to get anything done and the municipality residents are frustrated by the rapid degeneration of the stadium.”*

The Physical Planning Committee (PPC) would be considered as the coordinating arm for the management of public spaces and land across each municipality, in conjunction with the different departments. The functions of the Urban Physical Planning Committee are the following: (a) to prepare urban and local physical development plans and detailed plans; (b) to recommend development applications to the Board for change of land use; (c) to recommend to the urban council, subdivision of land which may have significant impact on contiguous land or be in breach of any condition registered against a title deed in respect of such land; (d) to determine development applications relating to industrial location, dumping sites or sewerage treatment, which may have injurious impact on the environment, as well as applications in respect of land adjoining or within

a reasonable vicinity of safeguarding areas; and (e) to hear and determine appeals made against decisions of the urban physical planner or subordinate local authorities.

However, it was reported that often municipalities have failed to constitute physical planning committees; quorums<sup>9</sup> are frequently not realized; meetings are never held; and decisions are arrived at unilaterally. The 2017/18 Local Government Performance Assessment (LGPA) for Gulu Municipality, showed that whereas the PPC was constituted as evidenced by the letter of 5 July, 2017, it was not functional and no evidence of the committee considering new investments was provided (MFPED, 2018). In contrast, a functional Physical Planning Committee in Mbale Municipality considers new investments and is composed of 15 members who are technical staff according to the attendance register for the meetings; however, the local government does not have a valid physical structural plan in place and not all submitted plans were approved on time (MFPED, 2018b).

The PPCs are mandated to conduct regular inspections across all urban councils to identify any illegal developments so that corrective measures could be undertaken. However, the Office of Auditor General (OAG, 2015) found out that with the exception of Fort Portal and Jinja municipalities where a single inspection in a year was documented to identify illegal developments, there was no evidence that any such inspection was carried out in Gulu, Mbale, and Mbarara. Interviews with physical planners indicated that there is no system in place to identify illegal developments. The urban authorities rely on volunteers, whistle blowers, coincidence and sometimes complaints from affected residents as a means of identifying illegal developments. This is partly attributed to weaknesses in enforcement characterized by lack of enforcement staff, enforcement being managed by junior staff in some cases, and the failure by the municipal enforcement officers to report suspected illegal developments. The absence of Division Physical Planning Committees compounds these problems, yet identification of illegal developments is one of their critical functions. As a result, illegal developments continue to go undetected, which hampers the attainment of well-planned neighbourhoods.

In a circular (ADM/45/2) issued to all town clerks on the implementation of the Physical Planning Act, the Permanent Secretary (MLHUD) called for coordination mechanisms amongst Uganda Land Commission,

<sup>9</sup> Guidance on the proceedings of physical planning committee from the Physical Planning Act 2010 indicate the following: (1) at every meeting of a district, urban or local physical planning committee, the quorum shall be one third of all the members of the committee; (2) All decisions of the committee shall be taken by a vote of the majority of the members present and voting, and in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote; (3) A physical planning committee shall meet at least once in every three months; and, (4) a member of a physical planning committee shall not take part in the deliberation of any matter of which he or she is directly interested or concerned with.

the District Land Boards (DLBs) and Area Land Committees (ALCs) on one hand and the Physical Planning Committees (PPCs) on the other hand to ensure that land administration decisions are informed by physical planning. In many urban areas, the failure to coordinate is in part responsible for the shrinkage of public spaces and land in urban areas across the country. For example, the Assistant Town Clerks who are the secretaries to the ALCs do not report to the town clerk or the PPCs but to the DLB and the current law does not provide for the town clerk and physical planner to sit or be represented on the DLBs. As a result, DLBs have, in some cases, taken decisions regarding municipal council land without the consulting municipal council authorities, such as the town clerk or planner (OAG, 2015).

The Uganda Land Commission (which is mandated to acquire and manage government land and keep custody of all the documents relating to land) lacks a comprehensive inventory of government land and this situation has precipitated massive encroachment or loss (Wamajja, 2016). Most municipalities across the country, including Gulu and Mbale, do not have municipal land boards to oversee land management issues. They depend on the district land boards where representation was inadequate and therefore could not positively influence decision-making processes that affect land utilization in the municipality (UN-Habitat, 2011). The main concern that has arisen not only for the two municipalities, but probably even elsewhere, are the conflicting roles between the Uganda Land Commission (ULC), District Land Board (DLB) and the Municipal Council over access to and use of public land. First, the law provides that DLBs shall be independent and not subject to the control or direction of any person or authority in carrying out their functions. By legislating for independence of the DLBs, the law seeks to promote and preserve the integrity of the institution. The current vertical coordination and integration mechanism between the national level (Uganda Land Commission) and local agencies (District Land Board and municipal-level agencies) is weak, especially regarding the allocations, reallocations, issuance and enforcement of related development controls and approvals for development. There is also the case of the Uganda Land Commission allocating land without involvement or reference to District Land Boards in the respective local governments. It was observed that the District Land Boards tend to allocate land in the Municipal Councils as free hold, which had led to a loss of revenue, in addition to disrupting effective physical planning (Ministry of Public Service, 2016).

It was unanimous in the researchers' discussions with the municipal authorities that the relationship between the Municipal Councils and the District Land Boards and Uganda Land Commission in land (re) allocations was conflictual. For a long time, the public spaces and land that the two municipalities assumed to be under their stewardship and management have

frequently been (re)allocated to other persons and agencies by the District Local Board and Uganda Land Commission. This was most reported in Mbale Municipality, and these conflicting mandates amongst the national-level institution (ULC), the district institution (DLB) and the Municipal Council continue to disempower the Municipal Council from undertaking potential investments in public goods and services, while leveraging other potential actors for support remains difficult (Cities Alliance, 2016). The Executive Director Kampala Capital City Authority said that the Uganda Land Commission and Buganda Land Board (BLB), without consultation, dole out to private investors land controlled by Kampala District Land Board (KDLB).

*“What is most baffling is the allocation of a lease by ULC over KCCA land upon which KCCA possessed a freehold tile. We have several cases with similar facts and the land commission gives out a lease over our freehold title without due regard to Kampala physical development plan or environmental concerns or the fact that a fellow government agency maintains an interest over the same and we are challenging some of them in court.”*

The Uganda Parliamentary Committee on Physical Infrastructure found out that the rules and laws guiding ownership of land are not well stipulated and contain deeply embedded ambiguities and flaws. Moreover, some powerful elites and their acolytes were manipulating these rules and laws to rip the municipality of their public spaces and land. Unscrupulous individuals are by-passing the process of land acquisition (which entails issuance of titles after property has been identified and inspected, surveyed and marked) and simply force the issuance of titles without following the due process. These scenarios offer plausible explanation for the existence of overlapping titles. The World Bank (2015) also observed this situation, which indicated that the structure of managing land in the district does not provide for the mandate, autonomy and responsibility of urban councils, especially Municipal Councils that are supposed to be autonomous as provided by the Local Government Act. This situation seriously affects investments and the delivery of basic services in urban areas and has resulted in subdivisions and allocation of public land without approval by the PPC (OAG, 2015).

The conflictual relationship between the Municipal Councils, DLBs and ULC has attracted fights between the municipality technocrats and politicians, leading to further shrinking of public spaces. The Uganda Land Commission is further faulted for conniving with unscrupulous individuals to undertake 'misplaced engagement in non-core activities' by, for instance,

concentrating more on allocation of land to individual developers with little regard to purchasing land for current and future use by government, especially in prime urban areas. Indeed, the commission has further been faulted for behaving as if it owns land and yet they hold land in trust for government ministries, departments and agencies (MDAs). It had allocated land in Gulu and Mbale Municipalities without regard to the physical development plans. There were cases of double allocation of the same land to different developers with different lease titles, thus resulting in costly court cases that took long to resolve (Olaka, 2013, Parliament Reporter, 2015

and Red Pepper, 2014). For long, Mbale Municipality has been dogged by corruption scandals and, as a result, the Ministry of Lands, Housing and Urban Development regards Mbale Municipality as one of the most difficult municipalities to with which to work (Ladu, 2015). Table 8 shows examples of irregular allocation of public spaces and land in urban areas in Uganda. Boxes 8 and 9 present two examples of cases where the Uganda Land Commission together with the District Land Boards allocated land without the knowledge of land owners.

### BOX 8: THE 40-YEAR RUGBY DROUGHT IN MBALE

Mbale Rugby Club (MRC), under Mbale Sports Club (MSC), had been out of action with pitches located on Plots 94-102, Bungokho Road and Bumboi Close, Wanale Division in the municipality being encroached on. The clubhouse and pitches have also since gone into disrepair with illegal structures springing up and the entire land in question, well until recently fenced off by encroachers. In 2008, Stephen Anguma from the Uganda Rugby Union (URU) noticed a local farmer harvesting maize in the contested area. But “illegal” activities, locals say, had started long before, in the early 2000s. Several months of probes by the URU and MSC, the said owners of the disputed land, and various government agencies confirmed that the facility was gazetted for and belonged to MRC and MSC. Staring at the danger of losing their property, MSC with the backing of their mother body URU, wrote to the secretary Mbale District Land Tribunal on 5 January 5 2005, registering their grievances. In fact, the incomplete structure that exists on the grounds was halted by authorities while at the window sill level. It sits comfortably where the rugby pitch pavilion should be. MSC were complaining about the District Land Board and those individually allocated the contentious plots “in the names of James Okujja, Sasaga Wanzira and a one Wazaba,” accusing them of fraudulently obtaining the said land. Among MSC’s demands were that developments on the plots be halted and that the Land Board rescinds the allocation.

*Mwanguhya (2012)*

### BOX 9: MBALE FINALLY LOSES UHURU PARK TO PRIVATE DEVELOPERS

The Uganda Lands Commission has illegally sold Mbale Independence Square to private developers (Figures 17 and 18). The Square, which is locally known as Uhuru Park, has been sub-divided into 17 smaller plots and shared by top Mbale politicians and some district leaders. The illegal allocation was first reported in the media, but it was denied by the Uganda Land Commission. At that time, the former Speaker of Mbale Municipal Council Davies Mwaule had gone to court and put a caveat on the park land. Mwaule, however, under unclear circumstances later withdrew the caveat. For withdrawing the caveat, Mwaule was rewarded with plot number 15 in the park to which he admitted. He claimed he was forced to withdraw the caveat after realizing that the town urgently needed land for real estate development. Mwaule did not explain how he became a beneficiary of the illegal allocation. Abdullah Kutosi, the Mbale Municipal Council Speaker, said the council also learnt that developers had been granted land titles for the square. Kutosi said the council cannot do anything to stop the illegal allocation since the land title for Uhuru Park was with the Uganda Land Commission. Mbale Municipal Council was originally opposed to the deal but it has also now reversed its course and supports the illegal allocation. Kutosi the Speaker said the council has resolved to allow private developers to go ahead and develop their plots. According to unverified reports from the Mbale Municipal Council, the resolution to back the illegal allocation was reached following a night meeting between a section of councillors and the developers in a hotel in Mbale. The people who were allocated the plots are now selling them out at prices ranging between 15 and 20 million shillings.

*Elunya (2010b)*

**TABLE 8: EXAMPLES OF IRREGULAR ALLOCATION OF PUBLIC SPACES AND LAND IN URBAN AREAS IN UGANDA**

	<b>Allocation Authority</b>	<b>Public Spaces subdivided and allocated to private development without the Physical Planning Committee Approval</b>
Gulu Municipality	Gulu District Land Board	<ul style="list-style-type: none"> <li>• Golf Course grounds (De-gazetted)</li> <li>• Part of Kaunda Ground allocated to Aga Khan Foundation</li> <li>• Part of Kaunda Grounds allocated to JICA as a holding ground/yard for the agency</li> <li>• Plans are underway to give away parts of Boma Grounds for a regional blood bank</li> </ul>
Mbale Municipality	Mbale District Land Board	<ul style="list-style-type: none"> <li>• Open space along Nkambo (Plots 16-22 and 17-21) and Busoga Lane (Plots 16-22 and 17-21 Busoga Lane)<sup>10</sup></li> <li>• Subdivision of Mbale Golf Course</li> <li>• Subdivision of East African Customs Lorry Park</li> <li>• Municipal Cemetery</li> <li>• St. Andrews open space (1 acre on Malukhu road)</li> <li>• Plots 56-62 and 64-68 — Nabuyonga Rise</li> <li>• Mbale green space</li> <li>• Children's park in Indian Quarters (Plot 1-13 Butaleja Lane)</li> <li>• Service lane along Kumi Road (between plot 25 and 27 Kumi Road)</li> <li>• Bank of Uganda (Currency Centre)</li> <li>• Bishop Wasike and Gidima Road</li> <li>• Mbale Police (Wanyera) Primary School</li> <li>• Mbale Independence Square (Uhuru Park Children Playground (Figures 18 and 19)</li> <li>• Triangular open space approximately 0.5 acres on Bishop Wasike Road opposite the Clock (Figure 20)</li> <li>• Compost site along Pallisa road</li> <li>• Nkoma Stage Buffer area on Kumi Road</li> <li>• Town Clerk's Residence (Plot 3 Masaba road)</li> <li>• Part of Namakwekwe Primary School playground gazette for a fuel station</li> <li>• Fairway Primary School</li> <li>• Part of Bugwere Market on Iganga Road</li> </ul>
Other urban area examples	Kampala	<ul style="list-style-type: none"> <li>• Wetlands and open spaces in Kampala City, such as Luzira Wetland and Butabika Hospital land</li> <li>• Uganda Railways Land - Nsambya</li> <li>• Nakawa and Naguru Housing Estates</li> <li>• Nommo Gallery</li> <li>• Centenary Park</li> <li>• Uganda Broadcasting Corporation (UBC) Land</li> <li>• Bukasa Cemetery Land</li> <li>• Old Kampala SSS land</li> <li>• Nabagereka and Nakasero Primary Schools' land to Boost Investments Ltd and Prestigious Apartments</li> </ul>
	Jinja	<ul style="list-style-type: none"> <li>• Golf Course</li> <li>• Market Land</li> </ul>
	Masaka	<ul style="list-style-type: none"> <li>• Masaka Golf Course (Figure 21)</li> </ul>

Source: OAG (2015) with additions from the key informant interviews.

<sup>10</sup> A detailed explanation of how Nkambo Lane was fraudulently lost and the number of actors involved is given by Mafabi (2013b).mittee shall not take part in the deliberation of any matter of which he or she is directly interested or concerned with.

**FIGURE 20:** PART OF FORMER UHURU PARK (INDEPENDENCE SQUARE) IN MBALE MUNICIPALITY



**FIGURE 21:** THE REMAINING GREENERY OF MBALE INDEPENDENCE SQUARE (UHURU PARK)



Section 58(4) of the Local Governments Financial and Accounting Regulations requires a local government to have both movable and immovable properties and assets registered, titled and valued (OAG, 2016b). In 2008, a Parliamentary Committee on Physical Infrastructure probe team established that Mbale Municipality had no record of titles for public land and open spaces. The committee discovered that titles for public properties in the municipality had disappeared and municipal officials feigned ignorance. The location of the land titles and the respective custodian of the same could not be ascertained. Several reports, however, indicate that several urban authorities' properties were not registered and had no land titles, including bus parks, urban council's houses, schools, markets, and playgrounds, amongst others. Therefore, municipal technical personnel, the District Land Board and Uganda Land Commission have taken advantage of the loopholes in the existing law(s) to facilitate the loss of public spaces and lands in the municipalities. Under the Local Governments Act 1998 Cap 243, the town clerk is the designated custodian of all documents and assets of the council. However, the then town clerk, Mbale Municipal Council denied any knowledge of the municipality's property titles. With the failure to establish the whereabouts of the documents, unscrupulous municipal staff and councillors exploited this situation to facilitate or fraudulently convert and grab public land (Maseruka, 2008 and Twaha, 2017b). The committee noted that in some cases the District Land Board (DLB) had deferred renewal of leases because files were missing. The town planner, Mbale Municipal Council went

ahead to sell the said plots using fictitious municipal council minutes (Maseruka, 2008) to 'developers' who sometimes were the municipal council staff and duty bearers themselves. Such purported property owners then presented genuine documents from Uganda Land Commission and the District Land Board. Table 4 lists some of the cases of lands and public spaces that have irregularly been allocated by DLBs in urban areas in Uganda. Public documentation on the operations of the District Land Boards are hard to find as the Lands Officer, Mbale District Local Government observed:

*"When I came in just recently, we had nothing in this planning office, to say the least. For a district local government that is as old as the independent nation of Uganda, only 15 building plans and a stamp were handed over to me by the previous office holder. I am still trying to start something in this office, as there were no records at all. However, as an office responsible for land matters for the whole district, independent agency operations are not productive. It is only appropriate to collectively and amicably handle our land matters and public space challenges with Mbale Municipal Council and Uganda Land Commission in a coordinated and integrated manner."*

**FIGURE 22:** TRIANGLE ON BISHOP WASIKE ROAD OPPOSITE CLOCK TOWER IN MBALE THAT HAS ALREADY BEEN BUILT BY A COMMERCIAL PROPERTY



**FIGURE 23: CONSTRUCTION ON MASAKA GOLF COURSE IN MASAKA MUNICIPALITY**



Source: Nsubuga, 2017.

### 3.8 Inadequate Municipal Land Use Regulation and Enforcement of Development Controls

The inadequate coordination of physical planning activities within the municipalities has resulted in the unpleasant and unattractive quality of open spaces. There are no regulations available to the Municipal Council for the use of public or open space, and no proposal has been fronted to address this issue, despite the continued growth of informal sector businesses in Gulu Municipality (Cities Alliance, 2017). The proposed standards for social services that are included in the Gulu Municipality Physical Development Plan 2013-2033 require that the municipality reviews its public space needs and plans for them accordingly. The observations revealed that there were serious contradictions between the provisions of the existing municipal development plans and what is actually being implemented on the ground. There is no map that integrates public space corridors, environmental corridors and other open space connections into overall visions for municipal public spaces. Municipal authorities generally do not know the exact sizes, exact locations, ownership, and management of public spaces. Even when this information is known, the existing planning and

accessibility standards and guidelines have not been followed. Further, actions including the development of infrastructure (such as signage, pathways, or fencing), management planning, management activities (such as maintenance, restoration, and garbage removal) and stewardship of these assets, leading to concerns over the sustainability of the public spaces, were given less consideration. In one of the focal group discussion sessions, a concerned Mbale Municipality resident observed the following:

*“Originally Mbale was well-planned, and named as King George Town, we had many open spaces. The first stadium in the town was named as King George Stadium, even the current stadium’s parking lot has been encroached upon, the lower end of the stadium should have had hostels, but all that land was sold off and developed.”*

Designing and implementing physical plans, in addition to managing municipal service delivery, are complex processes that require qualified and competent staff. The issue of mismanagement of urban space is mirrored in the poor enforcement of development controls with buildings haphazardly erected on road reserves, sewerage lines, in wetlands, and street alleys, all in total disregard of

the urban authorities' laws and regulations. This is a recurrent urban planning defect in Gulu and Mbale Municipalities. For many years, capacity gaps have endured, and, for example, the capacity gaps identified across all municipalities falls into three broad categories: (i) gaps in numbers of key positions filled, (ii) operation skills to backup academic qualifications, and (iii) inadequate tools and equipment and facilities (World Bank, 2012). The current situation is critical on several fronts. Because of severe wage and financial implications and Ministry of Public Service recruitment guidelines, recruiting staff timely and with necessary skills is a challenge. The difficulty in staff recruitment could partially be attributed to the current institutional process; for example, municipality level staff have to be recruited centrally through the Ministry of Public Services.

Obviously, the lack in staff capacity poses serious constraints for effective management and especially in enforcement. Municipal authorities have failed to detect and avert the theft and subsequent loss or shrinkage of public lands and spaces because of the powerful individuals involved. Even with all necessary structure and regulations in place, enforcement is often the greatest challenge. The two municipalities are primarily responsible for enforcement (they conduct their own inspections) and they are structured to have enforcement officers at the ward/parish level. Mbale Municipal Council currently has a dedicated Enforcement Unit with a staff of 17 enforcement officers. Given the size of the municipality and magnitude of the enforcement tasks before them, they are often not able to carry out their tasks effectively.

The enforcement officers of the municipality on behalf of the Physical Planning Committees conduct enforcement activities. These activities include the following: issuance of enforcement notices to offenders; follow-up visits to sites where enforcement notices were issued to confirm compliance with the notices; administering of penalties and fines to offenders; demolitions in cases where no corrective actions can be undertaken; enforcing penalties; and prosecution of offenders (OAG, 2015).

UN-Habitat (2011) observed that Mbale municipality had no competent staff with technical knowledge of land matters and all issues of land were being left to the physical planner with little legal knowledge of land matters. This gap is still evident with the council struggling on land cases in court. There is neither a municipal surveyor nor a land officer to provide support in preserving public land. At the time of the survey, the current physical planner was also doubling as the Municipal Land Supervisor. In general,

the Human Resources Office (Mbale Municipality) reported that MMC human resource was operating at only 69 per cent. Gulu Municipal Council has an approved staff structure of 251 posts. However, out of the approved establishment of 251 posts, only 171 (68 per cent) posts were filled, leaving a staffing gap of 80 posts (GMC, 2015b). Understaffing overstretches the available staff beyond their capacity, creates job-related stress to the fewer staff, and negatively affects the level of public service delivery to the community (OAG, 2016).

Available data reveal that over the five-year period (2012 – 2016), Mbale Municipal Council registered an increase in staffing levels in percentage terms from an average of 62 to 69 per cent. However, during the same period, Gulu Municipality registered a decline in staffing levels from an average of 81 to 68 per cent. What is surprising is that, even with a decline in staffing levels, records from the Program for Result (PforR) Financing Instrument where the level of funding is pegged to assessed performance, for the same period, show that Gulu Municipality has been a better performer than Mbale Municipality. A possible explanation is that while Gulu Municipality has several municipal champions and the motivation to fully recover from the war and catch up with the rest of the country, not much is being done in Mbale Municipality.

Meanwhile, the high turnover of technical personnel in the two municipalities should be a matter of concern to urban administration. Gulu Municipal Council, for example, has had 13 town clerks in just seven years – meaning almost two town clerks every year (Owich and Makumi, 2013). The situation is not any different in Mbale Municipal Council. By December 2017, the Municipal Council had also registered more than 13 town clerks in seven years<sup>11</sup>. One of the concerned citizens in the municipality observed that Mbale was one of the most difficult municipalities to govern, because many town clerks have come with good intentions but leave because they continue to be frustrated by local politicians who manipulate all systems of governance for their personal gains.

The frequent transfer of town clerks has impeded proper management of public spaces and land across the selected municipalities. Owich and Makumbi (2013) report that 12 town clerks in Gulu Municipal Council were forced out of office on allegations of embezzlement and abuse of office. Most of them set their eyes on politics and cash sent by the central government and did not consider monitoring of existing municipal assets, including public spaces, a priority.

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<sup>11</sup> The standing order in the Ministry of Local Government is that a town clerk is required to serve at a particular station for a minimum of three years before they can be transferred to another station.

### 3.9 Inadequate Municipal Budgets for Public Space and Land Management

The quality of public space and appropriate land management approaches directly correlates with the size of the budget apportioned to such assets by any local government. The current legal framework allows for all local government, including urban councils, to be financed from the following: (i) grants (conditional, unconditional, equalization and performance base), (ii) own revenue sources, (iii) projects and (iv) borrowing, but local governments increasingly depend on central government transfers. It was difficult to access data on the size of the budgets that municipalities appropriate for the management of public space and land. Accessing such data would have enabled a clearer understanding of the magnitude of the funding challenges faced by municipalities and allowed for comparative analysis across the two municipalities. However, in all the researchers' consultations with relevant municipal technical personnel, it was unanimously reported that all urban councils fare poorly on local revenue generation and heavily rely on funding received from the central government, which renders the urban councils unable to handle their municipal challenges in time. Firstly, the central government revenues are released late, and secondly, the funds are insufficient to handle all municipal challenges that they experience.

From the legal perspective, the Local Government Act allows local governments to borrow money in the form of debentures, issue of bonds and any other method, as long as the borrowed amount does not exceed 25 per cent of the annual locally generated revenue. This limit situation affects the capacity of local governments to borrow but even without this limit, their revenue generating capacity is too low for them to engage in borrowing for infrastructure, let alone issue bonds to finance infrastructure. Furthermore, there must be a reliable surplus of revenues over expenditures that can be used to make the interest and principal payments to lenders on time and in full. Efforts may need to be made to increase revenue collection, reduce unnecessary expenditures or institute cost-saving measures (Pozhidaev and Farid, 2017).<sup>12</sup> Also, as earlier indicated, the bulk of the local government revenue (about 80 per cent) comes from conditional grant transfers from the Central Government and there is no guideline that allows these grants to be used for servicing debt. This situation leaves the option of using the revenue that is locally generated by the local government, which is too small and of which most is budgeted for recurrent expenditures (Kananura, 2016).

There are other methods of financing municipal investments (including real estate development), such as joint ventures with the private sector or formal public-private partnerships (PPPs). For example, in Busia, a private entity has committed equity to a new infrastructure project through a project-based partnership arrangement with the municipality facilitated by UNCDF (United Nations Department of Economic and Social Affairs [UNDESA] and UNCDF, 2017).

Another approach to financing, particularly suited to real estate development and infrastructure, is land-based financing. The basic idea behind land-based financing is that governments should "capture" the increased value of privately held land resulting from public investments in infrastructure and other social developments through taxes and fees to collect some share of this increase in value for public purposes, including funding infrastructure and service improvements (Walters and Gaunter, 2017). Land-based financing techniques are playing an increasingly important role in financing urban infrastructure in developing countries. They complement other capital financing approaches, such as local government borrowing, and can provide price signals that make the urban land market more efficient. Land-based financing instruments include recurrent taxes on land, recurring taxes on building value, betterment levies, special assessments, sale of development rights, sale of public land, and lease premiums.

In developing countries, there are two main ways to adapt the land-value capture (LVC) (Medda et al., 2011):

**Fee-based:** governments plan or propose city development projects with the expectation that they will increase property values in the surrounding areas as well as the taxes. The government then collateralize these forthcoming revenues and sells them to investors to raise cash.

**Development-based:** governments sell tracts of land or the right to develop them to private investors on the basis of new zoning regulations or building permits. The investors reap the benefit of future land value increases, but in exchange, build public projects.

LVC tax is a progressive tool as it taxes only the titleholders who are usually wealthier individuals or households, therefore providing social equity measure. LVC's weakness is associated with appraisal process that may be complicated to implement in developing countries because of informality of businesses and insecure land ownership.

<sup>12</sup> The Auditor General in his annual reports for Local Authorities reports significant under collection of local revenue by local governments. The report for the financial year 2013/14 reveals that UGX 7.9 billion of the planned local revenue was not realized, while for the financial year 2014/15, planned local revenue collection in 59 local governments of UGX 24 billion was not realized.

Unfortunately, a comprehensive legal and regulatory framework for land-based financing is absent in Uganda. Of all land-based instruments, only property tax is applied to some extent. Property rating in Uganda is governed by the Local Governments (Rating) Act, No.8 of 2005 (LGRA). The act empowers local governments to value, assess and collect taxes within their areas of jurisdiction. Local governments may levy such rates as they determine on the basis of the rateable value of any property within their areas of jurisdiction. The legal definition essentially limits taxable properties only to commercial properties that make profit on rent and excludes a large number of other properties, residential, industrial and others. As a result, owner-occupied residential houses in urban areas are exempt from property tax, although they form a large percentage of properties in urban areas. Nearly all property in rural areas is exempt from property tax, allowing for a few properties in rural growth centers who will usually be reluctant to pay due to perceived political action and level of economic activity.

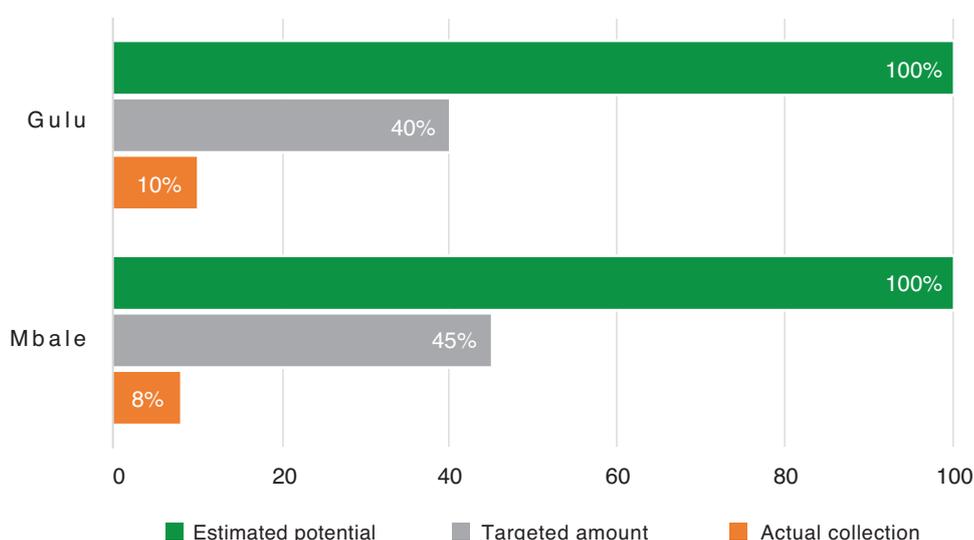
Furthermore, local governments are not allowed to collect property tax without an approved property valuation list which should be updated every 5 years; consequently, property tax collection is unachievable for municipalities who cannot complete their valuation lists because of lack of technical expertise and funding. Even where they exist, property rating lists are of dubious quality. In Mbale, the new register of 2015 has less properties than the old of 2005; and yet, more properties have been added in the last 10 years (OAG, 2016c).

The property valuation approach is another challenge. The LGRA only provides for the rental (annual) value

of the property to be taxed but makes no provision for the use of the capital value where rent-based valuation has failed or proved to be difficult. Rental evidence is notoriously unavailable and unreliable, particularly for specialized properties like schools, guesthouses, hotels and petrol stations. Thus, valuation is often based on scanty rental evidence analysed from valuation of comparable properties for credit facility purposes. Rating properties where buildings constitute only a small part of the value of the property is another challenge for property valuing such facilities as power generating and transmitting plants, airports and air fields, water works, communication towers/masts and many others (Muyomba, n.d).

Even when property tax is collected, the collection rates are very low. In 2015/16, Mbale Municipality collected UGX 428.2 million in property tax out of the due amount of UGX 2,292.2, approximately 18 per cent (OAG, 2016c). Gulu Municipality collected in 2014/15 only UGX 131.8 million out of UGX 500.4 million planned in property-related duties and fees, or 26 per cent. As a result, property taxes have grown slower than anticipated, at about 45% of the estimated potential. Nationally, property tax comes as a distant fifth source of revenue after local service tax, market dues, trading licenses, and agency fees. In 2017, property-related duties and fees accounted for 18 per cent of locally raised revenues in Mbale and about 10 per cent in Gulu. The result of this growing gap between the property-related tax potential and the actual collection in the two municipalities (shown in Figure 24) is that the actual collection makes up only between 8 and 10 per cent of the (legally allowable) potential.

**FIGURE 24: LEVEL OF PROPERTY-RELATED TAX COLLECTION**



Source: Authors' calculations.

The other critical factor that constraints financial resources for public space and land management is fiscal underutilization of the municipal assets, particularly open space, public infrastructure and land. According to UNCDF estimates (2018), Ugandan local governments (without the major urban centres) own over half a billion USD in assets, primarily in public land and infrastructure. Effective economic use of these assets may create a steady stream of revenues for municipalities in the form of rent and rates, sales proceeds, park entry, street parking and advertisement fees, and market charges. These revenues can be used to finance currently unfunded or heavily underfunded activities critical for sound land management, such as surveying, land titling, maintenance, development and gentrification of public spaces and lands. But this is not what happens. In reality, public non-produced assets, such as land, infrastructure and some heavy equipment generate about 25 per cent of own source revenues in Gulu and Mbale (and the situation in other secondary cities is not much different). One useful indicator that demonstrates that impact of revenues from public infrastructure and land is its percentage as the total capital investments or public works. This indicator naturally differs for different countries but it is not unusual for many municipalities in developed and developing countries to finance more than half of their urban infrastructure investment from land leasing only (We et al., 2013). For comparison, measured against land lease revenues, this indicator (applied to road infrastructure investments) for Gulu and Mbale would be just 0.2 percent for Gulu and zero for Mbale and measured against the total land and infrastructure-related revenues, it is 2.2 and 2.7 per cent, respectively (see the Table 9).

The factors already discussed in this study have contributed to this situation: multiple actors and unclear ownership, weak and fragmented planning and enforcement, confusing legal regimes and so on. As a result, municipalities lack updated public property registers, valuation guidelines for the economic value of municipal properties for management contracting or leasing, effective models and procedures for contracting out management services for public properties. The management contracts for local markets are particularly notorious for lack of transparency. Whereas the majority of the markets (71%) are under the management and administration of lower local governments, in actual fact they are managed by private companies who won tenders from local authorities. Lack of proper control and enforcement by municipal councils results in numerous complaints from market vendors about inadequate services, from electricity and water to security, and market fees misappropriated by unscrupulous contractors (Uganda Law Reform Commission, 2013).

*“Water is not given, no electricity and no security is provided and if they do, the town council does not provide them in time. In terms of maintaining the structures they have failed and the tenderers do not collect rubbish properly it is the Municipal Council that at times collects this rubbish when they fail to do so.”*

*(Female FGD in Northern Division, Mbale)*

**TABLE 9: REVENUES FROM PUBLIC INFRASTRUCTURE AND LAND IN GULU AND MBALE MUNICIPALITIES, FY 2017/18.**

FY 2017/18, UGX Thousands	Gulu		Mbale	
	Planned	Actual	Planned	Actual
<b>Public works (Roads and engineering)</b>	18,745,162	46,793,059	5,693,289	12,988,896
<b>Total locally raised revenues</b>	6,861,979	4,063,396	3,982,419	1,485,149
Rent & Rates - Non-Produced Assets from private entities	15,476	103,676	0	0
Sale of non-produced Government Properties/assets	1,574,246	502,280	210,000	0
Park Fees	505,575	229,845	1,528,500	97,536
Advertisements/Bill Boards	108,822	119,410	115,000	132,923
Market /Gate Charges	938,726	92,559	27,720	114,965
<b>Total revenues from public infrastructure/land</b>	3,142,845	1,047,770	1,881,220	345,424
% of total locally raised revenues	45.8%	25.8%	47.2%	23.3%
% of public works	16.8%	2.2%	33.0%	2.7%

While appearing before the Parliamentary Public Accounts Committee (PAC), nearly all the entities affected blamed limited or no funding for carrying out surveys and acquiring land titles. In all the budgets public spaces, land management, maintenance, surveying and land titling remain as unfunded priorities. In the end, the limited financial resources for capital spending, restoration and maintenance has led to extensive spatial disorder in urban areas, and subsequently created significant challenges with respect to providing new or even maintaining existing public space and land to stimulate economic growth. Because of low revenues, most of the public spaces have degraded and degenerated beyond municipal and public expectations. While some seemingly appear abandoned, such as Mbale Municipal Stadium, Kabale Municipal Stadium and Gulu Cemetery, for the most part, many public spaces are in a state of neglect and disrepair.<sup>13</sup>

Three classic examples show the obvious and visible sight of neglect and degradation of public spaces across municipalities in Uganda. Firstly, Mbale Municipal library stands out strongly. Declines or withdrawals of funding to the library has made the operations of the municipal library very difficult. The Assistant Librarian discussed the effects of declining funds:

*“Over the last ten years or so, we have faced severe budgetary restrictions. Mbale Public Library used to serve the entire Mt. Elgon region including the districts of Budaka, Pallisa, Kibuku, Budaka and Butaleja as well as the nearby districts in Teso sub-region. Now, it is a very delicate and precarious situation in which we are operating. Each newly created district in the region, is by law required to establish its own district library and their operations have to share the small budgetary allocation that used to run Mbale Municipal Library. We have now stopped procuring daily newspapers and we have stopped operating on Saturdays.”*

Secondly, concerning Mbale Municipal Stadium and Kabale Stadium, Among (2017) and Kakogoso (2017) reported that both stadiums were littered with faeces and waste. This situation was attributed to criminals and marijuana smokers, and persons who patronize the stadiums for overnight prayers and

trade shows. While in Masaka Municipality, it was confirmed that the Municipal Council had deliberately, indiscriminately and unlawfully proposed to sell off six plots of land, houses and the public library in New Kumbu, to raise funds to implement its shillings 21 billion budget for the 2017/18 financial year (Bindhe, 2017).

Thirdly, the lack of resources has hindered municipalities from opening up planned roads, resulting in encroachment and development of settlement in the areas planned for roads, which is evident at the Kimaswa Drive and Hajji Masudi Drive in Mbale Municipality (OAG, 2015). This, in turn, will make the opening of these access roads very costly and in some cases impossible. The failure to open up roads was partly attributed to the lack of a national urban policy, which is meant to provide a framework and direction to guide the urbanization process. The policy is intended to guide resource usage by local governments, such as the Municipal Councils, based on determined trends and patterns of urbanization. This would compel the municipalities to allocate resources towards opening of planned roads.

Despite public spaces and other municipal assets, including land, continuing to disappear in all municipalities, this study also observed that there are some specific urban initiatives aimed at further protecting the existing public spaces and land. This study refers to these initiatives as constituting open-space advocacy and civic responsibility, and public space partnerships and coalitions. The next sections provide some examples from Mbale and Gulu Municipalities.

### 3.10 Open Space Advocacy and Civic Responsibility

The participation of society in the decision-making process is considered essential for municipal environmental management and, more specifically, in the management of green areas. This study observed that there is growing civic responsibility in both municipalities to develop and protect public spaces and land.

According to Gulu and Mbale Municipality officials, most land in the city is held under leasehold, with customary and freehold tenure coming second and third, respectively. Most of the land that is currently freehold has been converted from customary tenure. The key people in land delivery are the customary

<sup>13</sup> There is a growing concern among Ugandan municipalities about the underused potential of land capture and its negative impact on their capacity for urban development. The Jinja Declaration unanimously adopted by Ugandan secondary cities at the Urban Expo in Jinja on 5-9 September 2018 commits municipalities to “work with central government agencies and development partners to enhance own source revenue collection and management, in particular complete comprehensive and regularly renewed property registers and effective revenue administration mechanisms”.

landowners, who decide when to sell plots on a private arrangement. Interactions with local residents in Gulu Municipality revealed some interesting perspectives around social responsibility in relation to the development of public spaces and land. What stands out in Gulu Municipality is that during the construction of the USMID roads, land owners willingly accepted to release their private lands for road construction with or without compensation. Examples of roads in the municipality whose opening relied heavily on private land owners include Tank Road, Alex Ojera Road and Opio Yeremiya Roads. According to the surveys and interviews conducted in Mbale Municipality, such a scenario of private landowners offering their land for road opening without compensation was most unlikely.

Harnessing civic responsibility by engaging local communities in genuinely participatory processes to ensure effective, efficient and sustainable public spaces and land management in municipalities has played an important role in protecting public lands and spaces. During the 2017 East African Secondary Schools Game, which attracted 7,000 participants to the once ruined Pece Stadium in Gulu, it was observed that a larger part of the resources to refurbish the stadium were derived from contributions from several thousands of people who once languished in government operated concentration camps in the Acholi Region of Uganda (Okumu, 2017). While opening the games, the LCV Chairman, Gulu District noted the following:

*“An 80-year-old man walked 96 kilometers from Awere village in Omoro district to Gulu, just to contribute Uganda Shillings 1,200 to buy twelve bricks towards construction of the stadium. He observed that this was just the beginning for Acholi community to fund their own development projects, as we have constructed the sport stadium and the Olympic size swimming pool, the second biggest in East Africa.”*

The local community in Gulu Municipality has continued to monitor ongoing road construction works funded under the USMID programme. The same community came out strongly to express their disappointment when the municipality delayed to complete rehabilitation works on the town’s Ring Road. The community threatened to close it down, if municipal council authorities took no action to finish the respective rehabilitation works. Tegwana Voluntary Social Accountability Committee (VSAC) together with community of Tegwana in Pece Division, Gulu Municipality mobilized themselves to block the road in Tegwana Parish because of its poor state and they vowed not to open the road until the town clerk or mayor gave an account as to why the works on that particular road had been delayed. The angry community reported that the Ring Road proposal for

expansion and rehabilitation commenced way back in 2003. In the 2011/12, the municipality announced that works on the road would be completed before the end of the respective financial year. According to Tegwana VSAC member Mr. Julius Opobo, UGX 89 million was allocated and released for the rehabilitation works, but the community was surprised that the work on the Ring Road had not started or finished according to the municipal plan. The community used tree logs and branches, complete with a poster that stated: “Labeja road, we need other workers to complete Ring Road.” During the peaceful demonstration, some community members, especially women, ferried their clothes for washing on the road, while others sat on the road sorting beans and pounding groundnuts shouting ‘Omito gudu aleng, Labeja’ (we need good roads) (WOUNET, 2012).

A similar protest over delayed works on Republic Street, also funded under the USMID project, played out in Mbale Municipality in 2014. Masa Musa, the LC III chairperson of Industrial Division, and Safiyi Wakhayete, the chairperson of the Municipality Leaders Forum, deployed huge stones and tree logs to block the road. Works on the road had delayed and there were complaints that the dust was hindering the operation of businesses. The business community in Mbale Municipality went up in arms against Plinth Technical Services, a Zambian-based road construction firm, undertaking the rehabilitation of Republic Street and other roads in the municipality (Olaka, 2014). Similar protests were reported in Jinja Municipality when a private developer, Habibu Kagimu of Black Eagle Investments Limited fenced off Plots 1 to 9 on Bridge Street (which is an open space close to the source of the Nile River) to erect a 140-roomed five-star hotel that would create 250 jobs in direct employment and another 500 in indirect employment. The residents petitioned the Inspector General of Government (IGG) and National Physical Planning Authority (NPPA), and other relevant authorities to intervene as the firm had breached the terms it was given when the plan was endorsed (Perils of Africa, 2018).

### 3.11 Public Space Partnerships and Advocacy Coalitions

As with many public spaces across the country, municipal authorities do not determine the utilization profiles for parks and outdoor facilities. The directions and policies of the private sector through their activities and programmes greatly influence public space management and the range of public space opportunities available to residents of both Mbale and Gulu Municipalities.

A number of ethno-cultural clubs have venues that have both indoor and outdoor recreation facilities. For example, the Indian community owns and manages Gymkhana Asian Community Park

in Mbale Municipality, which is used for multiple purposes, including political and cultural events. This study considered cemeteries as public spaces and observed that the Indian Regional Crematorium services takes care of the cremation needs of Eastern and North-eastern Uganda. However, each of these facilities has varying levels of access for the municipality residents.

Non-profit agencies play central roles in open-space planning and management in Mbale and Gulu Municipalities. The two municipalities serve as hosts to many non-governmental organizations (NGOs) and charitable agencies, which are intimately involved in designing, building, managing, restoring and maintaining natural and cultural resources in their respective communities. Several cases that vary in composition and scope, stand out as prominent examples of the role of non-profit agencies in the Mbale and Gulu Municipalities:

- Rotary International has entered into a working partnership with Mbale Municipal Council to manage 'Mbale Green', one of the better maintained open spaces in the municipality.
- Mbale Sports Club is now managing the Golf Course and all its ancillary facilities, along with making strong claims for managing the Rugby Grounds.
- World Embrace, another example of an active non-profit agency working in Gulu Municipality, is now engaged in innovative planning work on part of the 9.4 ha tract of wetland behind Unifat Primary School. World Embrace, a Christian NGO, focuses on promoting "Unity." The agency has partnered with Gulu Municipal Council to renovate Gulu Basketball Court and Pece War Memorial Stadium's facilities. It has also invested more than UGX 12 million in renovating the Basketball Courts at Kaunda Grounds and has also pledged UGX 35 million for the renovation of Pece War Memorial Stadium (Aliker, 2017). It has also received support from Engineering Ministries International with the layout and design of Gulu Community Champions Center<sup>14</sup>.
- Battery-Operated Systems for Community Out Reach (BOSCO-Uganda) is a non-profit organization that promotes education and computer literacy. BOSCO is also engaged in meeting Uganda's growing energy needs by installing and operating sustainable solar energy systems. Gulu continues to experience rampant power outages, and BOSCO Uganda is spearheading its mission of providing solar energy. His Grace Odama linked up with good Samaritans from the United States and started BOSCO-Uganda to generate power using solar energy in the Internally Displaced Persons' camps (IDPs). Apart from providing solar energy and considering the public libraries were considered as public spaces, BOSCO-Uganda has gone ahead to operate a public library for municipal residents in the municipality. Similar kinds of philanthropy were observed in other municipalities. For example, in addition to establishing schools, hospitals and libraries in Lugazi, the Mehtas were the sole principal donors in Kampala to the Town Park, the Town Hall, the Council of Chambers, the Arya Girls School, and the Sports Club and Pavilion (Gregory, 1992).
- Mbale Municipality hosts a number of recreation clubs and local sports leagues that focus on competitive and non-competitive recreational activities, such as football, rugby, netball, golf, athletics, and so on and these activities demand well-designed, secure and maintained public spaces. Several business agencies, such as those engaged in soft drinks manufacture and telecommunications, coalesce themselves around what has come to be referred to as the Eastern Corporate Club. These leagues tend to expand, contract, appear and disappear, as funding and business interests dictate, but as indicated in Section 4.2 their interests in properly managed public spaces cannot be underestimated.

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<sup>14</sup> The major goal of building the Champions Centre is to build a space that becomes the new community hub of Gulu. The center will house a museum, fitness center, clinic, a 2000-seat auditorium, day care centre, basketball courts, tennis courts, football pitch and leisure park. It will sit on part of a 15-acre piece of land wedged between Unifat Primary School and Kaunda Grounds. Pece Channel, a stream that runs through the land, will be preserve, (Namugerwa, 2017 and Odokonyero, 2017). There will be the world's biggest hut: 35 meters wide with a roof of 26 meters high and "it will be as high as a six-story building" (Namugerwa, 2017). The Planned Community Champions Centre and planned projects can be found and followed up at <https://www.worldembrace.org/champions-centre>.

# 4 CONCLUSIONS AND RECOMMENDATIONS

## 4.1 Key Conclusions and Outlook

This study reflects on the urban development planning opportunities and challenges of the Gulu and Mbale urban public space and land management with a view to identifying what should be done to successfully promote sustainable and equitable growth.

- a. The loss of available public spaces arises out of the conflict between urban development pressures (needs of land for housing and residential development, office buildings and commercial premises) and the needs for protection of open spaces.
- b. No urban area across the country has been spared the loss of public spaces and land. For the two case studies, Mbale Municipality appears to be in a deeper, worse and very visible public space and land management challenge than Gulu Municipality. Compared to the monitoring standard of 1.2ha/1,000 residents, both municipalities as a whole are significantly deficient in public spaces.
- c. The loss of public spaces and land is not only limited to urban areas but is a national problem that is affecting the rural areas, too. Justice Bamugemereire summarized her observations after one-year of land inquiries as follows:

*“The land question is more than what meets the eye, it looks to be perpetual... It is just impunity, if you like. Impunity cuts through actually, cuts through all. People can do anything because they don't think that somebody will question them. So, some of the issues that come up are: How can we find two titles on the same land. How can there be a Mailo title and a freehold title on the same land? How can there be two Mailo titles on the same land? Where...who was sleeping when this happened?”*

- d. The shrinkage of public spaces and land reveals severe problems of institutional dysfunctionality, overlapping mandates and weak coordination. From a neutral perspective, important questions must be asked about the current state of affairs on the encroachment and appropriation of public space and land in

municipalities, such as Mbale and Gulu. Why are the relevant frameworks set in such a way that leases on public properties are allowed to expire or wind down to create such lacunas that increase the chances of various individuals manipulating the systems? And why is it that forged or wrongly acquired titles that have been unearthed in the system are not cancelled regardless of their status? Why wait till the leases expire? Why not cancel the land titles regardless of their status? Why have caveats not been imposed on illegally acquired public properties? The response from ULC was that issuance and granting of titles involves a series of steps each having a signatory, hence making cancellation of titles a complicated process. One would ask: Whose fault is that in the first place? Should lawbreakers go unpunished just because it is a long process to undo what they have done? Was this the best approach that important public agencies, such as the ULC and DLBs, could have come up with to solve the problem? Has this situation encouraged unscrupulous individuals to come in and manipulate the system to meet their selfish interests, while reinforcing impunity on the part of others who have already taken advantage of the slackness in the system to continue appropriating public properties knowing no serious action will be taken against them?

- e. There is no public space classification system in the two municipalities and key open public spaces and land are not surveyed and properly documented. This situation occurs because of a lack of a municipal asset registry, which could be used for planning and management purposes.
- f. Men patronize most public spaces, while women argued that it was insecure for them to visit public spaces whether in groups or as individuals. The loss of public lands and spaces collectively affects all persons in the municipalities, but women are affected disproportionately because of a smaller number of suitable public spaces and their limited mobility resulting from cultural and economic reasons. However, as a sign of civil responsibility in Gulu Municipality, women participated in peaceful demonstrations as public space advocates to clamour for properly constructed and maintained roads.

- g. The two municipalities are not making a deliberate effort to acquire land for open space uses, but instead, they are increasingly losing available public spaces and land. All across the municipalities, there was a lot of uncertainty about the state and future of public spaces and land. The loss of public spaces is not a recent occurrence, and public spaces have for a long time been converted into other uses across both municipalities. This study offered insights into the collusion between developers interested in public spaces and land and government or municipal officials who are supposed to act in public interest to protect existing public spaces. Land give-aways continue unabated, even with several commissions of inquiry and matters being under investigation by the police. The audit reveals that public spaces may not exist in the near future in the two municipalities because of the observed rates of urban development, systematic re-allocations and allocations to private developers, and conversions to other land uses.
- h. Most public spaces are not properly maintained, and they appear in a state of neglect and lack adequate facilities to encourage their use by municipal residents, with toilets, furniture, goal posts, litter bins, swings, and so on in a dilapidated state. While in Gulu Municipality, a number of public spaces, such as the Golf Course have been lost and many more are threatened.
- i. The existing physical development plans in the municipalities do not have clear strategies on public spaces and land management. Most open spaces are considered idle, vacant and free and therefore ripe for encroachment and conversion to other land uses.
- j. The multiplicity of actors and competing interests affect the management of municipal public spaces and land.
- k. Municipal leadership has not given considerable attention to the effective management of public spaces and land.
- l. The conduct and attitude of municipal leadership seems to suggest apathy towards public spaces and land management in Mbale and Gulu Municipalities.
- m. The non-cooperative and even contentious relations between municipalities, districts and national authorities over land also seem a big part of the problem.
- n. The potential socio-cultural and economic value of public space and land have not been fully defined, explored and exploited.

## 4.2 Recommendations

As the two municipalities clamour for a city status, they are challenged in a constantly changing environment to provide high-quality public spaces and manage urban lands appropriately. This situation places additional responsibility on the municipality planners, politicians, developers and the community to work together to provide a common vision for their public space system. The researchers of this study observed that it is still a huge challenge to manage public spaces and land in both municipalities, and their recommendations arise out of discussions with technical personnel, including discussions with public space users and expert judgment from the observations and spatial analyses conducted throughout the whole exercise.

### 4.2.1 POLITICAL LEADERSHIP AND COUNCILLORS

- The political leaders in the municipalities, including the municipal mayors should take a deliberate stand to champion through formal and established institutional channels to protect municipal public spaces and land. Protection of municipal public spaces should become a recurrent theme in their interactions with the citizens during meetings, discussions ceremonies and other public events. Political leaders should make a better use of traditional values, particularly the sense of community life, respect to common properties, including through approaches, such as *Obuntubulamu*,<sup>15</sup> for promoting a sense of ownership and honour for well-kept and properly used public space and land, especially among young people.
- Municipal Councils should regularly, at least once a quarter, discuss the issues of public space and land use at their meetings. Municipal Councils should hold regular public meetings and consultations to sensitize the public about the importance of effective public land management, expose the cases of land misuse and illegal occupation, and mobilize the public opinion and direct action.

<sup>15</sup> More information about this UN-supported initiative can be found at <http://global-smart.org/en/solution/obuntubulamu-promoting-peace-and-development-uganda-through-cultural-values>.

- Councillors should reach out to their various constituencies, including civil society organizations, professional groups, neighbourhood associations, private businesses and others to encourage their initiative and specific contributions to the design, development and maintenance of public space and land.
- Municipal Council should become the guardian of an inclusive and participatory city planning process involving all groups affected by planning decisions, particularly women and the urban poor, including residents in informal settlements and the informal workforce, to ensure broad-based support for land use decisions and socialize protection of public space and land. They should encourage public participation in planning decisions among their voters and make sure that local government officials create conditions for such processes and duly reflect the results in final plans.

## 4.2.2 MUNICIPAL ADMINISTRATION

### Short-term

- Municipalities should immediately embark on development of forward-looking and realistic strategies and actionable and adequately resourced plans for public space and land management. For example, in the revised Municipal Development Strategy for Mbale Municipal Council, there is a need to demonstrate the importance and allocations that have been given to public spaces and land. Municipal public space and land management plans should be closely aligned with and integrated in municipal revenue mobilization action plans and asset management plans. The timing is very opportune as both Gulu and Mbale Municipalities (as well as a number of others) are getting technical and financial support from the government and some development partners (including UNCDF) for their revenue mobilization and asset management plans.
- As part of such action plans, concrete provisions should be made to provide the Municipality Enforcement Unit (MEU) with sufficient staff and equipment and technologies to apprehend illegal developers, protect public spaces from further encroachment, misuse, vandalism and destruction. Municipalities should analyse the existing capacity gaps in the MEU and implement a resourced action plan to address such gaps systematically.
- Effective management of public spaces and land MUST start with adequate data and information to ascertain who are the

custodians of municipal lands and public spaces. Municipalities should undertake surveying, registration and titling exercise of ALL public lands and spaces to secure them from grabbers. This exercise should be part of the annual work plan of each municipality and part of the broader strategy to create a municipal asset register and database. Land titles that were fraudulently issued should be cancelled and development on the land halted while encroachers must relocate.

- The property-related tax is a valuable but grossly under-utilized source of finance for maintenance of public spaces and urban development. Whereas any amendments of the regulatory framework will take time and effort, municipalities must focus on what they can do immediately to increase property-related tax collection. Updating municipal property registers, application of adequate valuation techniques and use of effective collection methods must become priority tasks for municipalities. In doing so, municipalities should establish and demonstrate a clear link between the collected property tax and actual improvements in publicly available spaces and associated infrastructure to encourage the public willingness to pay the property and other land-related taxes.
- Municipal authorities should institute without further delay safety reviews or evaluations that incorporate checklists of mandatory criteria to be performed regularly of all public spaces, as well as periodic surveys of residents' safety concerns with an emphasis on the results from women.

### Medium- and long-term

- The land use and urban planning regulations that guide public space and land management in municipalities should be streamlined to deter bribery and fraudulent behaviour in existing municipal land transactions. This also requires action at a national level and calls for a collective action by Ugandan municipalities through their apex organizations, such as the Urban Authorities Association of Uganda (UAAU).
- The reliance on volunteers, whistle blowers, coincidence and sometimes complaints from affected residents as a means of identifying illegal developments on public spaces and land should be strengthened. The use of social media, sharing of photos and "name and shame" data online using reporting by citizens could be helpful and should be encouraged.

- Adequate budgetary appropriations and funding allocations by all municipal accounting officers should be made to ensure that surveying, registration and titling (acquisition of title deeds) of all municipal public spaces, land and other municipal assets are secured. If municipalities do not prioritize and provide funds to the different departments under whose mandate public spaces and land falls, they will continue to lose land. Cases involving schools losing land, police stations losing land, and so on will continue unabated.
- Municipal authorities should carefully design and protect public space in view of the specific safety and security needs of women and girls. Some of the required features include the following: public restrooms, adequate signage, shade structures, sitting facilities, well-maintained paths, street lighting, and road furniture. It is also recommended planning for mixed land uses to generate users throughout the day, particularly in more secluded public spaces, such as parks to improve women's safety.
- The human capacity of all heads of department in the Municipal Councils to which public space and land matters are closely associated needs to be built. The envisaged training should be in municipal asset management, land surveying, titling, spatial analysis, revenue management and broader real estate management.
- Since the public, selfish individuals and a section of the municipal officials largely treat most public spaces and lands as empty, idle and free, there is a need for the municipal authorities to conduct a thorough study on their potential socio-cultural and economic value. This should include the cost and benefits of public spaces and other public assets in influencing economic, inclusive and equitable growth in municipalities. An elaborate public education campaign on the importance and benefits derived from public spaces is also required.
- Municipalities have to find creative and innovative ways of financing the management of public spaces and land. This can be done by encouraging partnerships with the private sector, such as World Embrace and Rotary International in Gulu and Mbale Municipalities, respectively, to invest in public spaces and share the returns on investment with the municipalities. Likewise, municipalities should develop arrangements for engaging non-profit organizations in development and maintenance of public space and lands and reach out to them proactively.
- Another financing option includes instituting land value capture mechanisms that introduce land-based financing instruments (such as levies and taxes) for development and maintenance of public spaces.

### 4.2.3 CIVIL SOCIETY AND THE PRIVATE SECTOR

- Civil society organizations should integrate issues of the use, maintenance and protection of public space and land in their programmes and activities. The concerning trend of a continued loss and deterioration of public properties underlines the need for active and meaningful engagement by all kinds of civil society organizations: faith-based because of the cultural and religious aspects, sports clubs and associations due to the need for exercise and physical development, environmentalists because of the ecological concerns and so on. CSOs should raise their concerns using all kinds of communication, in meetings, via media and so on. They should apply more pressure on local politicians and municipal administrations to tighten control over public assets and regularly account for their use to the public.
- Professional groups, local communities and neighbourhood groups, vendor associations and other groups with non-economic and economic interests in public space and land should proactively look for opportunities and engage with municipal administrations over management initiatives on a not-for-profit basis to design, maintain and develop public spaces for particular uses. Such management arrangements may concern parklets or other green areas, bicycle parking, market stalls, sport grounds and other types of public space that can have a larger impact on neighbourhoods and cities.
- Private businesses should consider their engagement in the design, development and maintenance of public space from two perspectives, as corporate social responsibility and as a value-adding activities that improves their bottom line by expanding their customer base or inspiring brand loyalty. Like non-profits, private businesses need to integrate public space and land into their business models and be on the watch out for opportunities proactively engaging with municipal administrations as well as with local communities.

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