

Protecting your community's land.

Information Leaflet 0

0. Protecting your community's land : An overview of the processes

The law in Uganda said that people own their land in several ways. Since all the choices involve several choices, you should consider all the choices available to you.

1. The law and rights over common lands

The law in Uganda recognises customary rights over common lands. Common areas are often the source of conflict in a community.

2. How can communities protect their land?

There are many ways of protecting your communal land. You can choose to register your communal land as a freehold title, or you can choose to register it as a certificate of customary ownership (CCO).

3. How to mark the boundaries of your communal land.

Communal land often has conflicts, because the boundaries are not clearly marked. You should mark the boundaries of your communal land (for more details about wetlands). You should also mark the boundaries of your communal land.

4. What is a Communal Land Association?

A Communal Land Association (CLA) is an organisation that manages the communal land on behalf of the community. Ownership, you still own land under the CLA.

5. How to form a Communal Land Association.

If you want to get official papers for your Communal Land Association, you should register it with the Registrar. (If you need help in writing a constitution, see leaflet 6.)

6. Writing a Constitution for a Communal Land Association (CLA)

What is a Communal Land Association constitution?
A constitution is a law or set of rules which are made by a state, an organisation or an association to help it manage its own internal activities. For a Communal Land Association, the constitution is the rules of your association. You must write a constitution to help communal land owners know how their communal land will be managed, how decisions will be made, what the rights and responsibilities of the members are, how all neighbours and neighbouring villages are to be treated, and many other matters. An Association's constitution will be recognised within the national courts.

Why do you need a constitution for a Communal Land Association?
The Land Law requires that when a community wants to form a Communal Land Association, they must write a constitution to help regulate their activities. This will help avoid confusion and conflict among Association members. It is important to have a law in place which sets out everybody's rights and gives responsibilities to the Association officers, restricts the officers' powers, creates clear penalties for breaking the rules of the Association, and says clearly how the communal land should be managed. A constitution also allows an Association to be registered to become a legal "person" capable of being sued and suing others.

Who should write the constitution?
How should the constitution be written?
The constitution must be written and agreed upon by all community members. When writing a constitution, everybody's rights must be respected that means that the constitution must carefully make sure to protect the rights of both men, women, widows, orphans, children, outsiders,

and all people who currently use the land that will be owned by the Association - including the use and access rights of neighbouring communities! If community members find it difficult to sit together to write their constitution, they can elect representatives who come from every clan represented in the community to do this. The community may also select leaders of the Association or an Executive Committee to draft the constitution. However, before it is finalized, this constitution must be presented before all the members of the community for approval. The community has the power to change this draft of their constitution before it can be approved by the majority of the community members. The final draft of the constitution must be approved by all members of the community, or at least by a majority. The law says the Registrar of Titles in the District may help the community draft and adopt its constitution.

What should be included in the constitution of a Communal Land Association?
Your association's constitution may include any rules you like, but it must not violate the Constitution of Uganda or any other national laws. When writing your constitution, there are important points that you must note and include. These points are listed and explained below. These points do not cover everything that your community may choose to include in your rules. It is only a starting list. Feel free to add more rules that are necessary to your community. What is important is that the community should cover every problem that the community thinks may come in the future and say how the problems will be resolved. The beginning point may be by the community listing all its current rules before discussing it to see how to improve on the current rules. The following are what a community may include in a constitution:

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7. How to settle disputes on communal land

In some villages there are no conflicts, but in other villages there are. If you have a dispute, you should try to settle it. If you do not have any right to stay, you should leave.

8. How to acquire a certificate of customary ownership (CCO)

There are many ways of protecting your communal land. You can choose to register your communal land as a freehold title, or you can choose to register it as a certificate of customary ownership (CCO). Each form must be filled in three times. It is a good idea to have a copy of the form for each of the three copies.

9. How to get a freehold title to common land.

There are many ways of protecting your communal land. You can choose to register your communal land as a freehold title, or you can choose to register it as a certificate of customary ownership (CCO). Each form must be filled in three times. It is a good idea to have a copy of the form for each of the three copies.

10. Surveying and how to do it.

There are many ways of protecting your communal land. You can choose to register your communal land as a freehold title, or you can choose to register it as a certificate of customary ownership (CCO). Each form must be filled in three times. It is a good idea to have a copy of the form for each of the three copies.

11. What can you do in a wetland?

Most people know that wetlands "belong" to the community. You should not use wetlands for anything else or to stop you from using the wetland.

12. Protecting your common land in the future.

As a community, you have decided how to protect your common land. You should make sure that you are protecting it for the benefit of a family or a community. Make sure that you are protecting it for the benefit of a family or a community.

13. Application Costs.

Process	Costs	Where to file papers and pay fees
Forming Communal Land Association		
Cost of application to form a Communal Land Association	15,000/=	District Land Office
Issuing a Certificate	10,000/=	District Land Office
Getting a CCO		
Application for a certificate of Customary Ownership	5,000/=	Land Office
Issuing of Certificate of Customary Ownership	5,000/=	Sub County
Lodging a "caveat" (interest) on the Certificate of Customary Ownership	5,000/=	Sub County
Withdrawal of Certificate of Customary Ownership	5,000/=	Sub County
Getting a Freehold Title		
Application for a Freehold Title	20,000/=	Land Office
Application to convert Customary Certificate to Freehold	(15,000/=)	Land Office
Issuing of certificate	10,000/=	Land Office
Assurance of Title	1% of the value of land	Land Office
Registration	10,000/=	Land Office
Total cost of forming a Communal Land Association and getting a CCO	45,000/=	
Total cost of forming a Communal Land Association and getting a Freehold Title	65,000/= + 1% of value of land	

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Land and Equity Movement in Uganda (LEMU)

"Making land work for us all"



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0. Protecting your community's land : An overview of the processes

The law of Uganda said that people own their own land whether they have any papers for it or not. The same law also recognises that communities own land together, e.g. grazing land, and that this land is the private property of particular communities or villages and not open for anyone to come use and settle on.

The law lets people protect their land in different ways. You can get papers to the land or you can organise to manage and defend your land without papers. You may be happy with the way things already are. Information leaflet 2 explains the different choices you have

1. Decide how you want to protect your common properties

All the people who share the common area need to come together to decide what to do. This may be one village, or more than one village. Make sure not to exclude anyone! Everyone who has rights to this land must be involved in these discussions. Make sure everyone understands all the different choices that you have. Don't rush – you don't need to make a decision in one meeting. It is better to give everyone time to think things over so that you all genuinely agree and make the right decision for yourselves.

Some questions to think about:

- *Are you happy with the way your commons is being managed? Do you have rules? Do people respect them?*
- *Are people from inside the community encroaching on the commons? DO you think this is acceptable or would you like to stop it? Are you able to control it at the moment?*
- *Are you worried that people from outside the community might try and encroach on the land or grab it? Do you feel that our land is safe?*
- *Is the right of everyone in the community to use the commons being respected or do some people have problems?*

If you are happy with the way things are at the moment, you can stop here

If you have decided to improve the management and protection of your commons, then you have

several choices. Since all the choices involve the community working together, you will need to have some leadership group who are helping to move things forward.

2. Create a management group to lead the process of managing and protecting your common property.

Many communities already have committees to manage communal areas. Some of these committees are working well. You may choose to keep these committees, or, where they no longer exist, you may decide to choose a new committee. You may also choose to keep an existing committee but to add one or two people who you think will be able to help in the committee's work. It is your choice. Whenever you have meetings to discuss the protection of your common properties, make sure that the whole community is mobilized. Keep minutes of all the meetings and write down the names of those who attend. This list is only for yourselves, but if there are any questions later, you may need to show that everyone had agreed to your decisions.

Some questions to think about:

- *What kinds of people in your community are the most well-suited to manage and protect the land in the interests of all of the community members?*
- *If you want to get papers for your land, which people will be best at managing this?*
- *How will your community make sure that this group is accountable to the community throughout the process?*
- *How will you make sure that this group allows for the voices of **all** community members to be heard?*

3. Agree on the boundaries of the common land with all neighbours and clearly mark them.

You must make sure that everyone knows the boundaries of your common property. If there are disagreements about where the boundaries are, you must resolve these issues and come to a final agreement. You should also decide what to do with any people who have encroached on the common lands. (Information **Leaflets 3 and**

7 will help you with these steps – how to mark boundaries and settle disputes). Once you have all agreed on the boundaries of the land, you should mark them in a way that everyone will always know where the boundaries are, so there will be no conflicts in the future. Most people agree that planting omaraomara trees is the best way to do this. Drawing a map and getting all the neighbours and leaders to sign it will also help prevent problems in the future.

If you don't want to get papers for your land, you can stop here.

However, you may still find it useful to agree how community members are allowed to use the common property, so you can consider the next step even without going on to get papers.

If you want to get papers for your common properties, you will need to have a 'common land management scheme' – the rules for how your land will be used.

Many communities already have rules about who can use the common land and what you can use them for. Other communities do not have clear rules. What activities do you want to allow on the common land? Should there be limits on how much any one person can do? If cutting firewood is allowed, are there any restrictions about how much or what kind of wood can be cut? Your rules can also say what should happen if anyone breaks the rules.

4. Decide on your rules for the community land and write them down.

You should meet as a community and agree the rules. The rules should make sure to protect the rights of all land users in your community, and must be fair. Everyone in the community should agree the rules; then after they are written down, check them with the whole community. (Information **Leaflet 6** will help you with this).

Questions to think about:

- *What activities do you want to allow on the common properties?*

- *How can you use the common properties and still protect them for future generations?*
- *If people break the rules what will you do?*
- *How will your community make sure that everyone's rights to this area are protected?*
- *What will be the rights and responsibilities of each community member?*

If you don't want to get any papers, you stop here.

Some communities may choose either to get a Freehold Title or a Certificate of Customary Ownership. Because these are both official, legal papers you must turn your community into an 'official' community if you want either of these papers. This means registering your community as a Communal Land Association. Information **Leaflets 4 and 5** will help you understand how to do this.

5. Register your community as a Communal Land Association (CLA)

You need to choose an executive committee of nine people, to write down your rules ("constitution") and then register yourselves with the District Registrar. Information **Leaflets 4 and 5** explain in details all the steps you need to follow to do this. Now you can apply for the papers that you have decided will be the best for your community – a Certificate of Customary Ownership or a freehold title.

6. Agree on what kind of papers you want to get and successfully follow the application process

Information **Leaflet 8** will tell you all the steps involved in getting a Certificate of Customary Ownership. Information **Leaflet 9** explains how to get a freehold title.

Remember that protecting your land does not end when you get papers! This is only the beginning.

As a community you need to make sure that your management committee is working well and that you are all working together to protect your land and to use them in the way that you have decided is best for you. Good luck.



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1. The law and rights over common lands

The law in Uganda recognises customary ownership of land. Even if you have no papers for your land, your rights to your land are just as strong as people with titles.

Communities can own land in the same way that individuals and families do. The law recognises that common properties are the private property of certain communities, and these communities have the same rights over common land as families do over their land, whether they have papers to their land or not. The custom of each place makes it clear who owns the land – in Northern Uganda, communal land is often owned by one village or by a few villages together.

Common land is jointly owned by everyone in a community. This is the customary law in Lango, and the Land Act says that these customary laws must be followed. However, State law says that the customary rules and judgements are not allowed to break other State laws or the Constitution – so they are not allowed, for example, to discriminate against women, children or disabled people.

Leaders do not own the communal land, they only manage it for the community. There are often leaders who are given roles to help keep the land, but they don't own it for themselves. The community as a whole has the right to decide how to use the land, and the land cannot be sold, rented or given away unless the community agrees.

Neighbouring communities sometimes have rights to use the land. By custom, there are sometimes visitors and people from other communities who are allowed to use the common land, but they don't own it. The law recognises these rights and they must be protected.

Common areas are often the source of conflict in villages. As the population has grown and land has become more scarce, some people have been settling on the commons or encroaching on the boundaries of the commons often without the permission of the community that owns the commons. This is illegal, even if the person encroaching is from the village that owns the land. In some villages, there has not been a strong management committee to look after the commons and stop people encroaching. This has been creating conflict in many places. Some leaders have also sold off parts of this common land or they have been claiming that they owned the land themselves, even though by customary law they only manage the land on behalf of the community. This is also illegal and has been creating conflicts in many places. The community as a whole owns common land and has a right to decide together how it is used.

Wetlands are owned by the State, but communities do have some rights to use them. Under the law, communities may continue to use the wetlands as long as what you do does not destroy the environment and it is not commercial. Information **Leaflet 11** tells you more about what you are allowed to do on the wetlands.

There are many ways in which communities can protect their land to reduce conflicts and from encroachers or from land grabbers. Other **Leaflets** in this series give you more information about different things you can do as a community to protect your land and how to go about it. The leaflet on protecting your community lands gives you an overview of the process.



2. How can communities protect their land?

The law of Uganda says that if you own land according to custom, even if you don't have any documentation, you own your land and have the same rights over it as people who have titles to land. The law recognises that a village can own land together, e.g. sharing a grazing land, or several villages could own land together.

If you want to, you can take action as a community which may help you protect your rights and prevent conflict over your communal land. You could get papers which may help you prove the rights you have to your land, but they will not change your rights over the land. You don't get "more rights" by getting papers, and you can't lose rights by not getting papers.

Why should we do anything?

You don't have to do anything if you feel secure and if you don't fear any threats or any possibilities of conflict. Some communities do have problems or fear possible problems in the future and they might prefer to protect their land better. Sometimes, there are disputes about where the boundaries of the common land are, and there may be encroachment by villagers who take part of the common property for themselves. Some individuals take land for themselves without the community's permission. Sometimes people from outside the community try and take common land. They may claim that they bought it from one of your community leaders, or they may say that they have been given a title to the land by the Government. Since 1998, the law does not allow the District Land Board or anyone else to give out titles on your land, but, if a title was given, this may not be easy to fight in the courts.

You have four choices: 1) take no action; 2) create a local solution; 3) get a Certificate of Customary Ownership (CCO); or 4) get a Freehold Title to your lands. Your community should sit together and think carefully about

what is best for your situation. Different choices will be good for different communities. No choice is the best decision for everyone.

1. You can leave things as they are

If you are happy the way you are, you don't need to do anything. As a community, you remain the owners of your land and no-one has the right to take it from you.

Advantages: This won't cost you any money, you don't need to have meetings or decide anything.

Disadvantages: If your boundaries are not clear or respected, you may have disputes, or encroachment on the land which may be harder to solve. You may not have disputes today, but in the future these may arise. If someone tries to claim the land as theirs, you may find it harder to prove in court that you really own the land. (If two people claim the same land, the court has to rely on evidence to decide who really owns it.)

2. You can create a purely local solution

As a community, you can come together and agree exactly where the boundaries of your common land are, and then mark these boundaries by planting trees or in any other way you choose. You could draw a simple map showing the land boundaries, and the owners of neighbouring fields could sign to show that you have all agreed. If different villages all use the same land, you would need to come together to agree who the land belongs to. The land may belong to several villages together. There may also be other villages who are allowed to use the land in some situations, even though the land does not belong to them. All this should be written down and signed by the leaders of the different villages to avoid any future disputes. You could also make sure that you have a committee of people to manage the land. You could meet to make sure that everyone knows the rules about how the common land can be used and what happens

if people break the rules. You could write these rules down to make sure that no-one can argue about what the rules really are.

Advantages: You don't have to pay any money for this. It can help reduce conflicts from within your village because everyone will know the boundaries of your common lands and what the rules are for using them.

It will help local leaders (e.g. Adwong bar, clan leaders, LCs) to solve disputes correctly. If you have a dispute, the maps and the papers could be used in the Sub-County Court and the Magistrate's Court as evidence. Because it is a criminal offence to cut boundary trees, you can call the police if people try to encroach by cutting them down. You don't need to change anything about how you manage your land.

Disadvantages: The papers you write yourselves are not a very strong proof in a court if someone from outside the village claimed your land or if someone else processes a title for the same land.

3. You could get a Certificate of Customary Ownership (CCO)

You can get a certificate from the Government which is proof that you own the land. You first need to make your community an official Association. It will cost the community 35,000/- to make your community's rules official and then to get the certificate. You don't need to survey the land. You can use your own maps and you can mark the boundaries with trees. The land stays under customary rules and customary law, so there is no change to the way disputes can be resolved. The same people can still solve your disputes (the clan leaders or the LC2 court).

Advantages: It is not expensive, you only pay once. You get the certificate from the Sub-County and everything is done within the District. It is easy to make any changes in the certificate. The CCO is an official paper so it is hard for anyone else to claim that the land is theirs – both people from inside and outside the village.

Disadvantages: Although a CCO is not expensive, you have to put some time into making your community a formal Communal Land Association with written rules (see Information Leaflet 5 for help on this) and to get the CCO itself. A CCO is strong proof of ownership, but it might not always be considered as good as a title.

4. You could get a Freehold Title

A title is the strongest proof possible of ownership. If you have a title, it is very hard for anyone else to claim your land. If your community wanted to get a loan, you can often use a title as security with a bank. You need to get your land surveyed by a surveyor, and you have to meet their costs. Before getting a title, your community needs to form an official Communal Land Association, just as for a CCO.

Advantages: It's the strongest proof possible of your ownership. Because the land is surveyed and an official map is kept by the Land Registry, there should be no doubt about your boundaries even if marker stones are taken or moved. Everyone recognises a title as proof, so it is easier to sell your land, to rent it out or to use it as security for a loan, because everyone will know that you really own it.

Disadvantages: The title itself is not very expensive, but surveying the land is expensive. If you want to make any changes to the land, you will have to pay again for a new survey and have a new title processed in Kampala. Customary law no longer applies on titled land, and only Magistrates can hear cases for titled land. You have to be very careful about your title. If someone (e.g. your management committee) sells your land, even if they have no right to do so, then the law says that the buyer can keep the land, if they did not know the committee was acting illegally. (With a CCO, the sale would not be valid and the land would remain yours.)



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3. How to mark the boundaries of your communal land.

Communal land often has conflicts, because it is not always clear where the boundaries of grazing lands are. You can reduce the likelihood of conflicts, and make sure that everyone knows that all of your common properties are owned, by marking your boundaries and draw maps yourselves. It does not cost any money, only time and commitment.

Step 1: Agreeing What to Do

Agree which land you own communally and decide if you want to mark the boundaries of your common land (see Information **Leaflet 2**). If your common land belongs to just one village, you can decide this at a village meeting. If your land is owned by more than one village, you need to agree this with the other villages as one big community. If other villages claim that they also own the land, but you don't agree, then solve this dispute before you carry on. Decide who will lead the process of boundary marking. In many places, there is someone who has customary authority over the common property, e.g. the *Adwong bar* or a committee of clan leaders. You could ask them to lead the process if you like.

Step 2: Making Arrangements

Arrange a day to walk around the boundaries of the common land. Make sure that all the people who own land bordering on the common property are present. You could make sure that the LC1 chairperson and a member of the Area Land Committee (ALC) from your parish are there. (If several villages own the land together, then you could also invite the LC2 to be present if you think this will help.) If the grazing land includes a wetland, then remember that the law says that all wetlands belong to the State. Your map should not include the wetlands area, although you are allowed to *use* the wetland (see **Leaflet 11**

for more details about wetlands). You should go and talk to the District Environment Officer, or a representative of NEMA in the District for advice.

Step 3: Walking the Boundaries with your Neighbours

Walk around the land together and agree with those owning the neighbouring land where the boundaries are. If there is any disagreement, then you must resolve this conflict before you finish marking the boundaries (see below Step 5). Mark the boundaries in some temporary way, such as using sticks or digging holes. If one or more of the neighbours are not present, then go back another day to mark this part. It is better to delay and make sure your boundaries are agreed by all, rather than rush and then have a dispute.

Step 4: Protecting Rights of Way

Agree on where there are any paths which people from inside or outside the community are allowed to use to cross the land ('rights of way'). Mark these too.

Step 5: Solving Disputes

If someone has encroached on the commons and has built a house and is growing crops, as a community you must decide what to do. Remember that by law, unless they had permission from the community as a whole to settle there, then they have no right to stay. As a community you can choose what to do in these cases. **Leaflet 7** may help you to solve this. If the person with whom the community has a dispute refuses to discuss the matter with you, then you can go to the LC2 court. Once you get a judgement on the rightful owners of the land or where the boundaries of the common land are, mark these boundaries straight away. If someone destroys this, then you can ask the clan leaders and LC to go to the police.

Step 6: Permanent Markers

Decide how you want to mark the borders permanently. These markers should be agreed upon by everyone, so everyone will know they are markers. A good marker is a kind of tree which is only used for marking borders. The cultural institution in Lango – the Lango Cultural Foundation – has agreed on Etuba and Omara-omara trees as boundary markers. Make sure that the neighbours of the commons are present when you plant the trees. The trees will be a legal marker.

Step 7: Drawing a Map

Draw a map of the commons and of all the gardens that border the commons. On the map, mark the names of all the families who own land bordering the commons. Draw anything that you use locally for landmarks, such as streams, termite mounds (anthills), big trees, etc. Make measurements by counting paces or using any measurement unit of your choice. Write down the name of the village and the parish and the sub-county.

Step 8: Keeping Copies

Extra copies of the map should be made. Choose who to give them to - the customary leaders, the LC1, the LC2 or the Sub-County Chief and the ALC member could have copies. For now, giving a copy to officials like the LCs or the Sub-County Chief does NOT mean you are registering the land with the Government. You do not have to pay a fee. It does not mean they have any rights to your land. It is just one way in which you can make sure that if ever there is a dispute or if you lose your copy, you can go back to what was agreed and make sure it is followed. If you make many copies, then each neighbour can have one, and you

should have more than one for the community. Decide who amongst you should have the copies. If the common land is owned by more than one village, then each village should have its own copy of the map.

Step 9: Signing the Map

The map should be signed by all the neighbours of the commons to show they agree. It is best if husbands and wives both sign, to make sure there will never be any dispute. (If anyone does not find it easy to sign their name, they can mark with a thumbprint.) Decide who should sign on behalf of the community. If the land is owned by more than one village, then it is a good idea if someone from each village signs. Witnesses should also sign to say they saw that everyone agreed. Attach names of husbands and wives to represent all the households in the village. These names should be updated each time there is change.

Step 10: Using the Map

If you decide that you want to get official Government papers for your land, like a Certificate of Customary Ownership (CCO), then you can use these maps. But you do not have to do this. (See Information **Leaflet 2** for options.) You can draw your maps and mark your boundaries and not do anything else. It is your land, and you may do whatever you want. The maps and papers are for you in your village(s). You can choose who to give copies to. No-one can use them to take away your rights to land. The clan leaders, ALC and the LCs should work together to make sure that no-one uproots any of the boundary trees. People who uproot these trees should be made to replant them. If they uproot trees again, the leaders can go to the police, because it is a criminal offence.



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4. What is a Communal Land Association?

What is a Communal Land Association (CLA)?

The law allows communities to own their land communally, as a village, as a clan, as a group or however they have customarily owned their land. If a community owns land together, then this ownership is already recognised: you don't need to do anything and you don't need to form an Association. However, if the community wants to get official papers to the land, then they have to become 'an official community'. Becoming 'an official community' is called forming 'a Communal Land Association'. All communities have ways of deciding who is a member of their community and who is not, how people join and leave the community, and how community decisions can be made. If you want to be an 'official community' you have to write these rules down officially.

Do you need to form a Communal Land Association?

You only need to form a Communal Land Association if you want official papers for your land. You can't write the names of all members of a community on an official paper like a Certificate of Customary Ownership or Freehold Title. (If you did, then whenever anyone died or was born, you would need to change the paper.) The rules of a Communal Land Association make it clear who is a member, and the community can carry on as the same community from generation to generation.

You can form a Communal Land Association even if you don't want to get a title to your land. If you form a Communal Land Association to get a Certificate of Customary

Ownership, you still own land under customary tenure and all the customary rules still apply, but you will have proof that you own the land together and what the rules are that you want to follow in managing the land. If the 'managers' whom you choose don't follow your rules, then their decisions won't be legal.

How is a Communal Land Association managed?

There are not many differences between how your community manages land according to custom and how you manage it as a Communal Land Association. By custom, villages usually choose a few people to be a "committee" to manage the land. If you want to form a Communal Land Association, then the law tells you how many people you have to have on your committee. You must choose between three (3) and nine (9) members to be on the management committee, and at least three (3) must be women, if nine people are chosen and one (1) must be a woman if 3 people are chosen. This is probably the only change that you would have to make. You can usually keep the same rules for managing the land that you already have. The managing committee does **not** own the land; they only manage the land on behalf of the members, just as in the customary way of owning common land. The rules of the association are called the 'constitution' of the Communal Land Association. The rules are set by the members, i.e. the whole community. The Management Committee of the Association must follow the constitution of the Association. They cannot make changes to the constitution without all Association members approving the changes.



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5. How to form a Communal Land Association.

If you want to get official papers for your communal land, you must turn your community into an official association, called a Communal Land Association (CLA). **Leaflet 4** explains what a Communal Land Association is. This leaflet explains the procedure that you should follow if you want to form a Communal Land Association.

Step 1: Deciding

Your community must decide whether or not to form a Communal Land Association. If your common lands are owned by a group of villages together, you have to find a way for all the heads of households and wives of all the villages to agree on what you want to do. You may decide to have meetings in each village first, then to have a general meeting of all the villages afterwards.

Officially, you are supposed to contact the District Registrar of Titles to write your rules and to form your management committee, but it will be easiest to agree things amongst yourselves first, and then to contact the Registrar who will confirm that everything is in order.

Step 2: Writing your Rules (The Constitution of the Association)

You need a set of written rules, called the constitution of your Association. Information **Leaflet 6** will help you with this. You can start with your customary rules, but you can make any new rules you want or to change any old rules, as long as the members agree. If you find it hard for many people to discuss the rules together, you can choose a few people to discuss them first, but the rules must then be approved of by all the community members in a meeting. You should keep minutes of this meeting to prove that the members did agree to the rules. Make sure you also have a signed attendance list of this meeting. The rules of the Association have to be checked

by the Registrar. (If you need help in writing your rules, the Registrar is supposed to help you with this.)

Step 3: Electing the Management Committee

The community members elect 3 to 9 Executive Management Committee members. At least 3 of these members must be women. Decide first how you are going to choose the members (this should be in your constitution). For example, if you are several villages together, should each village have a certain number of members? Should each clan have representation? (**See Information Leaflet 6** for help.)

Step 4: Applying to the District Land Office

One or more of the committee members should go to the District Land Office and ask for **form 44**, "*Application to form a Communal Land Association*". (It should be free, but you may be required to photocopy it or to pay for photocopying). Fill it in, and give it to the District Registrar. You need to fill in the number of copies required, but it is best to fill in an extra copy to keep for yourselves. Ask the District Land Office to sign your copy so that you have proof of what you handed in. The application fee is 15,000, which you pay to the cashier at the District Land Office. You will be given a receipt. Keep this receipt because you will need it later.

Step 5: The District Checks with the Members of the Communal Land Association

The District Registrar of Title then calls a meeting of the members to check if they really agree to form the Association. This meeting is organised at the place chosen by the Communal Land Association. The laws say the meeting is chaired by the District Registrar of Titles.

Go and see the Registrar after going to the District Land Office. Ask the Registrar whether he or she will call the meeting or whether he or she wants the community to organise the meeting and then to inform him of the date and time. Find out from him or when he/she is free to come to your meeting. At this meeting, the Registrar can check that you really want to form the Association, can check that you have agreed to the rules and can check who you have elected as your Executive Management Committee.

Step 6: Registration

The elected Executive Management Committee applies to the District Registrar of Titles to be registered. They must fill in three copies of **Form 47**, which is obtained from the Land Office, and submit them to the Registrar. (You should fill an extra copy for yourselves and get the Registrar to sign it as evidence of what was submitted.) The registration fee is 10,000/= . Collect the receipt and keep it safe. Keep all copies of your papers in a file and leave it with the secretary of the Association.

Step 7: Getting the Certificate

The District Registrar of Titles then issues a certificate, called 'a certificate of incorporation' (**Form 48**). You need to go to the Registrar's office and request him/her for your certificate.

Step 8: Get a Stamp

You need to have your official stamp of the Association which you use to stamp all the official letters of the Association. You must

buy this stamp yourselves. You can decide for yourselves what it should look like. The stamp makers will be able to help you design one.

Step 9: You can now apply for your papers for your land

After you have your 'certificate of incorporation', the community can apply for a Certificate of Customary Ownership (CCO) or Freehold Title for your communal lands.

Implications of Incorporation

- The Executive Management Committee members hold the Association's land **in trust for the community**, and they must use their powers on behalf of all the members, as indicated in your constitution.
- An Association is a legal "person" and can sign a contract and make legal agreements.
- The committee is not allowed to sell the land, to rent it out or to use it to get a loan unless they call a meeting of all the Association's members and obtain their approval. However, read **Leaflet 2** carefully. If you have a *title* to the land, and if your committee sells the land without permission of the members, the buyer will keep the land, unless you can prove in Court that the buyer knew that the sellers were doing wrong ("were committing fraud"). It is different if you have a CCO for the land. With a CCO, the sale will not be valid and the land will remain for the community.

Fees for acquiring a CLA	Amount to pay	Where to pay
Application for forming a CLA	15,000/=	District cashier
Issuance of a "certificate of incorporation"	10,000/=	District cashier



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6. Writing a Constitution for a Communal Land Association (CLA)

What is a Communal Land Association constitution?

A constitution is a law or set of rules which are made by a state, an organisation or an association to help it manage its own internal activities. For a Communal Land Association, the constitution is the rules of your association. You must write a constitution to help communal land owners know how their communal land will be managed, how decisions will be made, what the rights and responsibilities of the members are, how all neighbours and neighbouring villages are to be treated, and many other matters. An Association's constitution will be recognised within the national courts.

Why do you need a constitution for a Communal Land Association?

The Land Law requires that when a community wants to form a Communal Land Association, they must write a constitution to help regulate their activities. This will help avoid confusion and conflict among Association members. It is important to have a law in place which sets out everybody's rights and gives responsibilities to the Association officers, restricts the officers' powers, creates clear penalties for breaking the rules of the Association, and says clearly how the communal land should be managed. A constitution also allows an Association to be registered to become a legal "person" capable of being sued and suing others.

Who should write the constitution?

How should the constitution be written?

The constitution must be written and agreed upon by all community members. When writing a constitution, everybody's rights must be respected that means that the constitution must carefully make sure to protect the rights of both men, women, widows, orphans, children, outsiders,

and all people who currently use the land that will be owned by the Association - including the use and access rights of neighbouring communities! If community members find it difficult to sit together to write their constitution, they can elect representatives who come from every clan represented in the community to do this. The community may also select leaders of the Association or an Executive Committee to draft the constitution. However, before it is finalized, this constitution must be presented before all the members of the community for approval. The community has the power to change this draft of their constitution before it can be approved by the majority of the community members. The final draft of the constitution must be approved by all members of the community, or at least by a majority. The law says the Registrar of Titles in the District may help the community draft and adopt its constitution.

What should be included in the constitution of a Communal Land Association?

Your association's constitution may include any rules you like, but it must not violate the Constitution of Uganda or any other national laws. When writing your constitution, there are important points that you must note and include. These points are listed and explained below. These points do not cover everything that your community may choose to include in your rules; it is only a starting list. Feel free to add more rules that are necessary to your community. What is important is that the community rules should cover every problem that the community thinks may come in the future and say how the problems will be resolved. The beginning point may be by the community listing all its current rules before discussing it to see how to improve on the current rules. The following are what a community may include in a constitution:

1) The name of your Communal Land Association: You must state clearly the common name the community has decided to call itself. Will the community use the name of the village? What about if there is more than one village in your “community” - what name will the community choose?

2) The address of your Communal Land Association: Here you have to state where your Association can be found. This may include details of your village, parish, Sub County, County and District. If you have a Post Office Box number you must indicate it, and if not, you may use the Box Number of a neighbouring school, hospital, church or any other institution in your area.

3) The objectives of your Association, including the identity of the community covered by your Association: You must state the reasons for forming the association; what are the goals of your Association and how will it go about achieving these goals? Why did you think of forming an Association? Is it to help you manage your communal grazing land? Which clans form this association? Do you have a totem for the community? That is what defines you. It is your identity so you should be proud of it and put it in your constitution.

4) The land to be held or owned by your Communal Land Association: You must describe all land that the Association owns (communally-owned), the size of your land, the boundaries of your land, what the land is used for, and where it is located.

5) The names of intended members of your Communal Land Association: You should list the names of all the household heads as representatives of the association. The heads of households should include married men

and their wives, widows, widowers, unmarried women, divorced women and, sometimes, orphans. The constitution should say how the list will be changed in times of death, migration or new birth. This list may be attached to the constitution, and changing it should be the responsibility of the Association offices.

6) Qualifications for membership in your Communal Land Association, including: Principles for identifying people who may be members of the Association: Your constitution should define who can be a member and who cannot be a member of your Association. Will membership be by individuals or by family? Will migrants or refugees be allowed to be included? What about people from other communities who have relatives in your community? It is best to be as inclusive as possible. Be specific about who can be a member of your Association and why they will be included.

A procedure for resolving disputes regarding membership in the Association. When your community decides that someone should not be a member, and that person disagrees with the decision, what can that person do to challenge the decision? How will you solve conflicts related to membership?

7) The classes of membership (if any) and the rights of members of the different classes : Your Association may decide to have different categories or classes of members; your constitution should list the different rights and responsibilities of each class of members. For example, you may decide to have permanent membership for the community members and more short-term membership for migrants and visitors. You may have membership by birth and membership by registration. You may also think about whether outsiders can become members, and if so, will they have to pay membership fees?

8) The rights of members to use the property of your Communal Land Association: If your Association has various tools, property or has build structures on its common lands, your constitution should say how these things can be used by members. All rules about use - including rights and responsibilities - should be clearly written. For example if your association has a cattle dip, the right of members to use the cattle dip should be in your constitution. The constitution should also say whether members will use the tools or property for free, or if they must pay an agreed fee.

9) Who will be involved in Association decision making processes: If membership in your Association is based on families, (and not individuals) how will each family be represented during Association decision making processes? Will the family be represented by head of family alone or with his wife? How will your community make sure that households headed by widows, or orphans will have their voices and opinions heard during decisions? The constitution must describe decision making processes and say how the Association will make sure everyone is included.

10) The reasons and procedures for terminating membership: The constitution should clearly say how a member may lose his or her membership. Is it upon death, marriage, divorce or migration? The constitution should also say what will happen to that member's rights and property. Will the rights be inherited by the children? Are they transferable to someone else?

11) The purpose for which the land may be used: The constitution should clearly define those activities that may be done on the communal land. Will the land be used for farming or, grazing, or for collection of fire wood, building materials, or water? What else will the land be used for?

12) Whether members may make transactions with their rights and to whom: The constitution should say whether a member can give away, rent or sell his grazing right to someone else who is not a member of the Association.

13) What happens to a member's rights on death? : The constitution should say what happens when a member dies. Who will take up his or her rights, or role as a representative head for the family? Can it be taken over by another as head of family, by relatives or even by friends? This is related to how the association has decided the qualifications for membership (based on individual or family).

14) The procedure for election of officers, and officers' terms of office and powers: The constitution must say how officers will be elected, and what their powers, roles and responsibilities will be. Will they be paid? How much? The constitution should also say how the Association can remove officers who are not representing the community's interests or not doing their jobs well.

15) How and when your community will call its meetings. Your community should decide how often it will meet to review how the Association is functioning, make decisions, and take care of all business related to the common areas. Will you meet every month? Every other month? At least, you must have one special "Annual General Meeting." Who will call these meetings? Are there penalties for not attending meetings? You must also decide how many members of the association must be at each meeting in order for a decision to be "real" or valid. What if only a few members are present at a meeting? Will the decision be final? How many members are necessary for the decision to be final? What happens if a meeting is called and very few people come? What will you do?

16) The powers of the association : The constitution should state what powers the association has, and also what powers it does not have. For example, can the association buy more land, can it borrow money?

17) How you will record the details of Association meetings. Your constitution should say how you will create a record of all decisions and actions the Association takes. Who will keep the minutes of meetings? Do members have the right to demand and read those minutes? What happens if the person who keeps minutes refuses for a member to read it?

18) How will the Association handle finances? If your association does activities that bring in money, how will you manage this money? Will you keep this money in a bank? If so, which bank? Who will keep a record of the money your Association has, earns and spends? Where will these records be kept? You may want to establish a system of looking at the Association's finances each year, called an "audit." How much money was earned? How was it earned? How much money was spent? Who spent it? What was it spent on? Who will do this audit? How often? The constitution should clearly give members the right to know what the account books say.

19) The procedures for changing the Constitution: The constitution should provide how it may be changed. How many people should agree before it is changed? What will be the process of changing it be?

20) The procedure on dissolution of the Association. Your constitution should say what you will do if your community decides to end the association. What will happen to the land and any other assets of the association? How will the land and property of the association, be distributed among members? What procedure will be followed? Should the beneficiaries be heads of household or individuals? What will happen to the shares of the property of people who are working or living in another district?

21) How will corruption, theft of association property, nepotism and breach of officers' duties be dealt with? : Will officers or members who break the rules be dismissed from the association? Will they be taken to court? Will they be asked to refund any money they have stolen, or pay a fine? What will the penalties be?

The procedure of dispute resolution: If there is disagreement in the association, how should it be resolved? Will local mediation be tried first? Who will mediate? Will the Association bring the matter to a local court?

A constitution is subject to amendment so if the community wants to change something in its constitution, it is free to make such changes as long as the people follow the procedures for changing the rules set out in the Constitution.



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7. How to settle disputes on communal land

In some villages there are no conflicts on the common lands, but other villages may find they have conflicts. Sometimes, conflicting claims which have remained quiet will surface when the community is demarcating boundaries and taking the whole of its commons under more active management. This is because many issues that were not being dealt with now have to be settled to the agreement of all. Boundaries which were unclear will have to be demarcated. Encroachment will have to be dealt with. When more than one village claims a stake in the common land, agreement will have to be reached.

Nobody can tell you what is the best way to solve your disputes. You in the community are the ones who live together and know what solutions will work for you. This leaflet can only give you information in three areas:

1. Making sure you know your rights – you are free to compromise on your rights if you think this is best, but you should always know what your rights are.
2. Showing you where alternative solutions may lie.
3. Giving you information about the legal processes for solving difficult disputes.

1. What are our rights?

Common property is owned collectively. This is usually by a whole village or by several villages together. The law recognises whatever the custom was about ownership.

→ If any individual or family claims a portion of the commons, they only have rights if the community as a whole approved. If they entered the land knowing it is common property and without the consent of all the owners,

they do not have any right to stay, even if they have been there for 12 years and even if they have built a permanent structure on the land. If they were told that they could stay temporarily, then they do not have rights to stay. However, as a community you may choose to allow people to stay even if they don't have the right to stay. That is **your** choice.

- Community leaders do not have the right to take land for themselves or to give it away or to sell it. This applies both to the LCs and to the customary leaders, such as *Adwong bar* or clan leaders. Anyone claiming to have bought land from a community leader has no rights to the land if the sale was not approved by the community as whole. Again, you may choose to allow them to keep the land if, as a community, you decide to. That is **your** choice.
- If by custom, members of a certain village were allowed to come and use the commons in some ways (for example: to graze cattle, to take water, to use salt licks) then these rights are protected by law. You are **not allowed to take away those rights** when you mark your boundaries. However, not everyone who has rights to land can claim ownership. If by custom the people using the land were considered as 'permitted guests', then their rights to use and access the land are protected. They don't own the land and can't stop you from marking your boundaries - and you can't stop them from using and accessing the land in the ways in which custom has always allowed them to.

2. What solutions can we find?

If someone is claiming land that you think is yours, it is often good to look for a solution that will meet the needs of both sides. For example, if someone has built a house on the common land without the approval of the village, then they don't have any legal right to stay on the land. It is for you to find a solution. Here are some examples of what solutions may be acceptable to you:

- 1) You may decide to give the person the land they are claiming, even though they don't have any legal right to stay. If you give them the land, then this is final, you can't take it back later. That land cannot be included on your maps of the common land. You must also mark out an access path for the person.
- 2) You may decide to allow the person to stay, but not to give them the land. You agree to mark out the land they are occupying and to rent it to them. They pay the community an agreed sum each year – it could be in the form of money or any other payment (e.g. they agree to look after the trees that you plant). It is good to write down any such agreements and to say for how long you are going to allow them to stay. If the person signs such an agreement they cannot claim that they own the land, even if they stay there for many years.
- 3) You may compromise, by allowing them to stay on some of the land but not on all of it.
- 4) You may tell them to leave. If they refuse, then you may take legal steps to evict them.
- 5) You may agree with them a period by which they should leave.

These are just examples of what you might choose. The land is yours. You are allowed, as a community, to decide for yourselves what to do with it.

3. What legal processes exist for solving disputes?

Some disputes can be solved just by talking amicably. If this works, this is the best solution. If this doesn't work, then you can ask someone to help you. You can report the matter to the clans to help adjudicate the matter. The clans may call witnesses; refer to customary rules to help decide on the issue which would be acceptable to both.

According to the law of Uganda, disputes on customary land should be determined by the customary authorities. This means that whoever was customarily in charge of the land has the right to make an adjudication. However, if the person such as the *Adwong bar*, on behalf of the community, is one of the sides to the dispute, they can't be the ones to judge the case. If the dispute can't be solved amicably, then you can go to the clan at higher levels or go to the LC2 court. The LC2 court should use customary law to decide who (by custom) had the right to the land. If you are not happy with the decision of the LC court, you may appeal to the Sub County court.

If the community wins the case and an encroacher ignores the judgement, you can go to the police. Occupying someone else's land is a criminal offence. It is the responsibility of the police to investigate and to sort out the problem. They are not in a position to decide on their own who has rights to the land, but if there is a court judgement then they can use this to act.



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8. How to acquire a certificate of customary ownership (CCO)

There are many ways of protecting your communal properties and Information **Leaflet #2** in this series explains the different choices that you have. Some communities may feel that they can protect their common properties better if they get papers of ownership. Please read Information **Leaflet # 2** carefully and make the choice as a community that will suit you best. If your community decides to get a Certificate of Customary Ownership (or a “CCO”) for your common lands, this leaflet explains what to do.

Step 1: Register as a Communal Land Association

If you want to get a CCO on communal land, then you must apply for a CCO as a community. You do this by forming a Communal Land Association. Information **Leaflets 4 and 5** will explain to you what a Communal Land Association is and how you go about forming one. Please read these leaflets first. Do not apply for a CCO until you have your Certificate as a Communal Land Association.

Step 2: Request Forms and Application Materials

Go to the office of the Area Land Committee at the Sub County and ask for a form called “Application for a Certificate of Customary Ownership” (**Form 1**). Also ask for **Form 23** (called “demarcation form for Certificate of Customary Ownership”) and **Form 9** (called “Notice of hearing of application for grant of a Certificate of Customary Ownership”). You can ask the Sub County Chief for help in case you are not sure. **The forms should be given to you for free. You are only supposed to pay when you have filled it in and make your application. However, you may be asked to pay for a photocopy of the forms.**

Step 3: Fill out the Forms

The Area Land Committee will fill in Form 9, don't write anything on it.

Don't write on Form 23. The Area Land Committee will use this for drawing the map later (**see step 4**).

You only have to fill in part one of Form 1. Do **not** fill in part 2 or 3. These are for the officials to fill in later.

Make sure you fill in the form correctly. The following advice will help you avoid mistakes.

- Line 1: Fill in the official name of your Communal Land Association, as it is

written in the Certificate of Registration of the Communal Land Association. Do not fill in the part for age, sex and marital status. Fill in the part for nationality and indicate ‘Ugandan’.

- Line 2: Put the official address of your Communal Land Association, again, following what you wrote in the Communal Land Association application.
- Line 3: Fill in the detail of your village, parish, Sub-County, County and District.
- Line 5: Write what you are using the land for currently, e.g. grazing, farming etc.
- Line 7: Write that you want to hold the land **as an individual, and not communally**. This seems to be wrong, since it is communal land, but this is because your association owns the land and the law thinks of your association as being an individual – the association itself is one “legal body.”

You will already have chosen the nine leaders of your Communal Land Association. These nine people must sign the application on behalf of all the members.

After filling the forms, give them to the Secretary or Chairperson of the Area Land Committee. You have to fill in three copies, but it is a good idea to fill in an extra (fourth) copy for you to keep as proof of what you have submitted. Get the Area Land Committee to sign or stamp this extra copy as well. You have to pay an application fee of 5,000/= . Make sure you get a receipt for it and keep the receipt carefully as proof that you have paid and submitted the application.

The Area Land Committee will fill in a public notice for you using **form 9**. You have to put up these notices in public places in the area, such as markets, on the communal land itself and other meeting places so that everyone can know that application has been made. It is important that no-one can say afterwards that you hadn't told them you were applying for a CCO, so make sure that you put up the notices everywhere. It is also a good idea to mobilise people in other ways, e.g. going round door to door. You must ensure that all the clan leaders and the local leaders are informed so that they can attend. The neighbours of the common land must also be informed.

Step 4: Hold a Public Meeting and Measure and Mark the Land

On the date of the inspection, The Area Land Committee will hold a public meeting where all your neighbours and people who may be affected by your application will come to confirm to the ALC if that is truly a communal land. If there is no complaint, The ALC measures the land and marks the boundaries. It is a good idea for you all to plant boundary trees like *Omara Omara* or *Ituba* with the ALC, if you have not yet planted it. The ALC will write a report of their inspection. Remember that you cannot get a CCO for a wetland, so the boundaries of your common land must not include the areas which flood every year. (See information **Leaflet #11** for details about wetlands.) If there is any dispute about the land, the Area Land Committee will hold a meeting to try and mediate between the disagreeing parties. The minutes of this meeting will be recorded and form part of the report to the District Land Board. Information **Leaflet # 7** in this series will help you with dispute resolution.

You will be required to facilitate the Area Land Committee to come to your land for inspection. You should prepare for the committee transport refund. You will have to find out in advance from the committee what they will require as this is not uniform in all the sub-counties. If you think that what they are asking is not reasonable, then you should contact the LCIII Chairman. If he or she fails to help you, then you can contact the Chairman of the District Land Board. Ask the Secretary to the District Land Board for the contact of the Chairman if you do not know or ask him to arrange for you to meet the Chairman.

Step 5: Making a Sketch Map

The Area Land Committee will then draw the sketch map of the land. The map will show the boundaries of the land, animal tracks, water points, clay points, salt licks and all other important features in the land. They will draw three copies of the map on Form 23 ("Customary Land Demarcation Form"). The ALC will write their recommendation to the District Land Board (DLB), saying whether or not they agree that the land is a common property and whether or not the community applying for the land is really the owner and whether or not they think the application for a CCO should be allowed. They must give you a copy of what they send to the DLB, so that you know what they are recommending.

Step 6: District Land Board Approval

The District Land Board will meet to decide if it will accept the recommendations of the Area Land Committee. It is a good idea to talk to the Secretary of the Land Board and ask when the board is going to meet. If you ask the secretary for their telephone number, you can call to keep asking when they have met.) After the meeting, the Secretary of the District Land Board will write to you to tell you what they have decided. They may not send you the letter, and you may have to find out when they have written to you so that you can go to their office to get it. **You do not have to pay for the letter.** You have already paid for the application and you only need to pay again for getting the certificate if it has been approved. If the District Land Board has agreed to allow your application, they will give you a letter to the District Land Officer. You will also get back the other two copies of the maps which the Area Land Committee drew and two copies of the application that you filled in on Form 1. Out of the three application forms and the three maps, you leave one set with the Secretary or Land Officer for your file in the Land office.

Step 7: Request Certificate of Customary Ownership from the Sub-County Chief.

Take the letter from the District Land Board to the District Land Officer. He will write a letter to the Sub-County Chief, asking him to give you your certificate. **You should not pay anything to the District Land Officer for this letter.** Now go to the Sub-County Chief and take with you: the letter from the District Land Officer, the two copies of the maps from the District Land Board, the copy of your application. The Sub-County Chief will tell you when you should come to pick your certificate.

Step 8: Receive the CCO!

The sub-county chief will issue you with your Certificate of Customary Ownership. You will have to pay the Sub-County Chief 5,000/= for the certificate. You pay this to the cashier at the Sub-County. Make sure you get a receipt for the money. He will use a form called **Form 31**. He or she will keep one copy, together with one copy of the map in the Sub County. The Sub-county chief will give the other copy of Form 31 together with the copy of the map to you. You must keep these certificates very safely. You have to decide as a community how you are going to keep these documents.



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9. How to get a freehold title to common land.

There are many ways of protecting your communal properties and Information **Leaflet # 2** in this series explains the different choices that you have. Please read information **leaflet # 2** carefully and make the choice as a community that will suit you best. If your community has decided that it would like to get a Freehold Title to its common land, here are the steps you must follow.

Step 1: Register as a Communal Land Association

First, you need to register the community as a Communal Land Association with the District. If more than one village owns a common land together, they should make one Communal Land Association together. (See **Leaflets 4 and 5**).

Step 2: Request Forms and Application Materials

Go to Secretary or the Chairman of the Area Land Committee in your sub-county. (If you don't know where to find them, go to the Sub-county office and ask there.) You will need to get three separate forms.

- Ask for the form that is usually called "Application for a Freehold Title". It is also called **Form 4**. Make sure the form you are given says "**Form 4**". The official title on the form is "Application for Conversion from customary tenure to freehold tenure/ grant of freehold"
- Ask also for "**Form 10**". It's officially called "Notice of Hearing for Application for Grant in Freehold". Ask also for "**Form 23**". It is called "Demarcation Form for Certificate of Customary Ownership". Even if you are applying for a freehold title, this is the correct form to fill.

You must be given three copies of all the forms, because you have to fill in each form three times. The forms should be given to you for free. You are only supposed to pay when you have filled it in and make your application. However, you may be asked to pay for a photocopy of the forms. This should not be much more than 1,500/-, depending on the cost of photocopying in your area.

Step 3: Fill out the Forms

Fill in the forms together with the ALC. They should know how to fill them in. This advice is just to make sure that you also understand and can be sure everything is being done correctly.

Fill in the **Form 4** and **Form 23**. Don't fill in Form 10, just give it to the ALC and they will fill it in.

Each form must be filled in three times. It is a good idea to fill in an extra (fourth) copy for you to keep as proof of what you have submitted. Make sure that each time you fill in a form, you write the answers in exactly the same way! Check carefully that you have not made any mistakes before handing it in. Keep a copy for yourself in case the official copy is lost.

Leaflet 8 (How to get a Certificate of Customary Ownership) explains how to fill in Form 23.

If you are applying for a title as a community, you need to be careful in filling in Form 4. Please read these instructions carefully:

- Question 1 asks for the names of the owner. Write the name of the Communal Land Association, **not** your own names. Don't fill anything in for 'sex' or 'age' or 'marital status' but write 'Ugandan' for nationality.
- Question 2: Write the official address of the CLA, as you registered it with the District.
- Question 4 asks for a 'PIN'. Don't fill this in. The ALC will give the PIN.
- Question 6 asks if the land is occupied. Tick 'yes', the land is occupied by the CLA. ("Occupied" does not only mean that people are living there, if you are using the land as a community, then you are occupying it.)
- For Question 6 *c) write 'customary land of the community'.
- Question 8: If you are applying for a title as an Association, tick that you are applying as an individual. This seems strange, but it is because the Association is regarded as an 'individual' by the law. You are not applying for a title as many people but as one community.
- All the nine members of the Communal Land Association's Executive Committee should sign the form.

The LC Secretary or Chairman will fill in Form 10, informing the public about a general meeting about the land. You will be asked by the ALC to post this notice in public places. Leave the copies for the other forms with the ALC. They will take them to the District Land Board. You will have to pay the ALC 20,000/- now, before they can take the forms to the District Land Board. Make sure you get a receipt for it and keep the receipt carefully as proof that you have paid and submitted the application.

Step 4: Hold a Public Meeting and Inspect the Boundaries of the Land

The public meeting will be held at least 2 weeks after you have applied to the Area Land Committee. On this day, the Area Land Committee will hold a public meeting where all your neighbours and people who may be affected by your application will come to confirm to the ALC if that is truly a communal land. They will ask the general public about any 'rights of way' (i.e. the right of anyone to cross the land) and other public rights of use on the land. The ALC will prepare a report for the District Land Board. If there is a border dispute and if all parties concerned agree, the Area Land Committee will hold a meeting to try and mediate between the disagreeing parties. The minutes of this meeting will be recorded and form part of the report to the District Land Board. If the parties do not agree to mediation, you can report the case to the LC2 court. Information **Leaflet # 7** in this series will help you with dispute resolution. The ALC will also inspect the boundaries of the land at this time and write a report of their inspection. Remember that you cannot get a Freehold Title for a wetland, so the boundaries of your common land must not include the areas which flood every year. (See information **Leaflet #11** for details about wetlands.)

Step 5: District Land Board Confirmation or Rejection

The District Land Board will be given your application by the ALC, together with the ALC's own recommendation. The DLB will meet and it may confirm the recommendation, it may reject it, or it can send the report back to the ALC telling the ALC what to do next (e.g. it may ask for the map to have more details)

Step 6: Survey the Land and Make a Deed Plan

If the application is confirmed, you now have to survey the land at your own cost. You will need to hire a professional surveyor to do this. You can ask the District Land Office (this is part of the District Local Government, it is not the same as the District Land Board) for help in getting the contact details of a surveyor. The surveyor will work on a sketch map and give it to the land officer who will write a letter for you to get a "deed plan" from Commissioner of Lands and Surveys, in Entebbe. The "deed plan" is a map showing the boundaries of your land. You will negotiate with the surveyor what to pay for the survey.

Step 7: Fill Out Forms with the District Land Board and Pay Fees

You need to take this deed plan to the District Land Board. The Secretary will fill in "Form 19", called "A Freehold Offer". You have to pay a fee that is called "Assurance of Title". The cost depends on the value of the land. You have to pay 1% of the value of your land. The District Land Board will arrange for the District Valuer to value your common land. You also have to pay two more fees: one called a "Registration of Grant" (10,000/=) and one called "Issue of certificate" (10,000/=). You make the payments to the cashier at the District Land Board. Make sure you get a receipt for all the payments that you make. Make sure the receipts say which fee is being paid. **If you are asked to pay more than you are supposed to pay, make sure you know who has requested, and that there is a witness, then report this to the other members of the communities and decide who to lodge a complaint to the manager of the person asking for more money from you.** The Secretary will keep a copy of Form 19 and give you two more copies. He (or she) will also give you back the three copies of the deed plan (map).

Step 8: Send Your Completed Application to Kampala

You now have to go to see the Municipal Council or Town Council at the Local Government headquarters, with your receipts, all three copies of your deed plan, your copy of Form 19 and your Certificate of Registration as a Communal Land Association. When he or she is satisfied that you have paid everything and that all your papers are correct, The DLO will give you back the deed plan. He will write a letter that you must bring to the Commissioner of Lands Inspectorate in Kampala. The letter will be addressed to the Commissioner of Lands Registration and the Commissioner for Lands Inspectorate, where you bring the letter, will pass it on to him. You don't have to go to Kampala yourself. If you prefer, you can get someone else to do this for you.

Step 9: Title is Issued!

The Commissioner of Lands Registration will then issue a title. You will have to go the Lands Registry in Kampala to get the title. (You can get someone else to do this for you.) Unfortunately, no-one will tell you when the title is ready; they will just tell you to 'keep checking'. If all your papers are correct, it may only take about a week. If there is a problem, they will only tell you when to go to check and they will tell you to go and make any corrections necessary.



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10. Surveying and how to do it.

What is Surveying?

If you want to get a Certificate of Customary Ownership or if you just want to plant trees along your borders, then you and your neighbours can agree together how to mark your boundaries and you can draw a map for yourselves. However, when land is titled, the Government guarantees that the map attached to the Freehold Title is accurate. The Government therefore need to make sure that the map is drawn in the right way. To make sure of this, only people properly qualified to draw the maps and mark the boundaries may complete this part of your Freehold Title application. "Surveying" is when a professional person marks the boundaries of your land and draws an official map of the plot. This map is then registered with the Government in the Land Registry.

Surveying can only be done by a qualified person. A person who is allowed to practice as a surveyor will have a "practising certificate" for that year. (A surveyor employed by the Government is not required to have a practising certificate.)

Step 1 – Agree to Survey Your Land

If you want to survey your communal land, then the community should have a meeting to agree that they would like to survey their communal land. (The 'community' may be several villages who own a piece of communal land together.) It is essential to keep minutes of this meeting and attendance list of all who have agreed. Also record the opinion of any people who did not agree to surveying and titling the land.

Step 2 – Clear Your Boundary

Before you call a surveyor, the community should first be sure exactly where the boundaries of the communal land are. If you have any boundary disputes with people who own land next to your communal land, then you need to solve these disputes before you start. Information **Leaflet 3** explains how you can best mark the boundaries

of your communal land. The work with the surveyor will be much easier if you go through all these steps before you bring in the surveyor. You can also bring in the Area Land Committee, so that they can inspect the land and help you in mediating any boundary disputes. The Area Land Committee does not have a role to play in the surveying, but they are the first people that you apply to if you want to get a Freehold Title for your land, so they will have to be involved.

Step 3 – Identify a Surveyor.

You now need to find a professional surveyor. It is always a good idea to find more than one, so that they have to compete with each other in price! You will have to choose the one you think is best, whether because they are the cheapest, they will be the quickest, or just the one you think you can trust. Make sure that your surveyor has a practising certificate. The "Surveyors Registration Board" regulates all the surveyors in Uganda and they have a list of all the registered surveyors. You can get this list from the Land Office in your District. If someone contacts you and tells you that he/she is a surveyor, check the name against the list of registered surveyors. If the surveyor is working under a registered surveyor, you may enter into a contract with the registered surveyor.

Step 4 – Negotiate the Terms of Service

There is no fixed cost for a survey. It depends on the size of the land, how far the surveyor will have to travel, and other factors. It is for you to negotiate for yourselves the terms of payment. The cost may range from one to three million shillings. All other costs (e.g. surveyor's upkeep and the upkeep of the workers) should be included in the fee, you should not need to pay anything else. Many people ask a surveyor not just to give them the official map of the land (the 'deed plan'), but also to help get the Freehold Title for the land issued. This is up to you. It is not usual to have to pay everything at the beginning, but the surveyor will ask you for a part payment in advance, and you will

probably have to pay the rest when they finish the work that you have agreed. You should also agree when the survey work will be completed and what will happen if the agreement is not followed, e.g. if the surveyor delays. However, if you are also asking the surveyor to process a title for you, be aware that delays with the Registry do sometimes occur.

You may need some advice in these discussions. You can ask the District Land Officer, a lawyer or anyone that you can trust who knows about surveying to help you. (A lawyer will usually charge for helping you unless they are a friend or agree in advance not to charge you.)

Step 5 – Sign a Contract

Make sure you write down everything that you have agreed with the surveyor – the work they will do and by when, how much you will pay and when, etc.. The Executive Committee of the Communal Land Association should sign for the community and the surveyor should also sign the agreement. If there is anything written down that you do not understand, then **DO NOT SIGN. Always make sure that you understand everything in a contract before you sign it.** It is a good idea if everyone in the community knows what you have signed, so that there can be no arguments afterwards. Sign the agreement in two copies – one for the community and one for the surveyor. Always keep a copy of every contract you sign.

Step 6 – Inform Neighbours and the Local Authority to Ensure They are Present

You will have to inform all the neighbours of the communal land of the date of surveying so that they can be present. It is also a good idea to invite the Local Authorities (e.g. LC1 or LC2) and customary leaders.

Step 7 – The Surveyor does His/Her Work

The surveyor will come with his or her workers. They will place the marker stones and take measurements. You and the neighbours need to be there to make sure they put the stones in the right place. (If you have already marked your boundaries in your own way, this will be very easy.) The surveyor will then submit the file to the District Surveyor who will check the work for accuracy. The District Surveyor will then send it to the ‘cartographer’ (the man who draws maps) who will draw a map, and give your land a plot number. Your surveyor will pick the file from the cartographer together with a letter written by the District Land Officer or the District Surveyor and forward then to Entebbe to the Commissioner Lands surveys for final checking and plotting on the national map. The commissioner will then produce three set of the map of your land (Deed Plan) and will sign and stamp behind them.

Step 8 – A Complete Work is Handed Over to You by the Surveyor

The set of maps (which must be three in number) made by the Commissions Lands Surveys, signed and stamped by the commissioner land surveys is evidence that the survey is completed successfully. To complete the process of surveying you may take from one to two months. This may be more depending on the work load involved. When the completed maps are handed over to you then you can make the last payment.

Where do I Make Complaint about Surveyors?

If you have any complaint about the behaviour of your surveyor, you can make a complaint in writing to the District Surveyor or Chairman, District Land Board. If they do not help, you can write to the Surveyors Registration Board.



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11. What can you do in a wetland?

Most people know that wetlands “belong to the Government”. Because they are very important for the environment of the country, they really belong to everyone in the country and the government is responsible for protecting them for everyone. However, that doesn't mean that you can't use your wetlands or that you are breaking the law if you want to graze your cattle there. Parliament has made laws to protect the wetlands and these tell you what you can do (things that don't damage the wetland and what you can't do (things that may damage the wetland). This information leaflet will help you to get the best possible use out of your wetland without breaking the law.

What is a wetland?

The law says that a wetland is a place that is permanently or seasonally flooded by water and where water based plants and animals have become adopted. The laws say that wetlands are held in trust by Government for the good of all citizens of Uganda, but the government has not marked the borders of the wetlands. If you are marking the borders of your common property, you should mark the boundary of the wetland. You cannot get papers to say you own the part of the land you use communally that is a wetland. It should not be hard for you to know where your common property is seasonally flooded (i.e. every year, except, for example, in a drought). If you are not sure how to know what counts as a wetland and what does not, you should go and ask the Wetlands Officer in the District before you mark the boundaries of your common land. They will be happy to help you. Remember that even though the wetland is “owned” by the Government, you are usually still allowed to graze your animals, and the Government is not allowed to give the wetland to anyone

else or to stop you from using the wetland in the ways the law allows.

What can you do on a wetland?

The law also allows anybody access to wetlands and use them in a way that does not destroy the vegetation, drain the water or damage them in any way. The law protects different wetlands in different ways. Some are “fully protected”, some are “partially protected” and others are “subject to conservation by the local community”. It is the Minister responsible for environment in consultation with NEMU who can decide the kind of protection your wetland has. The level of protection determines what kinds of activities are allowed. You will have to ask the Wetland Officer at the District to find out in which group your wet land falls. *If there is no wetland officer then you ask the District Environment Officer to help you.* In practice, whether a wetland is partially protected or subject to conservation by the community does not make a difference as they are both used in the same way.

If your wetland is fully protected, then you cannot use it. You are only allowed to use it for tourism and nothing else. In Oyam District, no wetland has been put under partially or fully protected category, as yet.

Most wetlands are not fully protected and there are many things that you can use them for, as long as you look after the wetland. The law says that there are some things that you can do on the wetland, some things that you cannot do and some that you can do, but only if you have permission from the NEMA officer in your district. It is very important that you know what you are not allowed to do. It is possible for your wetland to be very beneficial to the community and for you to protect it at the same time.

The law says that you **can** use the wetland in the following ways without having to ask for a licence.

- a) Harvesting papyrus, medicine plants, trees and reeds.
- b) You can farm, but only on a small area, not more than quarter of the total area of wetland.
- c) You can fish, but you must **not** fish by building a fence across a wetland
- d) you can collect water
- e) you can hunt (as long as the laws about wildlife allow you hunt those animals)
- f) you can graze your animals.
- g) You can also carry out any of your traditional activities, as long as they do not damage the wetland.

There are other activities that you can do, but only if you have a licence.

- a) Brick making
- b) Cultivation and commercial exploitation of wetlands
- c) Fish farming
- d) Burning
- e) Any commercial activity

The law says that you **cannot** do the following activities in a wetland:

- a) Drain it
- b) Erect any structure on it
- c) Damage it in any way

d) Bring anything on to it that will damage it.

e) Introduce a new plant or animal in it.

How do you get a licence to use wet land?

If you want to use your wetland for activities that you need a licence for, such as brick-making or fish farming, then you need to apply at the District. You have to pay for a licence, so it is cheaper if you all apply together for a licence as a community, instead of each person having to pay for their own licence. You can then decide yourselves what each person does and how much each person should contribute for the licence. If the community has a licence together, then it is a very good way for the community to limit just how much of each activity can be done, if you want. If you have a licence the licence will allow you to use a specific part of the wet land for a specific purpose during a specific time to the exclusion of those without a licence.

To apply for a license, go to the Environment Office in your district, and ask for "Form A". This has to be sent to the Executive Director of NEMA, but the District will do this for you. You have to pay 50,000/= to apply for your licence. If permission is granted, then you have to pay 100,000/= when they give you your licence.

Remember always to ask for receipts for your payments. Keep these safely, together with copies of the forms that you give to the District.



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12. Protecting your common land in the future.

As a community, you have decided how to protect your communal lands and you have taken the steps that were necessary. Perhaps you have agreed the boundaries with the neighbours, resolved any disagreements, drawn maps that everyone has signed and together you have planted omaraomara along the boundaries. You may also now have registered your community as a Communal Land Association (CLA), and now you have a CCO or a Freehold Title for your communal land. Whatever you have done, protecting your land never stops. Here are some of the things that you need to think about in the future.

Keeping the boundaries clear.

You need to make sure that the boundaries to your land remain very clear to everyone in the future. If you have planted trees, this will help. However, you should clear the boundaries every year before the dry season. This will protect the trees you have planted against bush fire, and will also make sure that new trees don't grow from the seeds of the trees you have planted, which may create confusion in future years. Make sure that no-one cuts down any of the boundary trees. If they do, make sure they replant the trees. It is a criminal offence to cut down a boundary tree, just as it is an offence to remove a marker stone. If marker stones or boundary trees are removed, you can go to the police.

Preventing encroachment

Maps and papers will not always stop people encroaching on your land. It is for you to protect your land. Papers, including any maps you have drawn yourselves, will only help you if YOU use them! If you see any individuals or groups of people encroaching on your land, whether they are from your community or outside, it is up to you to decide what to do. If you ignore it, then you will lose your common lands. You can come to some agreement with them or you can chase them away. The land is the private property of the community and it is a criminal offence for anyone to occupy the property of another – whether that

is of a family or a community. Make sure that you have agreed what you will do as a community and that your committee acts on your behalf in the ways you have agreed. Any member of the Communal Land Association should be able to call a meeting of the community to make sure that the land is being protected properly in the ways you have chosen.

Keep your Freehold Title or CCO safe

A land title for a communally owned property is the property of the whole community and where it should be kept must be decided by everybody in the community. Keep it safe, somewhere where you trust that it will not be lost and won't be misused. You may decide to keep it with a member of the Executive Committee of the Association that you trust completely. A bank will look after it for you, though they will usually charge a small fee for this. You also need to decide who should be allowed by the bank to take it and in what circumstances. You can keep it with anyone else you trust – a religious leader, or any other person trusted by the community. It is a good idea to make photocopies and to keep these with different people, although remember that only the original can be used for any transactions.

Keeping your papers up to date

If the community has a CCO or a Freehold Title, then if the community ever sells or gives someone a part of the land, you must make sure this is recorded on the CCO or Title. If you have a CCO, then you must go to the Sub-County Chief. You will have to pay 5,000/- for any changes you make to the CCO. If your community has a Freehold Title, then if you sell or mortgage part of the land or if you allocate part of the land to some individuals, then you will need to register it with the registrar in Kampala. If you are dividing the land in any way, you will need to hire a surveyor to create a new 'plot' of land on part of the original plot. To register any dealing affecting the land you will also have to pay a "stamp duty."

Here are some questions that may be asked about your communal lands:

1. Can we sell communally owned land?

You can only sell communally owned land if the community as a whole has agreed. The law does not allow the Executive Committee of the Communal Land Association to sell the land without permission of the whole community. A meeting must be called to discuss this, and the rules (constitution) of your Communal Land Association should say how many people must be at the meeting for it to count as a real meeting (a “quorum”). If someone claims to have bought the land and there was no agreement by the community, then the sale is not recognised by law. You should get advice on what to do if this happens.

2. What happens if the Committee sells the land without the community agreeing?

The law is very clear. If the Committee or anyone else sells the land and the community has not agreed and the rules (Constitution) of your CLA were not followed, then the sale is what the law calls “null and void”, which means that it has never happened. If someone says they have already paid for the land, it is the responsibility of whoever tried to sell the land to repay the person who tried to buy it. The community does not have to pay anyone anything and cannot lose rights to the land.

3. Can the community rent out the land or lease it?

The community owns the land and so it has the right to rent it out. Again, the Executive Committee cannot do this without calling a meeting and without the majority of the community agreeing to do this. You can rent it out all the land or part of it: you can rent it out for a short time, for example for one season, or for a long time (e.g. thirty years). (Renting out land for a long period is often called a “lease”, but don’t confuse this with having a

Leasehold Title to the land. If you lease your land out, then you own it, not the Government.) It is always best to have a rental agreement in writing, and signed by both the tenant and the landlord (i.e. the executive committee of your association). The rental agreement will say what the tenant is allowed to do on the land, when the agreement will come to an end, how much the community will be paid for the land and how the payment shall be made, what should not be done on the land and what happens if the agreement is breached.

4. Can we use the communal land to get a loan from a bank?

The community can decide to borrow money from a bank using the land as security. REMEMBER that if the community fails to pay back the money borrowed from the bank, the bank *will take ownership of the land*. However, the land cannot be used to get a loan unless the community agrees in a special meeting. If the executive committee uses the Freehold Title or CCO as security without getting agreement from the community, then the mortgage is not valid and you cannot lose your land. If the community never agreed, it is up to the individuals who applied for the mortgage to repay any money the bank has lent them. If the community never agreed, it does not have to pay anything and cannot lose its land.

5. Choosing a new Executive Committee member for the CLA.

Your constitution should tell you how and when you can elect new Executive Committee members. It should also tell you when and for what reason you can remove and replace these members. When removing a Executive Committee member from office you should read carefully your constitution on the procedure for removing him or her so that you do not make mistakes in the process.



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13. Application Costs.

Process	Costs	Where to file papers and pay fees
Forming Communal Land Association		
Cost of application to form a Communal Land Association	15,000/=	District Land Office
Issuing a Certificate	10,000/=	District Land Office
Getting a CCO		
Application for a certificate of Customary Ownership	5,000/=	Land Office
Issuing of Certificate of Customary Ownership	5,000/=	Sub County
Lodging a "caveat" (interest) on the Certificate of Customary Ownership	5,000/=	Sub County
Withdrawal of Certificate of Customary Ownership	5,000/=	Sub County
Getting a Freehold Title		
Application for a Freehold Title	20,000/=	Land Office
Application to convert Customary Certificate to Freehold	(15,000/=)	Land Office
Issuing of certificate	10,000/=	Land Office
Assurance of Title	1% of the value of land	Land Office
Registration	10,000/=	Land Office
Total cost of forming a Communal Land Association and getting a CCO		45,000/=
Total cost of forming a Communal Land Association and getting a Freehold Title		65,000/= + 1% of value of land



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Relevant Government Phone Numbers:

Oyam Environment Officer : 0772 676 733

Lira Land Officer : 0752 414 111

Apac Land Officer : 0772 312 567

Numbers of Local Surveyors :

Surveyor Lira : 0782 625 818

Surveyors Registration Board:

**These information leaflets were produced by Land and Equity Movement in Uganda (LEMU)
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For more information, contact :
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**Land and
Equity Movement
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"Making land work for us all"



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