Prevention of illegal titling was deliberately embedded at the district planning stage and entrusted to district physical planning committees, which are chaired by chief administrative officers (CAOs), writes **Baker Mugaino**



Police arrest people who were found pouring murram in a swamp in Kabowa, a Kampala suburb, on November 24, 2019. Government banned developments and titling of such protected areas. PHOTO/MICHAEL KAKUMIRIZI

CAOs hold keys to curbing titling in protected zones

Uganda's land and environmental laws present a rare case of legal clarity. The Constitution and its implementing statutes expressly prohibit the privatisation of forest reserves and wetlands. In principle, the legal system leaves no ambiguity as to the status of these ecosystems.

However in practice, land titles continue to emerge within gazetted protected areas. This persistent contradiction raises a central question: how does illegality repeatedly arise in the presence of clear law?

I contend that the answer lies in shifting the analytical focus away from legislative sufficiency toward institutional design and performance.

Illegal titling is not an accident of weak law, but the predictable outcome of administrative failure, specifically, the failure to operationalise district-level planning controls. This position proceeds from law to institutional architecture, to accountability, showing that prevention was deliberately embedded at the district planning stage and entrusted to District Physical Planning Committees (DPPCs), which are chaired by chief administrative officers (CAOs).

The legal baseline: Absolute protection of forest reserves and wetlands

Any meaningful analysis must begin with the legal baseline. Article 237 of the Constitution vests land in citizens but subjects natural resources to State trusteeship. Forest reserves and wetlands are therefore constitutionally insulated from private alienation.

This insulation is reinforced by Sections 44 and 45 of the Land Act, which categorically prohibits occupation, use, or titling of land in forest reserves, wetlands, riverbanks, and lakeshores, and declares any such grants null and void.

These provisions are not regulatory in nature; they are exclusionary. They remove protected areas entirely from the domain of private tenure.

The legal implication is decisive: no lawful title can exist in a forest reserve or wetland. Any such title is void ab initio, regardless of administrative formality.

This clarity is critical because it establishes that subsequent failures cannot be attributed to legal uncertainty.

Decentralisation: The limits of district land powers

If the law is clear, the next question is institutional: which actors are capable of violating it, and how?

Uganda's decentralised land administration system empowers Area Land Committees and District Land Boards to verify land rights and approve allocations. However, decentralisation does not confer authority to override constitutional or environmental protections. District Land Boards are expressly required to operate in conformity with the Constitution, the National Land Policy, the Physical Planning Act, and environmental law.

This means that district land institutions possess administrative power, but not legal discretion. Their decisions are valid only to the extent that they comply with planning and environmental controls.

The persistence of illegal titling therefore cannot be explained by excessive legal autonomy. Instead, it points to a breakdown in the institutional mechanisms designed to ensure compliance most notably, planning control.

Planning as the missing link between law and titling

Land titling does not occur in a vacuum. It is the final step in a sequential legal process that begins with land use determination and subdivision.

The Physical Planning Act, 2010 situates this process squarely within the jurisdiction of District Physical Planning Committees. Section 11 of the Act renders unlawful any subdivision, change of land use, or development undertaken without DPPC approval. This statutory design establishes a clear legal sequence: Land must be lawfully zoned and approved for use, subdivision must receive DPPC approval, only then can registration and titling lawfully occur.



Major challenge. Illegal titling is not an accident of weak law, but the predictable outcome of administrative failure, specifically, the failure to operationalise district-level planning controls." – Mr Baker Mugaino, the author

From this sequence, a crucial inference follows: an illegal title is necessarily preceded by a failure, bypass, or collapse of DPPC oversight.

The DPPC as the State's preventive gatekeeper

The DPPC is not an advisory body. It is the statutory gatekeeper through which all lawful land use decisions must pass. Its multidisciplinary composition of planners, surveyors, environmental officers, engineers, and natural resource officers was deliberately designed to detect conflicts within protected areas before they crystallise into private claims.

In this design, prevention is structural, not reactive. Parliament did not intend forests and wetlands protection to rely on later cancellations, litigation, or prosecutions. Prevention is located at the planning stage, where illegality can be stopped at minimal cost and maximal effectiveness.

Therefore, when DPPCs function as intended, illegal titling should be institutionally impossible.

Why the CAO is the accountability pivot

The effectiveness of the DPPC depends on leadership. The Physical Planning Act designates the chief administrative officer as chairperson of the DPPC, not symbolically, but structurally. As head of the district technical staff and accounting officer, the CAO controls convening, coordination, and enforcement.

This placement creates a direct line of accountability because planning control fails where CAO oversight fails. The issue is not personal blame, but legal responsibility. Where authority is vested, duty is imposed, and harm is foreseeable, accountability must attach. In this regard failure to operationalise the DPPC through may be inaction, selective enforcement, or tolerance of parallel processes constitutes a breach of statutory duty that directly enables illegality.

Why doctrines of limitation and bona fide occupancy cannot cure illegality

Some illegal titles are defended through arguments of long occupation or good faith acquisition. These arguments collapse under constitutional scrutiny.

Land held in public trust is legally imprescriptible. Time cannot legalise what the Constitution and Parliament have placed beyond private ownership. Doctrines of limitation and bona fide occupancy protect private tenure arrangements; they do not apply to land excluded from private tenure altogether. Accordingly, illegality in forest reserves does not mature into legality through delay, negligence, or administrative silence.

Reactive title cancellations as proof of systemic breakdown

The frequent cancellation of illegal titles is often cited as evidence of institutional vigilance. In fact, it demonstrates the opposite.

Each cancellation represents a failure of prevention, imposing financial costs, social disruption, litigation risk, and erosion of confidence in the land register. A system that repeatedly corrects the same illegality is not self-correcting; it is structurally misaligned.

The law did not intend environmental protection to be enforced retroactively. It embedded prevention at the district planning level precisely to avoid these cascading harms.

Restoring the preventive function of CAO-led DPPCs

Reform does not require new legislation. It requires restoring institutions to their intended role. Mandatory DPPC screening of all land applications, integration of protected area maps, joint technical inspections, and documented planning approvals would intercept illegality before it reaches the registry.

Equally important are accountability mechanisms such as performance metrics tied to DPPC functionality, transparent records, and enforceable consequences for bypassing planning control.

Uganda's failure to protect forest reserves and wetlands is not a failure of law, but of administration. Parliament designed a system in which planning control precedes land registration and entrusted CAO-led DPPCs with that responsibility.

Restoring these committees to full operation would shift land governance from costly clean-ups to lawful prevention, safeguarding ecosystems, public finances, and institutional credibility.

Uganda does not need stronger environmental laws; it needs its planning institutions to function as the law already requires.

Mr Baker Mugaino is the Commissioner-Land Registration in the Ministry of Lands, Housing and Urban Development.

GOVT PLEDGE

In 2023, *Daily Monitor* reported that the government had reaffirmed its position to crack down on encroachers and cancel 20,000 land titles issued to private developers in wetlands.

"Of the 20,000 land titles issued in wetlands to the private developers across the country, 330 land titles in Mukono, Kampala, and Wakiso have been cancelled, while 300 more submitted in Rukiga and Bukedia districts are in the cancellation process," Mr David Stephen Mugabi, the acting director of environmental affairs in the Ministry of Water and Environment, said during the World Wetland's Day celebrations in Gweri Sub-county, Soroti District, on February 2, 2023.

Mr Mugabi, who represented his Permanent Secretary, said his line ministry and the Lands ministry would work together to implement a strategic government plan aimed at the restoration and preservation of the degraded resource.

In 2022, the Cabinet promised a total ban on titles in wetlands and an investigation against government officials who issued the titles.

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