



COMMUNITY GUIDE

How to Protect Your Community's Lands & Resources

The Land and Equity Movement in Uganda (LEMU) & Namati
2016 Uganda



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Land and
Equity Movement
in Uganda (LEMU)

Making land work for us all

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Disclaimer: This community guide is made possible with the support of the American People through the United States Agency for International Development's Supporting Access to Justice Fostering Equity and Peace (SAFE). The contents of this community guide are the sole responsibility of LEMU and do not necessarily reflect the views of USAID or the United States Government.

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Acknowledgements: This Guide is the result of years of hard work by an extraordinary team of committed field staff: Robert Ojok, Robinson Odur, Hilda Makmot, Priscilla Aling, Suzane Irau Jackline Oyella, and David James Arach. The first version was published in 2015 with support from the USAID-Supporting Access to Justice, Fostering Equity and Peace (SAFE) Program and the second version in 2016 with support from Namati. LEMU is grateful to communities across Alebtong, Amolatar, Apac, Dokolo, Kole, Lira, Otuke, and Oyam Districts of Lango Sub region in northern Uganda, who welcomed LEMU to gain experience in protecting community lands as shared in this publication. The views expressed in this report are those of the authors and do not necessarily reflect the views of LEMU's donors.

Note: This Guide is a revised version of a 2010 publication entitled *Protecting Your Community Lands and Resources* ("Gwoko Lobo Alwak" in Luo), written by LEMU with financial support from International Development Law Organization (IDLO).

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INTRODUCTION: WHY TAKE ACTION TO PROTECT COMMUNITY LANDS?



Think about the firewood, grazing pastures for your animals, water for cooking and washing, building materials for your homes, wild fruits, white ants, traditional medicines, and space for cultural gatherings that your community land provides every day. You don't have to ask or pay for these things - as a member of your community, it is your right to gather what your family needs to live.

Now imagine that your community's community lands are gone. Your land may have been grabbed or claimed by elites, divided up among powerful community members, sold off to investors at a low price, or taken over for government projects without your consent.

With your community lands gone, every family in your community will now have to spend money to buy all of the things you once gathered freely in the community lands. Your cattle will have nowhere to graze. Building materials and firewood will only be available at the market. Where will your community gather to hold important cultural or community events?

If you knew this situation could be prevented from happening, what would you do? Would you know where to start?

That's what this Guide is all about.

Across Africa and in Uganda, community land is being lost at an alarming rate. Communities and families are fighting over smaller and smaller pieces of land, people settle on community grazing areas and begin farming on wetlands, and valuable resources like gold and oil are discovered, causing elites and powerful people to try to claim land to enrich themselves. In many communities, people do not take action to guard important community resources until it is too late.

However, communities that are well organized and can prove their rights to their communal land stand a much better chance of protecting their livelihoods and environment, keeping their land free from conflict, dealing successfully with investors, and developing together as a stronger, united community.

Under Uganda's *Land Act* (1998), people who own their land according to custom have formal legal rights to that land – whether or not they have papers for it. The *Land Act* also recognises that communities can own land communally. According to the Act, these community customary land rights are as strong as private individual rights. The

community as a group has the right to decide what can or cannot happen on their lands, and who can or cannot use their resources.

This guide describes several ways to secure documentation for community land and how to set up strong management systems for community land so that natural resources are best used and kept for future generations. We suggest that you carefully read all the options for legally documenting your community land and choose the option that you think will work best for your community.

The process of setting up management systems and registering your community's lands will be long and involve a lot of work. Your community will need to hold many meetings and make a lot of decisions. However, this work will result in more than formal protection for your land rights – your community will end up being more organized, more united, and more productive as a result. The goal of protecting your community lands is not only to safeguard the lands and resources, but also to ensure that your community – and your children and grandchildren – can grow and prosper.

INTRODUCTION: YOUR LAND RIGHTS UNDER UGANDAN LAW AND POLICY



The law in Uganda recognizes customary ownership of land. The 1995 Constitution says that land belongs to the citizens of Uganda, and that they can hold it according to socially acceptable customs as long as they respect the rights of women, children, and other vulnerable persons (*Article 237(1)*). *Land Act 1998 (Cap 227)*, Republic of Uganda, Section 3(1) defines customary tenure as “a form of tenure applicable to a specific area of land and a specific description or class of persons, governed by rules generally accepted as binding and authoritative by the class of persons to which it applies.”

The Land Act also stipulates that customary tenure provides for “communal ownership and use of land; in which parcels of land may be recognized as subdivisions belonging to a person, a family or a traditional institution; and which is owned in perpetuity.” Uganda’s National Land Policy strengthens the implementation of these rights by directing the Government of Uganda to recognize and respect communities’ customary land rights as equal to private, formal land titles (*2013 National Land Policy Section 39*).

Communities own community lands in the same way that individuals and families do. Rural communities have the same rights over community land as families and individuals have over their lands, whether or not they have papers. Customary land claims held by the whole community are as strong as family and individual land rights granted by the government (1998 Land Act Sections 22-26).

Leaders do not own the communal land; they only manage it for the good of the community. As co-owners, all community members have the right to decide how to use the communal land. This means that the communal lands cannot be sold, rented or given away unless the entire community meets to discuss the land transfer and then agrees

to it. Leaders must consult community members on big decisions about the land, and should make smaller decisions according to the community’s goals and priorities. If community leaders sell, rent or give away land without asking community members’ permission and getting consent, the transaction will be considered invalid (*1998 Land Act Section 19*).

Owners of communal lands must continue to respect the historical rights of special users to access communal lands. Some communal lands have a long history of being used by neighbouring villages during certain seasons or circumstances. Even though these neighbours are not considered owners of the communal areas, as a matter of customary principle they have use rights that must be protected. When your community begins to document its customary land claims, you must include your neighbours’ use rights and ensure that their rights are protected.

Encroachment into community lands is against the law. In recent years, as the population of Uganda has grown and land has become scarce, some people have been moving into customary community lands (“encroaching”) without the community’s permission. Taking part or all of a community’s land for personal use without all of the owners’ permission is a punishable crime under Section 92 of the 1998 *Land Act*.

Wetlands are ‘owned’ by the Government of Uganda, but managed by the local communities that use them. Uganda’s Constitution states that Government holds and protects lakes, rivers, wetlands, forest reserves, game reserves, and national parks for the common good of all citizens (*Ugandan Constitution, Article 237(b)*). However, your community may use wetlands for traditional activities that do not damage wetlands like small-scale fishing, farming, gathering of reeds and

other plants, and collecting water for domestic use. Other activities that may damage wetlands, like building a structure or draining a wetland, are not allowed without a permit (The *National Environment (Wetlands, River Banks and Lake Shores Management) Regulations* (SI No. 153-5), Section 8(4), 11 and 12),

The 2013 *National Land Policy* (Section 22(ii)) adds that the state should institutionalize mechanisms for joint and participatory management of the natural resources with communities owning land adjacent to, in or over which the resources are situated (like wetlands, forests, and rock formations). **Annex A** of this guide tells you more about what you may or may not do in wetland areas.

The Government of Uganda has a power called “compulsory acquisition.” This means that when it is necessary to promote the “public good” or benefit society, the government of Uganda can

take the land of its citizens without the willing consent of its owner or occupant. For example, if the government needs to build a public road, a hospital, or electricity lines on all or part of your land, it may claim your land for the project, but it must follow due process of law and pay you a compensation for the land and all structures (See *Land Acquisition Act Cap 226 section 6 & 19, 1995 Constitution Articles 26 and 237(2); 1998 Land Act Section 42; and 2013 National Land Policy S.10-12*).

Communities have the legal right to document the boundaries of their customary lands, write rules for how they want to manage their lands, and apply to the government of Uganda to register their lands (1998 *Land Act, Section 15*). If your community wants to document and protect your lands by getting a title as proof of your land rights, there is a formal process to follow. This guide explains that process, as well as other methods of protecting your land rights.



AS YOU BEGIN

OVERVIEW OF PROCESS



Before you begin working to protect your community's land, it is important that everyone understands all the steps your community will need to take. The full land protection process developed by LEMU and Namati is explained below.

PART A: LAYING THE GROUNDWORK

1. Define your “community” and your “community land.”

The first step to protect your community land is to agree *who* the community is—which members or group of people have rights to a specific piece of land—and *what* land you want to protect. Make sure that ALL users of that land are part of your community and part of the process. If you leave out a group who has rights to the land, you will likely run into problems later.

2. Discuss and agree on your community's vision for the future.

Next, it is important for your community to meet to discuss your community's vision of a thriving, prosperous, peaceful future. To do this, your community will meet and reflect on how you used to live together and use and manage your lands and natural resources in the past, then compare that to how life is now, how lands and resources are managed and used now. Next, your community will imagine how life will be thirty years in the future if nothing changes, as well as how you want your community to be thirty years in the future. From this exercise, your community can create a strong future vision that you can begin working towards together. Creating a shared vision of your community's goals will help unite your community and give you energy to work through challenges.

3. Set ground rules to ensure a successful process.

After the community agrees a common vision, the community together with the facilitator agree ground rules which include;

Facilitator

- Facilitating community meetings as scheduled
- Remaining neutral
- Not making promises they cannot keep

Community

- Wide participation throughout the process
- Avoid false claims
- Do no harm (don't point fingers)

4. Set up a Temporary Working Group to coordinate land protection activities.

This temporary group will be responsible for mobilizing community members to attend land meetings, spreading the word on land rights, facilitating meetings, and making sure that each step in the rules writing and election process is done well. The working group should include youth, women, elders nominated from the clan leadership structure. It is advisable that those selected should have demonstrated outstanding leadership abilities with an interest in community land protection initiatives. It is a good idea to keep this Group small enough (under 10 people per community) to work effectively. The group should work with the trusted local council leaders and faith based leaders especially for mobilization and management of on-going conflicts. Remember that this is only an interim committee - the community will hold elections of leaders after and as guided by the rules that will be drafted later in the process.

5. Calculate the value your community's land and natural resources.

Putting a monetary value on all the resources your communal land provides for free to you and your families will help your community to understand how much you will lose – including access to free

firewood, thatch, herbal medicine, honey, etc. - if you lose your community lands. This exercise will inspire your community to move through the land protection process and help prepare you to deal with potential investors interested in acquiring your community's land.

PART B: ENSURING GOOD GOVERNANCE OVER YOUR COMMUNITY'S LANDS AND RESOURCES

6. Create rules (by-laws) for managing your lands and resources.

Each household in your community should participate in the process of creating rules to manage your community lands and resources, because these rules will apply to everyone equally. You will write down your old (oral) rules, add new rules you need, and eliminate rules that are discriminate against women and other vulnerable groups. Your community will then discuss these rules in three drafts until everyone agrees. Everyone, or at least an absolute majority of people in the community, should agree to live by the rules and by-laws you created together. After your rules are checked by experts to make sure they do not violate Ugandan law.

7. Rules adoption and ceremony.

The rules adoption starts with a village by village household registration by presenting the 3rd and final draft to the households and their consent sought. After which, they sign to agree to be bound by the provisions of the rules, this process continues until every household of the community has been

reached. Under the Uganda Land Act Section 17 (7), a constitution shall be approved when and only when it is approved to by an absolute majority of all members. Therefore, once an absolute majority has approved the rules, the community shall then hold an adoption ceremony where the rules are read to everyone present and the community is asked if it is a true reflection of the rules they wrote and whether they publicly endorse the rules. It is advisable that at this ceremony is witnessed by state leaders.

8. Elect a land and natural resources management committee.

After your community has adopted your rules, it is necessary to hold an election of those responsible for managing your community's lands and natural resources according to your rules and by-laws. The nine member management committee should have a fair representation of women, youth, elders, and members from all villages and clans of your community. After the group is elected, the temporary working group will disband.

9. Put your rules and by-laws into practice.

The real test of your commitment to protecting your community land and resources will be how well your community respects and follows the rules that it has created. If your community, with the help of the management committee, follows the rules it makes, then the end result of doing all the work in this guide will be not only to register your land, but a more organized, united, and peaceful community ready to develop and grow.



PART C: SECURING YOUR COMMUNITY LANDS

10. Agree on the boundaries of your community land.

Respected community members should walk around the boundary of your community lands and agree with neighbouring families/households about where your lands begin and end. This may be challenging at times, but be patient and refer to your community's rules to help you.

11. Resolve conflicts over the community land.

Your newly elected management committee should mediate any disputes that result from the process of agreeing and marking your community's boundaries. Conflicts that are not resolved at this stage will affect your community's ability to successfully register your land and achieve your vision.

12. Plant boundary marks, draw maps, and sign agreements with neighbouring families/households to the community land.

Once the boundaries of your community land have been agreed, your community should plant permanent marks (using special trees such as *omara-omara* or *ijumula*) around your boundary and draw a map showing these boundaries. Your community should sign consent agreements with all those families that neighbour the community land that put into writing the final agreed boundaries. Planting boundary trees, drawing maps and signing consent agreements help to make the boundaries clear—on the ground and on paper—to all community members and outsiders and help prevent future disputes.

13. Choose how you want to document your community land.

For your community's land claims to be legally recognized, your community must be registered as a "legal body" or "legal entity." Your community can choose to turn your community into a Trust, a Communal Land Association, a Cooperative Society, or a Company. Then, your community can document your lands through either a Certificate of Customary Ownership (CCO) or a Freehold Title.

Your community should meet and decide what is best for your future: no one else can make these decisions for you – what is best is different for every community. Your community should meet, discuss the pros and cons of every option, and make your own decisions.

14. Fill application forms for registration.

Although the maps, boundary trees and MoUs are excellent proof of your land rights, a certificate or title will help provide additional proof of your community's rights to your land. Once your community has decided how to register itself as a legal body and what kind of land documentation to get, you can begin the process of working with local government officials to follow formal legal processes to get your papers.

PART D: CREATE A PROSPEROUS FUTURE

15. Review your rules and vision regularly to make sure that they are updated to reflect your community as it grows.

Reviewing your community's rules and vision each year will help younger generations to learn about their rights and responsibilities to benefit from and care for the community lands and resources. It will also help make sure that people remember and follow all of the rules. Finally, looking at your rules every year provides the chance to change your rules as necessary to allow your community to grow and prosper according to your future vision.

16. Prepare to interact with potential investors seeking community land.

During the vision formulation for the community, decide on whether to permit investments (by local or foreign investors). If your community allows sales or rentals of the land or its resources, then it should be done in accordance with the provision in the rules. It is advisable to indicate the exact percentage of members required to permit these transactions in the rules. In any event that the rules are not followed, such transaction shall be null and void.

ENSURING PARTICIPATION OF WOMEN AND MINORITY GROUPS



The entire community must take part in the community land protection process for it to be successful. All community members, including women, men, youth, elders, traditional leaders, members of minority groups, practitioners of various livelihoods, and seasonal users should be invited to all meetings and encouraged to participate and speak their minds. The active participation of all community members throughout the community land protection process is necessary to:

- **Increase the validity of the community land protection process.** When a high percentage of the community is involved in community land protection activities, it is more likely that the effort will have good results and lasting impacts. If the community land protection process is a community-led, community-driven activity (not just an effort by a handful of elite male elders), it is more likely that the agreed-upon rules and boundaries will be respected over the long term. If the process excludes certain people or stakeholder groups or if the community and facilitators allow powerful community members and leaders to control the process, then community land protection outcomes may be challenged in the future or sabotaged in the short term.
- **Strengthen the work with good ideas and information from a diverse array of community members.** Active involvement by women and members of minority groups will increase the quality and comprehensiveness of the community land protection process. If women are not present at meetings to describe the natural resources they gather daily (to build their homes, feed their families, and care for their children's health), the community may not remember to create rules to ensure the sustainable use of these resources. Likewise, because most work in rural communities is highly gendered or differentiated by livelihood (agriculturalists, pastoralists, etc.), excluding women and minority groups from the community land protection process may mean that maps are left incomplete and/or that important natural resource management strategies are not included in the by-laws.
- **Create opportunities to address intra-community injustice and discrimination.** In many parts of the world, growing competition for scarce lands and natural resources has meant that relatively “weaker” community members – women, widows, orphans, the poor, the elderly, and members of minority ethnic groups – face the greatest risk of losing land to land-grabbing relatives or elites, in distress sales to more powerful people, or in land disputes with neighbours. In some contexts, customary protections for the rights of women and minority groups are being disregarded and “forgotten,” while in other contexts families are reinterpreting or “rediscovering” customary rules in ways that undermine women's and minority groups' land rights. This community land protection process will address these trends by creating opportunities for women and marginalized groups to challenge local rules that discriminate against them and argue for changes that strengthen their land rights.
- **Promote more diverse, participatory governance and give “voiceless” groups a voice.** When well-facilitated, the community land protection process creates opportunities for women and members of minority groups to push for equal rights, such as the right to participate in local governance or to own land). In many communities, decisions are made by a few leaders and/or a group of male elders. The community land protection process is an opportunity for all community members to take part in decisions. When all community members are invited to take part in every community land protection activity, it can help foster a new culture of participatory rule-

ENSURING PARTICIPATION OF WOMEN AND MINORITY GROUPS

making and local democracy.

- **Strengthen the land rights of women and minority groups.** Women's and minority groups' active and vocal involvement in the community land protection process often results in communities adopting by-laws that strengthen and protect the land rights of these groups.

HOW TO ENSURE ACTIVE PARTICIPATION OF WOMEN AND MINORITY GROUPS?

To strengthen the land rights of women and members of minority groups most effectively, facilitators should undertake some or all of the following strategies:

Undertake a gender analysis. Before beginning community land protection work, facilitators should carry out a gender analysis in each community (cataloguing all barriers to inclusion or participation) and design community-specific strategies for how they will proactively address these barriers.

Ensure women's and minority groups' attendance at meetings. Facilitators must devise innovative solutions to ensure women and other groups can attend meetings, such as:

- Scheduling project meetings in places and at times that women could more easily attend, such as holding meetings on Sunday afternoons when women are free from their work.

- Ask a few women to gather food from all households in the community and cook lunch for the whole community at the meeting venue (to ensure other women do not have to stay home from a meeting to cook lunch for their families).
- Send community leaders door-to-door to request that women and members of minority groups attend project meetings.
- Proactively request that husbands bring their wives and other female household members with them to meetings, among other strategies.

Foster women's and minority groups' verbal participation during meetings. Attendance at meetings does not equal participation during meetings. Good facilitation is key. Facilitators should model good facilitation skills by making sure that men and women speak equally at meetings, and train facilitators to ensure that the voices and interests of women, youth, and minority groups are all given equal time and space during meetings.

Ensure women and members of minority groups are elected to the Temporary Working Group. Facilitators should actively support communities to elect women and members of minority groups to be members of the Temporary Working Group, then train them to mobilize large numbers of women and minority groups to attend all community land protection meetings.

Convene special women-only meetings. Facilitators may need to organize meetings where



women can work together to identify their interests and craft strategies to effectively advocate for these interests during the broader community meetings. At these meetings facilitators should: teach women about their rights under national and international law; ensure that they understand the importance of their contributions to the community by-laws drafting process; and prepare them to speak as a group, as there is strength in numbers. Special women-only meetings play a significant role in supporting women to actively challenge discriminatory norms and argue for protections for their land rights.

Educate men and leaders about the benefits of strong land rights for women. Efforts to educate only women about their rights ignore the fact that men – husbands, fathers, fathers-in-law, brothers-in-law, community leaders, etc. – are the arbiters of women’s land claims. Experience has shown that when men and leaders understand how women’s land tenure security can increase household income and ensure their children’s future prosperity, they are more likely to create rules that strengthen and protect women’s land rights.

Let women show their necessity. Men may be resistant to pressure to include women in land and natural resources governance. It has proved more useful to show men – by example rather than mandate – that women’s participation in the land protection process will help to improve land and natural resource management. By supporting

women to speak up about issues related to women’s livelihoods and those natural resources traditionally considered “the domain of women” (medicines, honey, water, etc.), facilitators can help women show how critical their knowledge and experiences are to good land and natural resources management. Because such input does not threaten traditional gender roles, men may be more willing to listen and accept their recommendations.

Leverage custom. Facilitators can help communities to understand that national laws that protect women’s land rights do not violate customary rules. To do this, facilitators should:

- Educate communities about national laws that protect women’s and minority groups’ rights.
- Support community leaders to remember traditions and customary rules that emphasize men’s and leaders’ role as “protectors” of the rights of women and minority groups.
- Help communities to reinvigorate customs that emphasize men’s and leaders’ role in protecting the rights of women and other vulnerable groups.

Ensure the election of a diverse Management Committee. At the completion of the by-laws drafting process, the community elects a Management Committee composed of existing respected leaders and representatives of community stakeholder groups, including women, youth, members of minority groups, and others.

The Importance of Women’s Knowledge

In some communities in Uganda, women’s participation in community land protection meetings remained low for many months. Facilitators had to work to understand the reason behind the women’s silence: although the grazing lands being protected were central to a variety of activities critical to families’ livelihoods and survival, community perception was that the grazing lands were used only for grazing, a primarily male activity. It was therefore assumed that the project related only to men. Yet women in those communities use the grazing lands on a daily basis to collect basic household necessities such as firewood, building materials, wild fruits, white ants, herbal medicines, honey, mushrooms, and other resources. By convening special “women’s conferences,” during which women catalogued and described the various ways they used the communal grazing lands, facilitators were able to show women how their input into the community by-laws drafting process was urgent and necessary: if women did not speak up, the community may not make rules to ensure that the resources women depend upon to care for their families were managed sustainably.

ENSURING PARTICIPATION OF WOMEN AND MINORITY GROUPS

Involve customary leaders. In rural contexts where communities look to their customary leaders as the authorities and enforcers of rules, these leaders have a critical role as defenders of the rights of women and members of minority groups. To ensure increased protections for their land rights, facilitators may want to train customary leaders and cultivate them as allies in the defense of women's and minority groups' land rights. Customary leaders across various cultures have shown a willingness to learn about national laws that protect women's land tenure security and to shift their practices to align with these laws.

Ensure implementation of by-laws protecting the land rights of women and minority groups over the long-term. Experience has shown that efforts to protect the rights of women and minority groups must not end when the community adopts its by-laws and elects a Management Committee. To ensure that by-laws protecting women and minority groups are enforced, facilitators should:

- Provide legal education for local magistrates, police, district and regional land administrators, and other relevant local bodies that can play a role in enforcing and protecting the land tenure security of women and minority groups - and ask them to help the community enforce its by-laws.
- Train and work with customary justice institutions to ensure that they use and enforce

community by-laws, customary and national laws that protect the rights of women and minority groups (for example, when mediating family land disputes one would have to apply provisions of Principles Practices, Rights and Responsibilities PPRR for Lango, Teso, Kumam, etc.).

- Support communities to create "watchdog groups" whose responsibility is to be on the lookout for violations of women's and minority groups' rights and take action to prevent discrimination before it happens.

Custom does not necessarily undermine or weaken women's land rights.

It is more effective and more culturally sensitive to find creative ways of working within custom to strengthen women's property rights. By bringing all community members into dialogue and creatively problem-solving around the question of how the community may best strengthen women's land tenure security, facilitators can work with existing cultural practices to address discrimination and bring the wider customary legal structure into alignment with national and human rights law.



PART A: LAYING THE GROUNDWORK

1 SET GROUND RULES TO ENSURE A SUCCESSFUL PROCESS

Your community must drive the community land protection process. Community land protection is NOT a “development project”. Any technical support you receive from an NGO will only top up your community’s own interest and determination to protect and document your land rights. Your community’s commitment will determine how fast you complete the process. Likewise, no one can decide for you what kind of document to get to protect your lands: only your community can make that decision.

To make sure that your community cooperates well and can quickly and successfully complete the community land protection process, it is helpful to keep in mind some strategies that will guide how you will work together:

- **Resolve underlying tensions in your community before you begin.** If your community has on-going disagreements between leaders or between villages or clans, these conflicts may prevent your community from successfully completing protecting its land. Agree together to sort as many of these issues as possible before starting community land protection activities.
- **Set ground rules that clearly explain how your community will work together towards its goals.** To come up with your list of ground rules, your community should gather and discuss what the purpose of the ground rules are, and what kinds of rules are necessary to a peaceful process of working together to protect your lands. As people suggest rules, someone should be keeping notes and writing down the suggested rules. Once you have a good list of ground rules, you should read the full list out loud for everyone to hear again. Then, your community should agree to follow your ground rules during all community land protection activities.
- **During this process, you can also set ground rules to manage your community’s relationship with the NGO helping you.** For example, you can set a ground rule in which both your community and the NGO promise to be on time and fully prepared for meetings.
- **Do everything out in the open. Nothing should be done in secret or by a few people acting alone.** All decisions should be made publicly, and every community member should have an equal chance to take part in all decision making.
- **Every person who has rights to the community land should actively take part in the community land protection process.** This includes leaders and people from each household in all villages and clans members who own the land, as well as people from distant villages who come to graze their cattle in the dry season, minority clans, and



1 SET GROUND RULES TO ENSURE A SUCCESSFUL PROCESS

people who have moved into your community but are originally from somewhere else. Make sure that all men, women, youth, elders, people who practice all kinds of livelihoods, traditional and state leaders are invited to meetings to have their voices heard and considered when the community is making decisions.

- **Listen to, consider, and respect everyone's ideas and opinions.** It is important that people feel free to speak and that the rest of the community listens to and considers their ideas.
- **Your trusted leaders should help coordinate the process.** Both elected and customary leaders (for example, clan leaders and Local Councillors (LCs)) should work to bring people together and help facilitate meetings and resolve disputes that come up. If all local leaders are not included, the process may be harder to complete because anyone who is left out of the process or does not understand it may demobilize meetings or refuse to give support when needed.

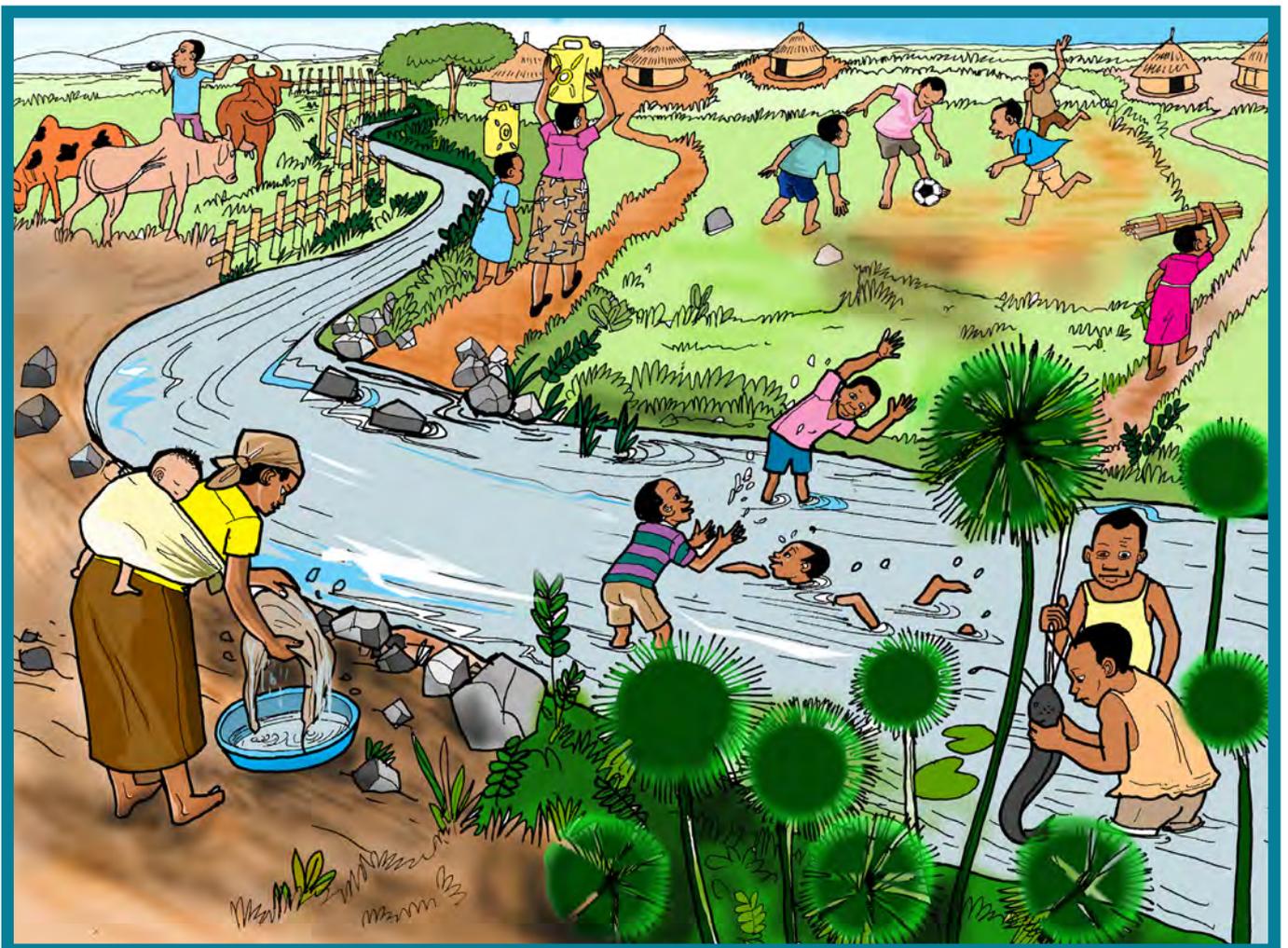
- **Your community should make decisions together as a group by consensus or vote.** Your leaders are there to support your community to complete this process together as a group, not to make decisions by themselves without the community being involved.
- **Resolve disagreements peacefully.** If disagreements arise as you are carrying out the community land protection activities, stop what you are doing, discuss the conflict, and reach an agreement before you move forward.
- **Remember that protecting your community land will take time, flexibility, and work.** Take your time on each step to make sure everyone understands what you are doing and agrees with it. It is better to go slow and do each step well than move fast and have confusion at the end.
- **Most importantly, this is a community-driven process.** Do not rely on others to do the work for you, but ask for help when you need it. If you get stuck in the process, ask for help from your community leaders or trusted NGO.



PART A: LAYING THE GROUNDWORK

2 DEFINE YOUR “COMMUNITY” AND YOUR “COMMUNITY LAND”

The first step to protect your community land is to agree **WHO** your community is and **WHAT** land your community has rights over and wants to protect. You may face differences of opinion as you make these decisions, so it is important that these meetings be coordinated by wise and trusted leaders who can resolve conflicts peacefully. All people with rights to the land are part of your community and should be part of these discussions.



2 DEFINE YOUR “COMMUNITY” AND YOUR “COMMUNITY LAND”

DEFINING THE LIMITS OF YOUR COMMUNITY LAND

You might define your “community land” as an area (or areas) shared by everyone in the community. Examples include grazing lands, places for communal settlement or farming, sacred areas, saltlicks, and hunting grounds. Your community land might also contain wetlands, lakeshores, rivers, mountains, and forests that are owned by government but managed and used by your community.

If you try to map the boundaries of the communal land at this point, it might create conflicts that prevent your community from even starting the community land protection process. We strongly recommend you **first agree in principle what lands you are working to secure by drawing a sketch map** to show, roughly, where the community land begins and ends. At the beginning it is easiest to just get clear on which villages or groups of families are included in your community’s definition. You do not need to get into exact specifics – you can go into more detail later.

AGREE WHO YOUR “COMMUNITY” INCLUDES

Defining a “community” is a sensitive process. It is like saying “who we are” and “who we are not.” Since nobody can make this choice for you, your community must decide for itself. The 1998 *Land Act* (Section 1(j)) defines “community” as “*An indigenous community of Uganda ... or any clan or sub clan of any such indigenous community communally occupying, using, or managing land.*” You might choose to define your “community” as the households in a group of specific villages, members of particular clans, or as a certain parish. Choose whatever unit everyone together thinks is best to ensure your community’s prosperous, peaceful future.

Be careful not to let your definition exclude or leave out any person or group with rights to the land. Instead, make every effort to define the community as it is, based on the reality on the ground. Remember, excluding people may create tensions that have never before existed; think carefully about your relations with your neighbours

as you decide who is included in - or excluded from - your community’s definition. You can include in your definition of community:

- Men, women and youth;
- Past and future generations (ancestors and future children);
- People who have cattle and livestock, and people who do not have cattle and livestock;
- Seasonal users; and
- Anyone else you think it is good and fair to include.

Most importantly, you must make sure that all villages that are co-owners of a common area are involved in the community land protection process and agree to work together as one “community” unit for the purposes of documenting and protecting your lands.

IF YOU DISAGREE...

If you disagree how to define your community, state and customary leaders can help your community come to agreement. For example, if there is disagreement about whether a certain village should be included in “the community” because it is located in a neighbouring parish or sub county, you may call the leaders of each village to talk about the history of the village’s rights to the land and decide whether the administrative (parish/sub county) boundary should make a difference or not.

Remember that people may use community lands in different ways. One village may not be a full-time owner of the community land, but it may have rights to come and use the community land for grazing at different seasons of the year. Your community can allocate different rights to full-time owners and part-time seasonal users. But it is important that any village with some rights to the land should be included in your community’s land protection activities.

Disagreements about inclusion may be resolved by defining the type of membership and rights that a village can hold: will the village’s residents be full-time owners or part-time seasonal users?

PART A: LAYING THE GROUNDWORK

3 DISCUSS AND AGREE ON YOUR COMMUNITY'S VISION FOR THE FUTURE

Once you have set ground rules and defined your community, the next step is to meet as a community to reflect on the past, present and future of your community, land, and natural resources. This may be done in a large community-wide meeting with all villages represented and at least 50% of households in the community. Visioning meeting usually is the very first community wide meeting and it may be challenging to realize full attendance. Make sure that women, youth, men, elders, leaders, and all kinds of people take part in your visioning meeting. Men and women may be separated to allow women to participate freely. This also enhances learning among the male and female youth as they deliberate with their seniors. Remember to reconvene both groups to harmonize and generate a common vision. Keep minutes and attendance lists of all your meetings.

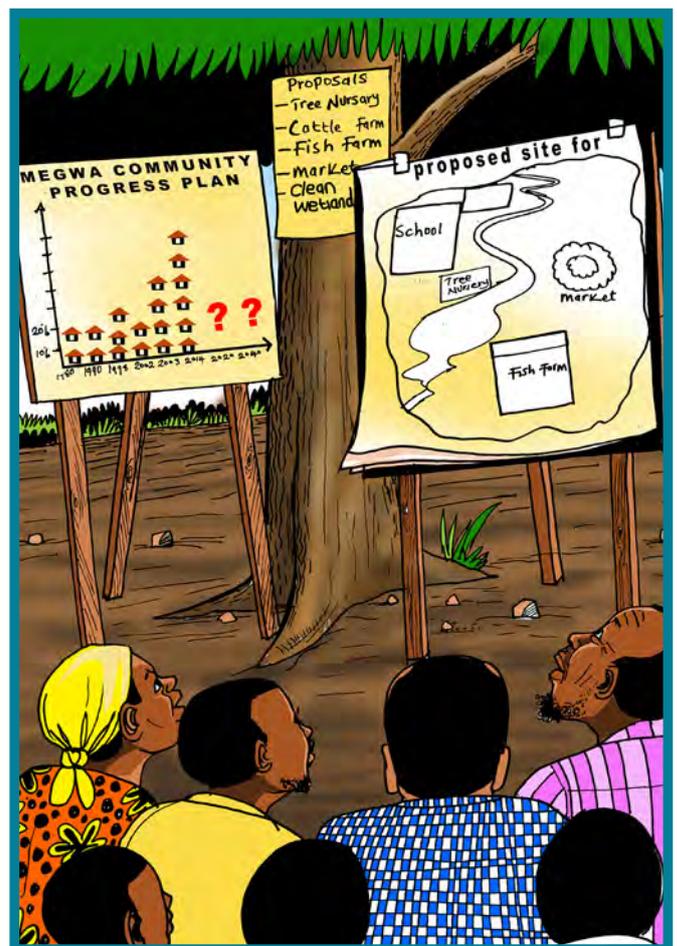
The visioning process includes the following steps:

1. Remember the past. Think about how your community and its land and resources used to be in the past, when the elders of today were just children. Then, have community members share their memories with the group. Write down what people say. Make sure to give everyone an opportunity to speak.

It may not be necessary to ask questions, but, as a guide, questions to help people remember may include:

- How did people live together in our community in the past?
- Were there people agreed to manage the land? If so, who were they, and how were they chosen?
- What resources and materials did women, men, girls, and boys gather from the common land?
- Were there rules for governing our community land? If so, what were they?
- How did the community make decisions? How were they enforced?
- How did men and women treat each other?
- How did youth come to learn about ancient customary ways?
- What did community members care most about? What were their priorities?

2. Look at how things are now. Next, consider how your community and its land and resources are today, in the present compared to the past. Community members should share their thoughts and reflections with the whole group.



Questions to help people think about this include:

- How are people living together in our community?
- How is our community land used and managed? Who manages it now? How did they come to manage it?
- Is there any change in the resources (water, firewood,

3 DISCUSS AND AGREE ON YOUR COMMUNITY'S VISION FOR THE FUTURE

- clay, mushrooms, etc.) that men, women, boys, and girls gather from the common land?
- How does our community make decisions today? How are decisions and rules enforced?
- How do men and women treat each other? How do neighbours treat one another?
- How do youth learn about our culture and custom?
- What do community members care most about? What are their priorities?
- Are there any disputes over our community land today? If so, what actions have been taken to solve these problems?

3. Imagine the likely future. Discuss how your community and its land and resources will be in ten years if nothing changes. Let all people speak out their imagined likely future, and write down everything people say. Questions to help people imagine may include:

- How will people live together in our community in the future?
- How will our community lands and natural resources be used and managed? Who will manage them? Who will access and use them? Will there be any common lands left?
- What resources and materials that people gather from the common land will remain?
- How will our community make decisions? How will they be enforced?
- How will men and women treat each other? How will neighbours treat one another?
- Who will be practicing our local culture, and teaching youth about our customary ways?
- What will community members care most about? What will their priorities be?

Often, this vision is not a happy one. Before moving onto the desired future, your community should take a moment to let the likely future sink in, and think about what this future will mean for your children and your children's children.

4. Create a vision for the future you'd like to leave for your grandchildren. Now is the time to think about creating a better future that will allow your community to thrive and prosper. Questions to help people vision may include:

- How do we want people to live together in our community?
- How do we want the community land be used and

managed? Who do we want manage it?

- What resources and materials do we want people to gather from the common land?
- How do we want the community to make decisions? How do we want them to be enforced?
- How do we want men and women to treat each other? How do we want neighbours to treat one another?
- How do we want youth to learn about the 'old' ways and be involved in the life of our community? How do we want to preserve our culture and language, our music and dances?
- What kinds of livelihoods would we like people to practice? How will the community prosper?
- What kinds of infrastructure or public services do we want to see in our community?

Write down what you want your community to be like in twenty years. This will become your community "vision": the type of future that you are working towards as a community. This vision is part of the reason you are working together to protect your land rights.

5. Agree on a plan to get there. After your community has discussed and agreed how you want your community to be in the future, it is time to decide how your community will reach this goal. Make a plan that includes clear steps and timelines. Ensure to let everyone speak – especially youth! – and write down everyone's ideas.

- What needs to change in order for us to reach the vision that our community wants?
- What kinds of local projects can we undertake to start achieving our goals immediately? What needs to be part of a longer-term plan?
- Who will do what? When will they do it by?
- How will we involve everyone in making the community a better place?
- What traditional knowledge, resources, or expertise do we have in the community to help us achieve our goals? What resources do we need to seek outside of our community?

Once your community has discussed its vision, write it down, and keep it for your records and as motivation to help you work through the community land protection process. You may also want to share it with your local leaders, trusted NGOs, and others who are helping you complete the land protection process.

4 AGREE ON AND SET UP A TEMPORARY WORKING GROUP

A Temporary Working Group is a team of respected elders, men, women and youth chosen by the community to mobilize people for land meetings, spread the word about your community's land rights, and to ensure that everyone's voices and opinions are included in the community land protection process. The Temporary Working Group's role is to support the community to successfully complete the community land documentation process, not to control it.



What will the Temporary Working Group do?

The Temporary Working Group is responsible for:

1. Coordinating community-wide land protection activities before the Management Committee is elected, including taking part in all community land protection activities and mobilizing necessary community resources such as local experts, small costs, etc.
2. Mobilizing elders, women, youth, members of all villages, people who practice different livelihoods to take part in all meetings.
3. Communicating meeting minutes/actions/decisions back to any community members who are unable to attend.
4. Representing the opinions and ideas of community members who could not attend a meeting.

4 AGREE ON AND SET UP A TEMPORARY WORKING GROUP

5. Providing important information to the NGO field team helping your community.

6. Anything else your community decides they should do to help you complete the community land protection process successfully!

How should the Temporary Working Group be set up?

To create the Temporary Working Group, your community should meet as a large group and:

1. Decide how the group should be established:

- What kinds of people should it include?
- What kinds of characteristics should these people have? For example, should they be honest, hardworking, good public speakers, good listeners, etc.?
- How will people be chosen? Will they be elected, appointed, or chosen from current leaders?

2. Agree on the roles and responsibilities of the group.

- What will they do?
- How should they go about fulfilling their responsibilities?

3. Create clear rules about how your community will replace Temporary Working Group members if they act corruptly or go against the wishes of the community.

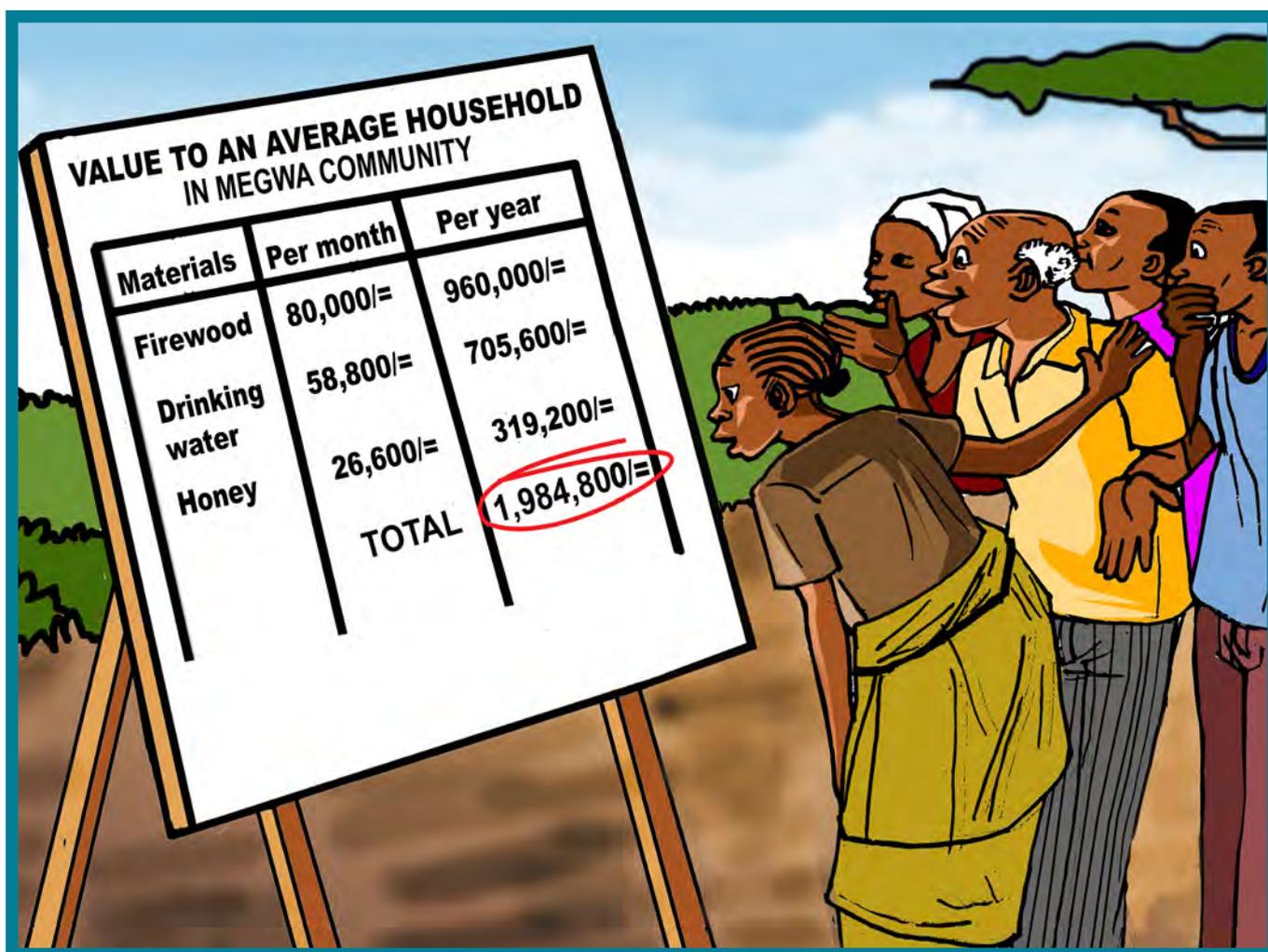
Your community should then elect or select community members to the Temporary Working Group. Choose people who are trusted, honest, have a history of serving others, and who will work for the best interests of the entire community. The group must include women, youth, elders, existing community leaders, members of different clans and groups within the community. To make sure that all villages are equally represented in the process, each village should be represented by at least one man or woman.

It is very important that the members of the Temporary Working Group are able to work well together with existing community leaders so that they can call meetings jointly and undertake necessary activities peacefully and with good coordination.



5 VALUE YOUR COMMUNITY LAND AND RESOURCES

To help your community be even more motivated to protect your community lands and achieve your future community vision, it is helpful to understand how much value community residents are getting out of your community lands and natural resources every year.



Land can be valued in a number of ways. These include:

- The value of the land on the local market, as compared to the value of other lands and resources that has been rented, leased or sold in the region;
- The value of the land to the buyer or tenant, including what they would use it for, and how much they would profit from it; and

- The replacement costs of the land - how much it would cost for the community to get another piece of land and/or other natural resources on the local market.

The community land valuation activity helps community members understand the replacement costs of their land and natural resources.

To value your land, call a big community meeting.

5 VALUE YOUR COMMUNITY LAND AND RESOURCES

Get a big piece of paper and put it up where everyone can see it. Draw a chart like the one in the picture. Then, list at least five resources that families gather from the community land and use for household survival. Some basic resources to think about include:

- Firewood
- Thatch and other building materials
- Meat or fish from hunting and fishing
- A typical vegetable from the common areas, such as mushrooms
- A typical fruit from the common areas
- Grazing or Fodder to feed your animals
- Herbal medicines the common areas, etc.

Then, your community can estimate how many “units” of each resource a “household” uses in a week. (You can imagine a household as including one grandparent, two parents, and 3-5 children.) If you had to buy that amount of resources in the local market, how much would it cost?

For example, a household may use four bundles of firewood each week. At 5,000/= each, this totals to 20,000/= that a household would have to spend on firewood each week if you could not gather firewood for free from your community land.

Next, multiply the weekly cost of each resource by four to see how much it would cost every month to buy firewood if you could not gather it.

Firewood: 20,000/= per week x 4 weeks = 80,000/= per month

Then, multiply the monthly cost by 12 to get a yearly cost of having to buy each resource:

Firewood: 80,000/= per month x 12 months = 960,000/= per year

Do the same calculations for all of the other resources your community gets from its community land, ensure that the calculation is done for resources acquired from the community land for household consumption and not for sale. People can help do the math on their cell phones. When you have calculated a yearly amount for each item, add all of these up and you will get the total value of goods that an average household in your community gets from the community land each year. Some resources such as wild honey are not harvested on a weekly basis but rather on a seasonal basis. Since the wild honey is in most cases harvested and stored, you should calculate your consumption of the stored honey.

In the example above, an average household benefits from goods worth 1,984,800/= per year from their community land. If there are 100 households in the community, that’s a benefit of **nearly 200 million shillings per year.**

Don’t forget that this amount is only calculating three of the many natural resources that your community members get for free from your community land every week. The community lands are like a “free supermarket” where you can go to get many things you need to keep your family healthy and safe. If you did not have your community lands, how would you build your homes, feed your families, and care for your animals?

Now imagine that an investor comes, offering to buy the community land at a one-time price of 10 million shillings. Would the community be wise to accept the offer? What if someone tries to grab your community land? Once you know the value of your community lands to you, you can see that they are stealing millions of shillings from you and all future generations.

Example from a Community in Amolatar District

Item	Unit to measure	Cost per unit (UGX)	Number of units used per week	Cost per week (UGX)	Cost per month (UGX)	Value per year to an average household (UGX)
Firewood	Bundle	5,000	4	20,000	80,000	960,000
Drinking Water	Jerry can	300	49	14,700	58,800	705,600
Honey	Bucket	6,650	1	6,650	26,600	319,200
TOTAL VALUE OF GOODS FROM THE COMMUNITY LAND						1,984,800

6 CREATE RULES (BY-LAWS) FOR MANAGING YOUR LANDS AND RESOURCES

The next step in the process of protecting your community's lands is making a list of rules of how your community will manage and use your community lands and natural resources.

Writing rules that are agreed by the entire community will require at least three drafts. How to write your community's rules is explained in this section.



Your rules will help your community to:

- Manage your natural resources more fairly and sustainably so that they can be used by all community members, and be available for your children and grandchildren to use in the future.
- Make clear what responsibilities and authority the managers of your community lands have, and what powers they do not have.
- Make sure that community leaders listen to community members' voices and opinions when making decisions and take actions that the whole community agrees with.
- Make sure that all community members' rights are protected – especially the rights of women, youth, members of minority groups, and other people whose rights may be violated by powerful community members.
- Help resolve local conflicts more easily and quickly.
- Make clear who is responsible for enforcing rules, and what the penalties for breaking a rule are.
- Help the community to plan for its future, and make sure that any funds collected are used transparently and wisely, so that they lead to community-driven local development.
- Increased respect from outsiders, because you are looked at as an organized community.
- Many other good results!

6

CREATE RULES (BY-LAWS) FOR MANAGING YOUR LANDS AND RESOURCES



The full rules-writing process includes the following steps:

1. A community-wide brainstorming or “shouting out” of past and current rules (1st draft of by-laws).
2. Community discussion and revision of old rules; addition of new rules (2nd draft of by-laws).
3. Legal/technical analysis of by-laws to ensure that they align with national law.
4. Community revision of any rules that violate the law (3rd draft of laws).
5. Formal adoption of a FINAL draft by full consensus or super-majority vote.

Step 1: “Shout out” all past and present rules and draw resource maps

Begin the rules-writing process by writing down all the rules you already have or used to have in the past to manage your community lands and natural resources.

Hold a meeting in each village. Make sure that this meeting includes women, men, youth, elders, and members of minority groups. At least one adult from every household in the village should be present. If any clan or group is not present, their rights might not be recorded in the first draft of the rules. To make sure that all voices are heard, you may want to break out into small groups of men, women, and youth to discuss rules that affect them specifically. Then you can have everyone return to the big group to share and combine all the rules that came out in the small groups to the village “shout out” list.

At the meeting, ask community members to “shout out” all of the rules they know about that govern the use of the community land and each natural resource found on the land. Write these rules down. Include all rules that your community follows **NOW**, and also all rules followed in the **PAST** to manage your community lands and resources (even if the old rules are no longer enforced, because any rules left out at this time might be lost forever). Include all past and present rules about:

- **Community Leadership**, including rules about who can be a leader, what leaders are supposed

to do, how they make decisions, how they resolve conflicts, etc.

- **Land and natural resource use**, including rules about water, firewood, clay, grass, livestock, seasonal users’ rights, etc.
- **How people should act with one another**, including rules about women’s rights, men’s rights, children’s rights, rules for how visitors to your community should act, etc.

To help each group remember all your rules for natural resource use and management, it may be helpful for each group to draw a map of all the natural resources in your community. These resource maps may include:

- All the villages in your community
- Wetlands, streams, and rivers
- Rock outcrops, mountains, caves, and hills
- Areas where you find thatch, rocks, sand, clay, herbal medicines, mushrooms, honey, saltlicks, or minerals
- Places where wild animals live
- Sacred or traditional areas
- Cattle dips or kraals
- Areas where you make your farms or plant trees
- Roads, schools, clinics, churches and cemeteries
- Areas where you plan to allow investment
- Anything else important to your community

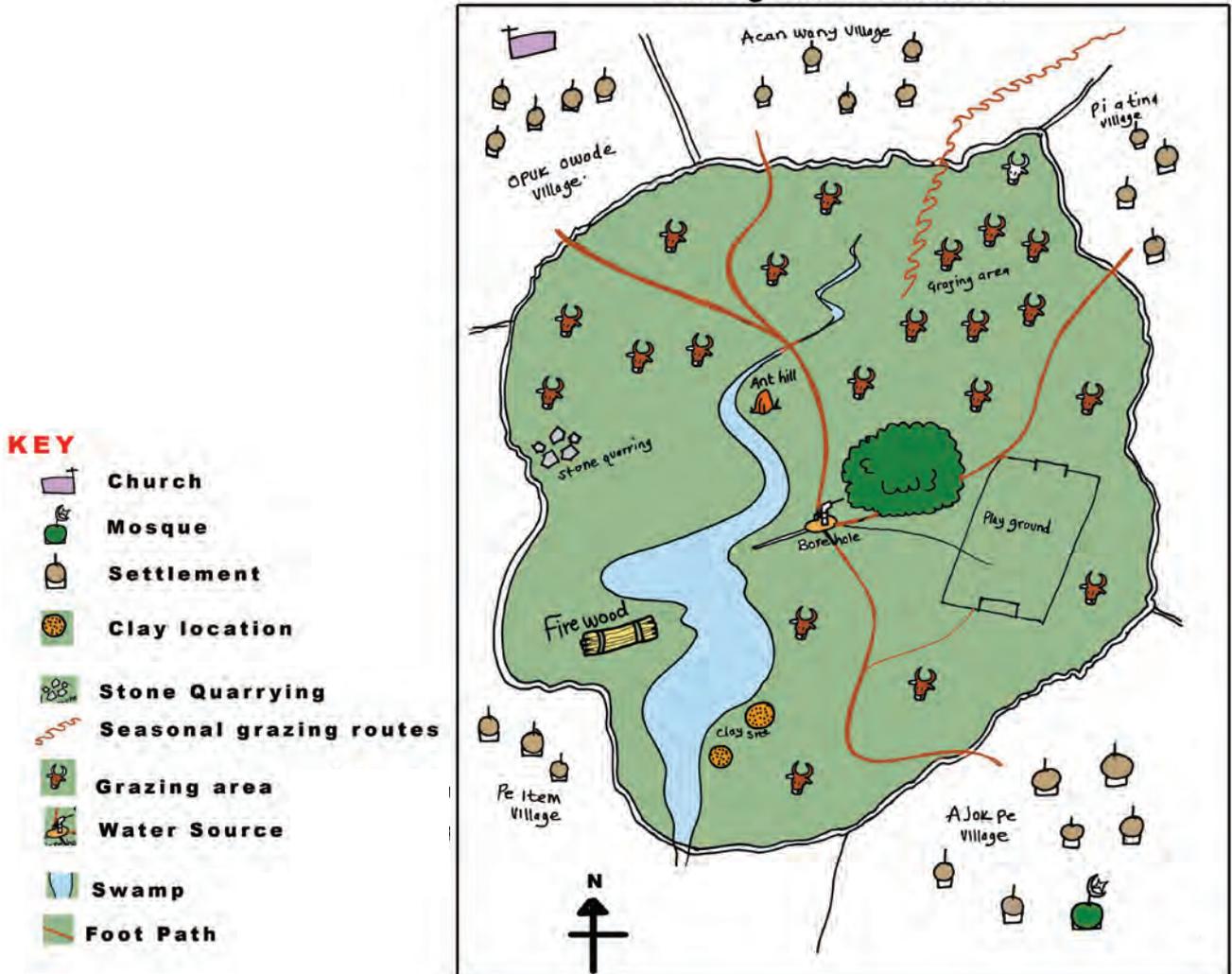
Do not focus on boundaries or land conflicts, only include key landmarks and resources found in your community.

Next, write down your community’s rules about each resource. Talk about:

- How is each natural resource important to people’s lives?
- How does your community use and benefit from each resource?
- How did people use each natural resource in the past?
- How do people use each natural resource today?
- What rules does your community have now about each resource?
- Who can use each resource? Who has what

6 CREATE RULES (BY-LAWS) FOR MANAGING YOUR LANDS AND RESOURCES

MAP OF MEGWA COMMUNITY LAND
Showing Natural Resources



rights to your community's lands and resources?

- Who is in charge of managing each resource, and how do you ensure the rules are followed?
- What are the roles and responsibilities of your leaders in helping to manage your lands and resources?

After each group has drawn its resource map and remembered all the past and present rules for the management and use of your community's lands and natural resources, have everyone come back together into one big group. Each group should then take turns presenting their maps and lists, discuss them, and **combine them into one big map and one big list of rules**. If there are arguments about which maps and rules are right and which are wrong, make a note of these disagreements – you will resolve them later.

Step 2: Combine each village's list of rules into one larger community list

Once the existing rules "shout out" activity has been held in all villages in your community, the Temporary Working Group should bring all the lists of rules to your trusted NGO who will help your community to combine the rules from all the village lists into one community-wide list of rules.

All the village level rules are harmonized to come up with the 1st Draft of your community's rules for its community land. Any rules that are not agreed upon by everyone will be put in a separate list that will be discussed during future meetings. The NGO will type the lists of rules and give copies to the community.

Hold a meeting to discuss the harmonized rules. During this meeting, the combined rules are read



out, men, women and youth are then separated to conference so that they can critique the rules and make any suggestions to ensure their interests are addressed. Each group should consider the views on areas of membership, leadership and their roles in day to day management of the community land. There after the groups reconvene and each group share highlights of their discussion for addition into the harmonized community land rules.

Step 3: Create a 2nd Draft - Discuss agreed rules, change rules, adding new rules, and delete rules that no longer serve

Once your community has listed all of its existing and past rules, you can begin to think about and discuss your rules, then: propose new rules that you would like to add, get rid of old rules that are no longer useful, and change rules to better serve the community's current needs.

To do this, hold a big community-wide meeting. Invite the male and female heads of households from all of the villages in your community. After reading the 1st draft of your rules and the list of rules that not everyone agreed on, your community should discuss:

1. What rules to keep as they are, because they are good, useful rules.
2. What rules are mostly good, but should be changed to ensure that they are fair to everyone, and will help the community grow and reach the agreed future vision.
3. What rules should be thrown out, as they conflict with national laws, are unfair to specific groups of people, violate people's human rights, or do not protect the community's land and natural resources.
4. What rules should be added to ensure that community can grow, prosper, and achieve your future vision.

It is important to keep all members of the community aware of what is discussed in the large community meetings. In between large community meetings, the working group should call meetings at the village level to:

- Report what is happening in the large community-wide meetings.
- Ask people what new rules they want to add.
- Get each village's opinions on the new rules proposed in the community-wide meetings. Do people agree? Disagree? Agree, but want to change the rules slightly?

If people cannot agree on a rule, leave it out. Only include rules that everyone agrees on. Do not include rules that people have not agreed on. This is important because if community members disagree with the rules, this will cause conflict and confusion in the community. It is better to discuss a rule until everyone agrees. If people cannot agree on a rule, then that rule should not be included.

After what will likely be many meetings, when you think you have finished the 2nd Draft of your rules, hold a large community meeting to share feedback from villages and agree to your 2nd draft. Village representatives should come to another community-wide meeting to voice their opinions and debate the rules proposed by other villages.

At this meeting, make sure that everyone in the community agrees with the rules for land and natural resources management. In particular, check that:

- Everyone (men, women, youth, minority groups) agrees on what is listed in your map of how things are right now.
- Everyone (men, women, youth, minority groups) agrees on the rules of how to manage your land and natural resources.

IMPORTANT: The process of writing things down changes them and any rules that are not captured may be lost. If certain groups of people are not present, then their rights may not be protected. To prevent this, you **MUST** involve everyone in the community—including leaders, elders, women, men, youth, members of big and small clans, disabled persons, and people who only use the land at certain times of the year.

6 CREATE RULES (BY-LAWS) FOR MANAGING YOUR LANDS AND RESOURCES

Once everyone agrees on a complete 2nd Draft, the Temporary Working Group should send/give the rules to your trusted NGO.

Getting to a final version of a second draft will not be easy. It usually takes three or more very long meetings to get to a good second draft. But don't be discouraged. Work with your trusted NGO if you need help mediating disagreements about new rules.

Step 4: Review by Legal, Government, and Cultural Authorities - 3rd Draft

Make sure that your rules do not violate Ugandan law. Once you have finished your 2nd draft, your trusted NGO will check over your rules to make sure that they do not violate the Ugandan Constitution and other national laws. The NGO will also share your 2nd draft with the relevant cultural authorities and/or institutions and sub-county and district government officials (especially the District Land Officer and District Registrar of Titles). It is important to get these leaders' approval for your rules, as your community will need the clan and government to help enforce your rules.

Discuss changes suggested by NGO after legal review. If any of your rules violate the Ugandan constitution and other national laws, the NGO will explain to you what laws your rules contradict, and help you to change your rules so that they can be approved. Your NGO will also suggest any rules that might be added to ensure that your land will be well-protected and well-managed. Your community should then talk about the changes that the NGO has suggested and make any revisions that are needed. Once you make these changes to your

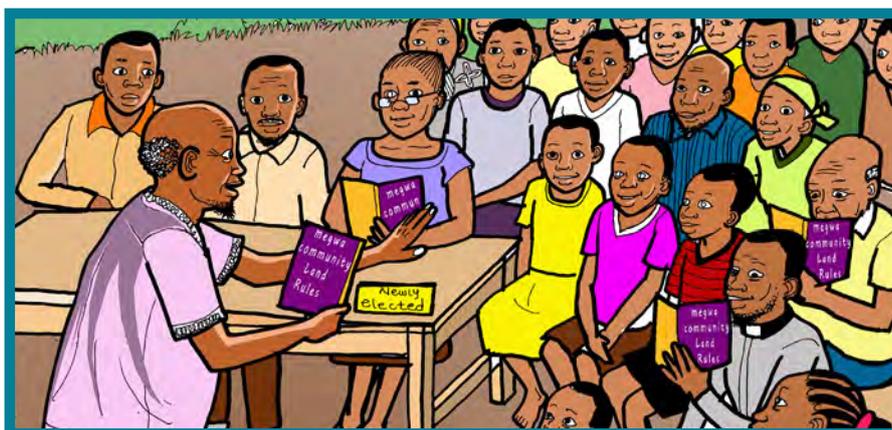
rules, that is the 3rd Draft of your community rules.

Keep village members aware of what is discussed in the large community meetings. Throughout this process, your Working Group must continue to call meetings at the village level to make sure that all community members approve of the suggested changes made in the community-wide meetings. Once everyone agrees on all the changes and new rules, you are finished with your third and final draft!

Step 5: Formally Adopt the Agreed Rules as Your Community "By-Laws"

Hold a community-wide to formally approve the rules. Once you have finalized the 3rd draft of your rules, it is time to hold a meeting to formally adopt your rules. This is a very important meeting, so make sure that all households in the community are invited to vote on the rules. The male and female head of each household should be present. At least 60 percent (6 out of every 10 people) of the entire community should attend the meeting. To make sure that your entire community hears the message of the upcoming meeting, consider publicizing on the radio, in places of worship, at schools, and in every village.

Keep good records of the adoption. When it is time to adopt, make sure to write down the names of every community member who was present and voted, which village each person came from, the date you voted, and where the vote was held. If there were any last-minute disagreements or arguments, write those down too, to keep a good record of the whole meeting.



6

CREATE RULES (BY-LAWS) FOR MANAGING YOUR LANDS AND RESOURCES



Celebrate! You may want to make the adoption ceremony a celebration, including food, music, dancing, and speeches. You may want to invite trusted leaders from the sub county, Parish and district levels, as well as any government officials you would like to help you enforce your by-laws over time.

Follow up with community members who did not vote. After the adoption ceremony the household registration continues to provide opportunity for members who hadn't previously been reached together with those who had declined and want to reconsider their decision. However the rules will be in effect once an absolute majority of the community have adopted.

Questions your community might think about during discussions:

A. Community definition:

- Who is included?
- Who is excluded?
- How can a new member join the community?
- What are community members' rights and responsibilities of?

B. Land ownership/land holding:

- Who owns community lands?
- What instances might portions of the community land be granted to an individual?
- What rights and responsibilities do seasonal land users have?

C. Land governance

- Who can decide what happens within the community land, and what uses are allowed and not allowed in the community land?
- What will the role of the Management Committee be? What rights and what responsibilities will it have?
- Who will make up your community's Management Committee?
- What are criteria for election to the Management Committee?
- How long can one individual serve on the Management Committee?
- What are criteria for removal from the Management Committee for bad behaviour?

- How will the Management Committee get elected? What will be your procedures for electing members?
- Will certain members of the Management Committee like a chairperson have certain roles?
- How often will the Management Committee meet? Where will it meet?
- How will the Management Committee relate to existing governing bodies or community committees that are already in existence?
- What decisions can the management committee make on its own, and what decisions must it bring to the community for discussion and decision?
- Will your Management Committee be required to report back to the whole community so often about the decisions it has made, the fees and fines it has levied, and how lands and natural resources are being managed in the community?
- Land conflict resolution: How will we handle land conflicts? Who will help resolve land conflicts?
- Who will ensure that the boundaries your community agreed with your neighbours are holding strong and being respected?
- Who will enforce your community's rules and natural resources management plan? What mechanisms will they have for enforcement?
- How will the rules apply to outsiders and people who are not members of the community?
- How will you punish people who break the rules?
- What happens if a Management Committee member does not follow the agreed by-laws, or if community members have a complaint against a Committee member?
- How will the Management Committee relate to sub county, parish and district officials? Will these officials help enforce the rules and hold secure your harmonized boundaries?

D. Land and natural resource use and management

- How do we make sure that natural resources that we have today are preserved for the future?
- What rules does your community need to properly manage grazing and livestock?
- What rules does your community need to properly manage water sources– including

6 CREATE RULES (BY-LAWS) FOR MANAGING YOUR LANDS AND RESOURCES



springs, ponds, rivers? What you can and cannot do at the waterside?

- What rules does your community need to properly manage the forest? Do you have any special rules for conserving the forest for future generations?
- What rules does your community have for cutting trees for firewood/household use?
- What rules does your community have for building materials like thatch, poles, mud/bricks and sand?
- What rules does your community have for hunters? For fishermen?
- What rules does your community have about ceremony/sacred sites?
- What rules does your community have about the production of charcoal?
- What rules does your community have about mining – both large-scale (by investors) and small-scale (by community members or locals) mining?
- How can seasonal users continue to use the community land?
- Should outsiders (not seasonal users with historical rights) be charged for using community resources? What kinds of fees should there be?
- How do we want to respond to investors that might come asking for land?
- What are our rules for land transactions (sales, rentals, gifts, etc.)?

E. Community financial management

- What will your community do with any revenue generated from fees and fines or gifts?
- How will fees and fines be managed? Who can manage them? How will the Management Committee report on the money coming into the community?
- Who will decide what happens to that money? How will your community make decisions about how to spend money collected from fees and fines, or gifts? Who makes those decisions?
- What will the money be used for? Will the money collected go towards community development projects like building schools/roads, pumps – or will it be distributed to each household?

F. Social rules

- How do we make sure that everyone respects

each others' land rights?

- Does your community have rules for how people should treat each other to ensure that there is peace, harmony, love and unity?
- Does your community have rules prohibiting stealing or violence? Prohibiting rape/adultery/husbands beating wives/parents beating children?
- Does your community have rules about keeping your community clean and well organized?
- What rules does your community need to make sure people live happily and peacefully together?

***** If you decide to form a Communal Land Association, your community's rules will later become the Land Association's "constitution."**

At that time, you can work with the NGO supporting you to make sure that your rules cover all of the information that the Uganda Land Act requires Communal Land Association constitutions to include. ***

Your community should create its own rules, but we strongly recommend that you include the following rules:

- If any individual, group of individuals, or leader makes a deal or "agreement" involving the community land or resources without the permission of the entire community, then **such a deal or agreement is NULL AND VOID.**
- Our community's rules will be **reviewed by our community once every year.** It is good to include a rule that says that you will meet every year to review, discuss, and update your by-laws as necessary. The whole community should amend the rules together. You should make rules about the process by which people can change/amend your by-laws. This will help to ensure that your rules can grow and change along with your community.



7 ELECT A MANAGEMENT COMMITTEE

A Management Committee is a team made up of people from all different groups in your community (elders, youth, women, representatives from different villages and/or clans), that is responsible for managing your community's lands and natural resources.

The Management Committee does not own the land. The Committee works for all the community land owners, acting on their behalf and managing community lands and natural resources according to their desires and interests.



The management committee's roles and responsibilities are to:

- Manage your community's lands and natural resources for the good of the community;
- Make sure that everyone follows the agreed rules;
- Represent your community at meetings with outsiders, including small-scale miners or rice growers, investors, companies, and government officials;
- Attend government meetings, or go to court in case of any legal action against the community;
- Help run community meetings about the use of community lands and natural resources;
- Help resolve disputes over the community land and natural resources;
- Manage land-related finances (collected from fees and fines) in a manner that promotes the community's future vision;
- And other responsibilities agreed by the community as set in your community rules.

How will the management committee relate to existing community leaders?

The Management committee will run into problems if it does not take into account pre-existing community leadership structures. It is helpful to set up your Management Committee in such a way that it is within the existing leadership framework and collaborates and cooperates with existing community leaders. You may want to include

7 ELECT A MANAGEMENT COMMITTEE

existing community leaders - especially Adwong Bar and other leaders already responsible for managing community lands and natural resources – as members of the Management Committee. If you choose to do this, you should include this preference in your rules.

What criteria should we use to select Management Committee members?

Committee members should be elected or chosen by the entire community and should include trusted, honest existing leaders. The community rules that you have just finalized and adopted should include your chosen criteria for Management Committee members, how long they can serve, what their responsibilities are, what the various positions/officers on the committee will be, etc.

According to the Uganda Land Act, your committee should:

- Include representatives from all villages with rights to the community land.
- Include three to nine members; at least one third should be women (Land Act Section 16)
- Include men, women, youth, and elders and all other clans and groups in the community.
- Be made up of honest, responsible and reliable people who are permanent residents of the community.

How should your community elect your Management Committee?

Your by-laws should already describe how you will elect your Management committee. You can elect Committee members at both the village level and the community level, or just at the community level - you should follow whatever process you decided during the by-laws drafting process.

One way to hold representative elections is to:

1. Decide how many representatives should come from each village or clan.
2. Hold village/clan level meetings to elect three to nine representatives to be on the community's management committee.
3. Hold a community-wide meeting to elect the officer positions (the Management Committee Chairperson, Vice Chairperson, Secretary,

Treasurer, etc.) from among the elected village/clan representatives.

Or, your community can come together for a big community meeting where all villages and clans are represented. You can then list all the office positions on the management committee that you have agreed upon as a community and elect representatives at that large community meeting.

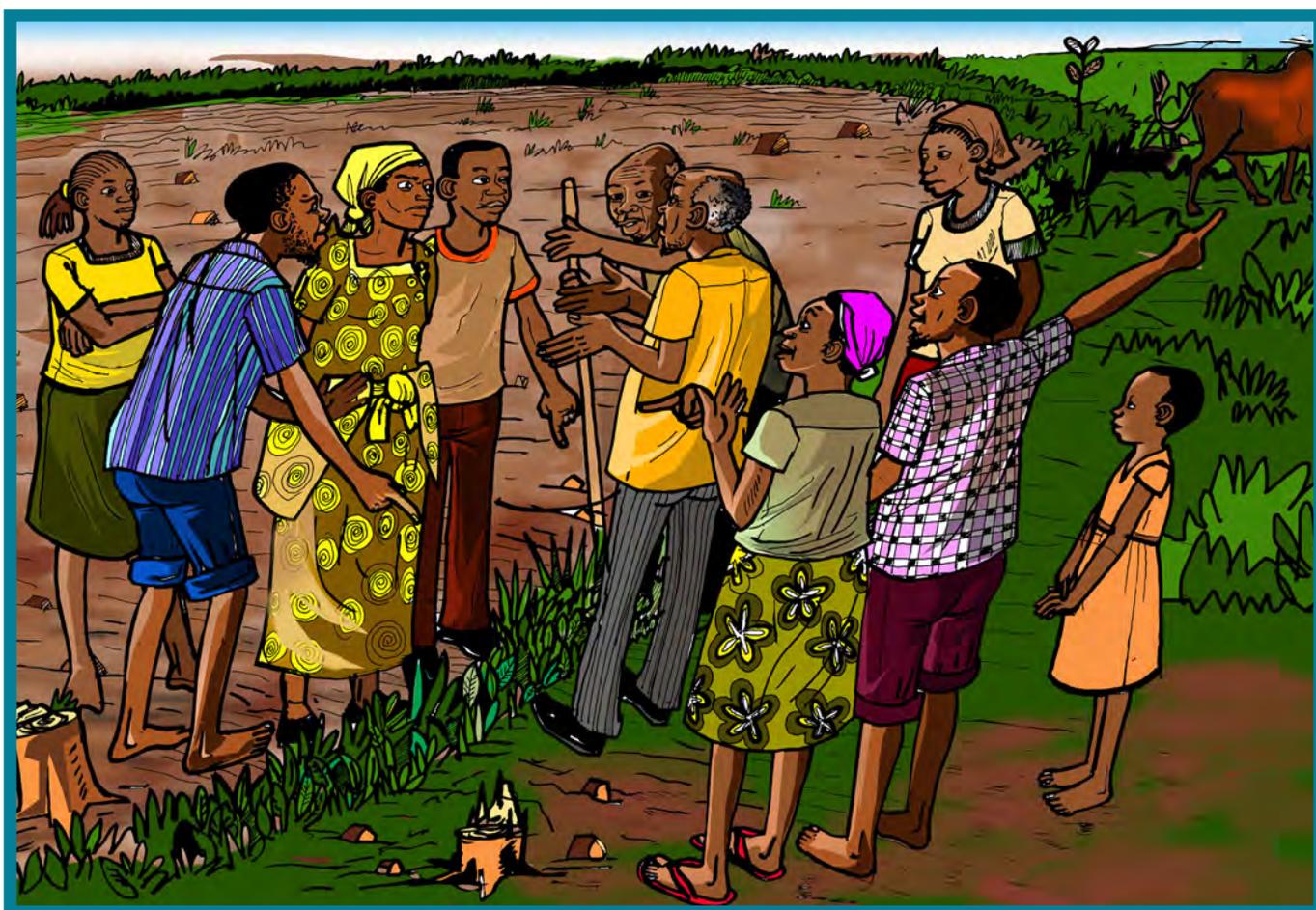
Whatever process you decide, it is important to make sure the election is done fairly and openly, with the participation of everyone in the community, including women. If the Committee is elected by a small group of people meeting acting by themselves, this will cause problems, since one clan or village may dominate the Committee and hold all the power. **If elections are done badly, then your community should call for a new election.**

To ensure that your leaders are acting honestly, managing community resources and finances wisely, and making decisions that benefit the whole community, you may want to set up an "Accountability Group." Communities may want to set up a "citizens' parliament" or accountability group of two people from each village in the community whose job it is to monitor the Management Committee. The "Accountability Group" should make sure that the Management Committee makes decisions that benefit the community, manages money fairly and openly, and makes sure everyone is following all the community rules. If you decide to create an accountability group, make sure that your rules bring out clearly the powers of the accountability group, what it can and cannot do, and how it will report back to the community.

Elect a new Management Committee every few years. Your rules should explain how and when you can elect new Committee members. If you need to remove a Committee member before his or her term is finished, you should also follow the process you decided as a community and wrote out in your rules.

8 AGREE ON THE BOUNDARIES OF YOUR COMMUNITY LAND

Conflicts often exist on communal land because it is not always clear where the community's land ends and neighbours' land begins. You can reduce the likelihood of disputes by clearly marking your boundaries, making sure everyone knows these boundaries, and drawing maps signed by all people neighbouring the community land and all leaders. This is called **"boundary harmonization."** You will need to be patient and creative to resolve any conflicts that come up.



Here is how to harmonize your boundaries:

Step 1: Remember which land you have decided to protect and secure. Think about which villages have ownership rights to this land, and which villages have use rights or access rights to the land. Remember that under custom, different people may have different rights to the same piece of land (for example, the **right to use** for grazing cattle, the **right to access** through a footpath on the way to the swamp, and the **right to control** whether the land is rented out). Make sure that all villages with

ownership, use and access rights take part in your discussions about boundaries.

Step 2: Draw a sketch map of your community lands. Meet as a community and discuss the boundaries of the lands you are working to protect. You should bring the "resource maps" you made at the beginning of your rule-writing process. Start with these maps, and then begin to draw in the boundary markers. Or, you can split into groups of men women and youth to draw maps of your community lands, including all boundaries. After

8 AGREE ON THE BOUNDARIES OF YOUR COMMUNITY LAND

each group has drawn its map, you can bring the maps together, present them to one another, and make a combined map that includes all the details from all the groups' maps. Alternatively, your NGO may help you get a "satellite map" of your community, which will be a photo of your lands from above. You can draw the lines of your community land on this satellite map.

Step 3: Create a boundary harmonization team. Members of your Management Committee and a few trusted leaders (cultural leaders, Local Councillors, Area Land Committee members, staff of a trusted NGO, or faith leaders) should form a team to mediate disputes. You may have good results when each side of a conflict brings respected and knowledgeable elders, men, women and youth to discuss the conflict. Each group may have a different point of view that connects the past with the present. Each member of the team may have useful opinions, ideas and ways to try to resolve the boundary harmonization. A diverse group may be able to harmonize the boundaries more quickly than a group of only elders.

Step 4: Walk the boundary of your lands with all community members and those neighbouring the community land. Arrange a day for your Management Committee to walk the boundaries of your community land. Make sure that all the people who own or use land bordering the community land are present. Invite your LC1 Chairperson and a member of the Area Land Committee (ALC) from your parish to come along. As you walk, note where there are disputes or conflicts. Do not try to resolve them now. Just keep a record of areas that are in conflict on your maps so that you can return and resolve the conflict peacefully.

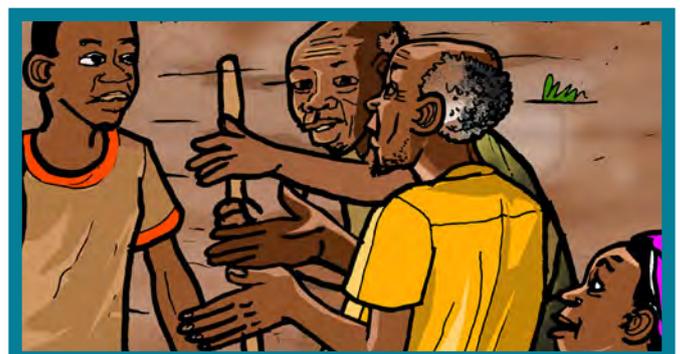
Step 5: Meet people neighbouring the community land to discuss boundaries. Your community's Management Committee will meet with the community land neighbours to agree on the boundaries. Before they start this process, your community should make clear rules about what kinds of compromises the Committee can agree to on its own, and what kinds of compromises must be brought to the whole community to discuss. (For example, a possible rule might be that the Committee can agree to compromise five meters or less of the community land on its own, but should

seek the community's permission to compromise more than five meters.) Sometimes the process of resolving a boundary disagreement is easy and will take only a few hours. Sometimes it will take many months. If you cannot agree, leave the discussion for the day and give everyone time to think – do not force a decision if people are not ready.

Step 6: Resolve conflicts. Keep going back to discuss your boundaries with the community land neighbors until you both agree. As you discuss, be willing to compromise. It is better to compromise on a few meters and protect your community's entire community lands, than to be stubborn and remain in conflict and without papers. (See Chapter 8 for more information on resolving conflicts peacefully.)

Step 7: Protect rights of way. A "right of way" is any part or area which people are allowed to use in order to access or cross the community land. Examples include roads, cattle paths, and footpaths to/from communal boreholes.

Step 8: Mark the limits of your land with boundary trees and sign consent agreements to create a paper record of the agreed boundary. Once you have resolved all boundary conflicts and arrived at agreements, plant boundary trees with the neighbours. Together with all the neighbours, walk around the land together, planting locally-respected boundary trees as you go (usually *omara-mara* trees). Sometimes boundary disputes will flare up again at this moment. Be prepared: bring a skilled mediator or respected leader or elder with you to help. If there are any disagreements, resolve the conflict before marking the boundaries. Then, hold a big celebration and invite all of your entire community to sign agreements that show in writing how your communities have agreed and harmonized your boundaries.



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RESOLVE ANY CONFLICTS OVER YOUR COMMUNITY LAND

Conflicting land claims often surface when a community is demarcating the boundaries of its lands. People from within the community may disagree about whether a part of the land belongs to their family or the community. People from outside the community may sometimes try to claim part or all of the community land as their own. Communities must be prepared to peacefully resolve all of the conflicts that impact their community lands.



Land Disputes in Uganda

Land disputes can arise:

- Within the same family, group, or community
- Between different communities, or
- Be created by external actors (local, district, national or international individuals, families, investors or the government when attempting to secure land for development initiatives and due process is not followed).

People involved in a land dispute may be acting in **good faith** (they really are willing to work together to find a solution), or in **bad faith** (they know they have no land rights and are really just trying to take advantage of the other side). You may not be able to tell the difference right away, but as you continue trying to resolve the dispute some people's true intentions will become clear.

People may be encroaching on communal land because they are:

- **Vulnerable:** These are often elderly, displaced, poor, or internally displaced persons (IDPs) who

have no other place to live, so they have moved onto the community land for either settlement or subsistence farming. They usually act in good faith and are usually willing to leave if an alternative living arrangement is provided.

- **Opportunistic:** If there were no strong managers of the community land in the past, there is probably no punishment for someone grabbing part of the community land for his/her personal use. Such people may therefore "try their luck" by moving onto the community land and then wait to see what happens. If confronted, they may either give up or increase their encroachment; and it will be clear whether they are acting in good or bad faith.
- **Deliberate:** These are people who use their power to grab land from the community in any way they can, fully aware they have no rights to the land. They are determined and rarely respect local or customary leaders (or may actually be local or district authorities themselves) and are often the first to rush to court when challenged to leave the community lands they have taken in bad faith.

Common Causes of Conflict over Community Lands:

- **Encroachment or "over-stepping":** When people cross into the communally owned lands by extending the boundaries or planting crops or building on it.
- **Differences in administrative and traditional boundaries:** When a village was originally part of one parish or sub-county, but because of changes in boundaries, it now falls in another parish or sub-county.
- **Family history:** When people whose grandparents served as traditional managers of the grazing land believe they have more rights than other people in the community.
- **People shifting and settling in other places:** When there is a large movement of people between villages or due to displacement, there may be competition for resources and land.
- **Misuse of shared areas:** When individuals are not following agreed rules for a shared resource area, and are refusing to let others use or access the community land.
- **Concessions and investment:** When land is given to an outside company or investor without permission of the community.
- **Valuable resources:** Resources with a high monetary value may increase competition over land because people want to make money by using, renting out, or selling the community land.
- **Personal issues:** Not all "land disputes" are about land! In some cases, people and clans may be fighting because of something bad that happened in the past, greed, jealousy, or revenge.

The key to resolving land disputes is to understand the dispute in the context of local customary land rights.

- An effective way to do this is to **draw a “Community Land Rights Tree”** to show how each community, family or person involved in the conflict got (or claimed) rights to the community land. You can do this by writing the name of the first person to claim the land (usually an elder), then who that person gave it to, and so on until you reach how the current people in the conflict came to the land.
- **When making a “Community Land Rights Tree” write down a timeline of the major events in the history of your land and the dispute.** Once you have drawn your “Community Land Rights Tree,” you can use it as a tool to understand the roots of the current conflict, looking to the history of your community to lead you to find solutions to resolve the conflict. Your Management Committee or other respected leaders can sit down with the other parties and use the Tree to help them resolve the conflict.

To Resolve a Land Dispute on Your Communal Land:

If you have a land conflict that cannot easily be resolved through discussions among and users/owners, it is best to try everything you can to solve the dispute at the local level, because going to court is expensive, takes a long time, and may not bring peace to your community.

There are many ways to peacefully resolve a land conflict. Mediation is one way to solve problems. In mediation, both sides talk through their conflict to an agreed compromise with the help of a neutral third person or group of people. The following steps can lead to successful mediation of a land conflict:

1. Choose a respected, neutral mediator.

Try to find a person or group of people who are very well respected in your area, and who are “neutral” figures in the conflict (not allied with one side or the other). When the mediators are trusted and well respected, people may have a harder time shouting and fighting, lying or speaking badly in front of

them, which will help ensure that the process is more peaceful.

2. Understand the facts behind the case.

- **Go to the physical site of the conflict.** It is easier to talk about something when you have seen it. You may get better results when you take the discussion to the disputed boundary site. If you go and see the boundary and talk with the neighbours there to draw a land rights tree, it may be easier to reach an agreement about who has rights to the land, how they got those rights, and where the boundary should be.
- **Meet with both sides separately and understand their point of view.** Before trying to resolve a dispute, the mediators should meet with each party to the conflict and hear their story. This is also a good time to make sure that the person/people are actually committed to making peace and finding a solution. If one party is not willing to compromise, the mediation will not go well. It is good to talk to each party to the conflict about possible solutions they are willing to compromise on. It is also useful for the mediators to understand which points the person/people are willing to compromise about, and which points they refuse to change.

3. Mediate the conflict.

Important issues to note while preparing for boundary harmonization and conflict resolution:

- **The composition of the “boundary harmonization team.”** Cultural, state and faith based leaders must be involved. Negotiation teams that include both elders and youth are most effective à youths generally discuss land as a concrete, negotiable good, while elders describe land in symbolic terms.
- **The community’s willingness to compromise** (the bigger picture). The goal is to protect the whole; communities who refuse to compromise over lengths and measurements tend to be more emotionally attached to the conflict.
- **Careful efforts to preserve overlapping use rights.** Communities unilaterally promise

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RESOLVE ANY CONFLICTS OVER YOUR COMMUNITY LAND

to document and enshrine each other's shared use and access rights in their rules and agreement.

It is likely that elders in your community have experience mediating conflicts. However, the basic steps of conflict mediation include:

1. Introduction and ground rules should be kept as transparent and if possible in the presence of the community members. Both parties agree that they are ready to enter into mediation.

2. Opening statements when each side tells its side of the story without interruption. One good way of finding a solution is for both sides to take time and tell their history of why they think the boundary is where it is. Look for places where the stories have points in common and then look at the points that are different and find a solution.

3. Go back to the history of the boundary, noting overlaps between each sides' stories and taking these overlaps as "the truth." Analyze the differences and, looking at the reality on the ground today, decide which story is more accurate and should be weighed more heavily in the final decision. "Remember the ties that you have with

your neighbors; think carefully about how important it is to live in peace with them. Sometimes it is good to compromise a little to gain peace."

4. Statements and presentations by witnesses, elders, or local experts that add useful information that can help clarify the facts of the conflict. It may be useful to present the Land Rights Tree now.

5. Mediator summarizes what each party has said, key issues that must be addressed, and any relevant laws that must impact the agreed outcome.

6. Discuss solutions with each party describing desired outcomes, then the parties discuss until they reach a solution they are both happy and comfortable with.

7. Reach agreement with both parties, the mediator's restates the exact terms agreed to and makes sure that there is a true meeting of the minds.

8. Write down all the minutes of the mediation meeting – including things that people agree to – and have everyone sign. If there are still disagreements, write these down and keep this list with the mediation team. It is important to create a written record of the agreement and to make a clear

Possible Solutions to Boundary Conflicts may Include:

Give the person the land they are claiming, even though they have no legal right to stay. If you give them land, then this is final, you can't take it back later. That land cannot be included on your maps of the community land. You must also mark out an access path for the person.

Allow the person to stay, but do not 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 (for example, 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.

Compromise by allowing them to stay on part of the land, but not on all of it. The community may decide to take away a portion from the encroacher and leave him with a portion to take as his own.

Tell them to leave, and agree with them a time by which they should leave. If they refuse, then you may take legal steps to evict them.

Provide another option or alternative piece of land for those who have been encroaching and have nowhere else to go.

Let disputed villages choose their preference. When there is confusion because of differences between traditional and state boundaries, the disputed villages or communities should decide where they feel they belong.

plan for how it will be carried out, by whom, and on what dates and times. Then, if either party breaks the agreement, you have proof that they agreed to it and signed their names promising to do as agreed. If one party disrespects the agreement, facilitators and trusted local leaders should approach the offending party and listen to their rationale for violating the agreement, then take appropriate action, such as calling a new meeting between the parties to discuss the incident.

If Your Efforts Fail to Resolve the Dispute...

If you have tried to mediate the land conflict and one side refuses to attend meetings, makes threats, or uses violence and intimidation, the conflict may actually be a land grabbing attempt, which is a crime under Ugandan law. In such cases, keep a detailed written record of everything that happens. Write down every threat made, every action your community took to try to resolve things peacefully, and all other important details. You may need this written record later, to show the police or the courts.

Also consider these steps:

- Have your Management Committee (together with the clan or clans involved) make a ruling on the case. If this person ignores the ruling or does not appeal to the next level, find out the reasons for the person's refusal to cooperate. Gather evidence (written notes of meetings, quotations, photographs, uprooted boundary marks, weapons, etc.) to show what problems the community is facing because of the conflict. Take photos of everything as proof, and write everything in your records of the conflict.

- If the person fails to respect the community's local leadership, take your community rules, along with any other evidence you have of the land grabbing, to clan and state leaders and the police. If these authorities refuse to intervene or demand money, show them Section 92 of the Land Act and contact their superiors. Work with your trusted NGO to keep a list of all the times you visit different offices, the date, who you talked with, and the outcomes of the meeting.

Section 92 of Uganda's Land Act says:

(1) A person who—

(a) being a noncitizen, acquires land in freehold using fraudulent means;

(b) makes a false declaration in any manner relating to land;

(c) wilfully and without the consent of the owner occupies land belonging to another person; or

(d) being a member of the land tribunal, a board, a committee, solicits or receives any payment from any person to whom any service is rendered under this Act being payment which the member is not authorised to collect or receive under this Act;

— commits an offence.

Using the court system to settle land disputes should be your community's last resort option.

Going to court takes a long time, is very expensive, and may make your community's situation worse. Even if your community wins a court case, it does not mean that the conflict is over. You may have a court judgment in your favor, but your community may live in fear because the conflict may come back—stronger than ever—at any moment. If the land grabber takes your community to court — or if you decide to go to court — contact your trusted NGO for help.

10

PLANT BOUNDARY MARKS, DRAW MAPS, AND SIGN AGREEMENTS WITH THOSE NEIGHBOURING THE COMMUNITY LAND

During the process of protecting communal land, your community will need to reach agreements with people from both within and from outside of your community.

- For internal agreements between the community land and one of its members' family land, you can plant boundary markers, revise your community map, and sign a written agreement between your Management Committee and the family whose land touches the community lands. This will ensure that people know where the boundaries and who has rights to what land.
- For external agreements between your community and members of a different community, the process is similar but requires that members of both communities sign what is called a *Memorandum of Understanding* or MOU. An MOU is an agreement between two or more parties. All boundary MOUs should be signed between ONLY TWO communities. It is best if you sign this MOU in a big ceremony/celebration attended by members of all interested communities. The more people who witness the document by signing it, the more powerful it will be at ensuring that the agreed boundaries are respected. If your community land has four boundaries with four different neighbouring communities, you should discuss, agree and sign four different MOUs – one with each neighbouring community.





For Internal Agreements between your Community and a Community Member:

Step 1: Clearly mark the boundary between the member's family land and the community's land. Decide how you want to mark the borders permanently. These markers should be agreed upon by everyone, so everyone will know they are real markers. A good marker is a kind of tree which is used locally for marking borders, such as the *etuba (ijumula)* or *jathropha (omara-omara)* tree.

Step 2: Draw a revised map to reflect any changes in the boundaries. On the map, mark the names of all the families who own land bordering the common land. 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.

Step 3: Sign a written agreement and the map. Once you have reached an agreement, write it down and attach it to the map of the newly defined community land boundaries. Then, to prevent future disputes, have your neighbour(s) and everyone present sign the agreement AND the map to show you all agree. It is best if husbands and wives both sign. If anyone does not find it easy to sign their name, they can mark with a thumb print. The Management Committee or other respected leaders 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.

Step 4: Keep copies of your map. Keep at least one copy of your map safe in your community. The Management Committee could keep it for you. You should also make several extra copies of your revised and signed map and give them to trusted leaders for safe keeping — for example, you could give copies to your customary leaders, LC1, LC2, Sub-County Chief and your Area Land Committee. 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 there is ever a dispute or if you lose

your copy of the map, you can go back to what was agreed and make sure agreements are followed.

For External Agreements between your Community and a Different Community:

Step 1: Identify and agree on your boundaries and expectations for shared use with the leaders of the neighboring community. This may require several meetings between your Management Committee and the members of the neighboring community, but be sure to use your community's agreed by-laws about seasonal users to guide this process.

Step 2: Develop a plan for your MOU-signing ceremony. To make sure that the ceremony goes smoothly, develop a plan that will help you to:

- Make sure community leaders and members attend the signing ceremony.
- Involve local leaders, including government and traditional leaders - plan what role they will play in the ceremony.
- Address any last-minute conflicts that may come up during the signing ceremony.
- Host attending guests. Will you feed and house them? If so, how?
- Decide how all costs and responsibilities will be shared.

Step 3: Signing of the MOU. Once the boundaries have been fully agreed by both parties (in this case the community land leaders and the disputing party – in most cases an encroacher) draft an agreement. This MOU should:

- List all the names of community members present during the signing.
- Clearly describe with words and pictures the terms of the agreement and a map of the community land.
- List the community leader and party in dispute who will sign the MoU agreement.

Step 4: Share the draft MOU with your community and make sure everyone agrees. At least sixty percent of the community should agree with the harmonized boundaries. Record your community's

decision: list all people present and what they agreed to.

Step 5: Schedule the MOU signing ceremony.

After your community has agreed, inform the neighbouring community and agree together on a time and place to hold the signing ceremony. Remember that there may be last-minute conflicts that come up and make the ceremony take longer than planned.

Step 6: Invite all community members to the MOU signing ceremony. All adult members of all households in both communities should be invited to attend and witness the ceremony.

Step 7: Identify and invite the people who will sign the MOU and be witnesses at the ceremony.

These people may include: community leaders, paramount chiefs, clan leaders, LC1s, parish chiefs, sub county chiefs, elders, women, and youth leaders of the villages along the boundaries. You can have as many people as you want sign the agreement as witnesses. Simply attach extra pages to allow space for everyone's signatures. People who cannot sign can leave a thumbprint.

Step 8: Remind people to attend the ceremony on time, and in large numbers.

The host community should send representatives to the households whose lands share a boundary with the land being documented a few days before the signing ceremony to make sure everyone knows about and attends the ceremony. Make sure to remind all neighbours, too. Everyone who wants to should attend the meeting

Step 9: Fill in the MOU documents. You will draft a consent agreement for all the disputed areas of the community land to be signed by the respective parties in dispute – for example, if there are 5 encroachers, each of them will need to sign a separate consent agreement. On the morning of the signing ceremony, the representatives of **all neighbouring villages** should sit together and fill in the agreement documents together with the disputing party– **without the signatures**. These consent agreement documents will then be read out loud during the signing ceremony to make sure everyone present knows about the boundaries and agrees, or to make any changes that people feel

should be made before the documents are signed.

- Use the sample MoU agreement at the end of this guide as a starting point. Add any new sections or sentences you think are needed to make it clear. Write down the purpose of the agreement: why are you signing this agreement with your neighbours? Why is it important?
- Write down exactly what boundaries have been agreed. Clearly describe the physical landmarks that mark the agreed boundaries. For example: "The boundary is marked by a line of jathropa (omara-omara) trees we have planted as proof of our agreements."
- Draw a picture of the agreed boundary or boundaries that clearly shows what the boundary markers are.

Step 10: Hold the MOU signing ceremony, then celebrate!

- Assign at least one person to write down the minutes of the agreement signing ceremony.
- Allow time for community or regional leaders to make speeches.
- Read the agreement out loud. Have leaders or members of the Boundary Harmonization Team explain publicly why the boundaries were agreed to in this way.
- Be ready to address last-minute challenges – ask trusted leaders to act as mediators if a conflict arises.
- Once the agreement has been read out loud and if no one disagrees, call people up to sign the agreement. Start with your local leaders and all government officials you have invited to witness the agreement signing.
- All people attending the ceremony should write down their names as witnesses. Attach the list to the agreement as proof of the ceremony and the community's agreement.
- You can end the agreement signing ceremony with a celebration of your harmonized boundaries! It is good to offer food and drink to everyone who attended the ceremony, and to have traditional dancing or other kinds of performances that honour the community.

PART C: SECURE YOUR COMMUNITY LANDS

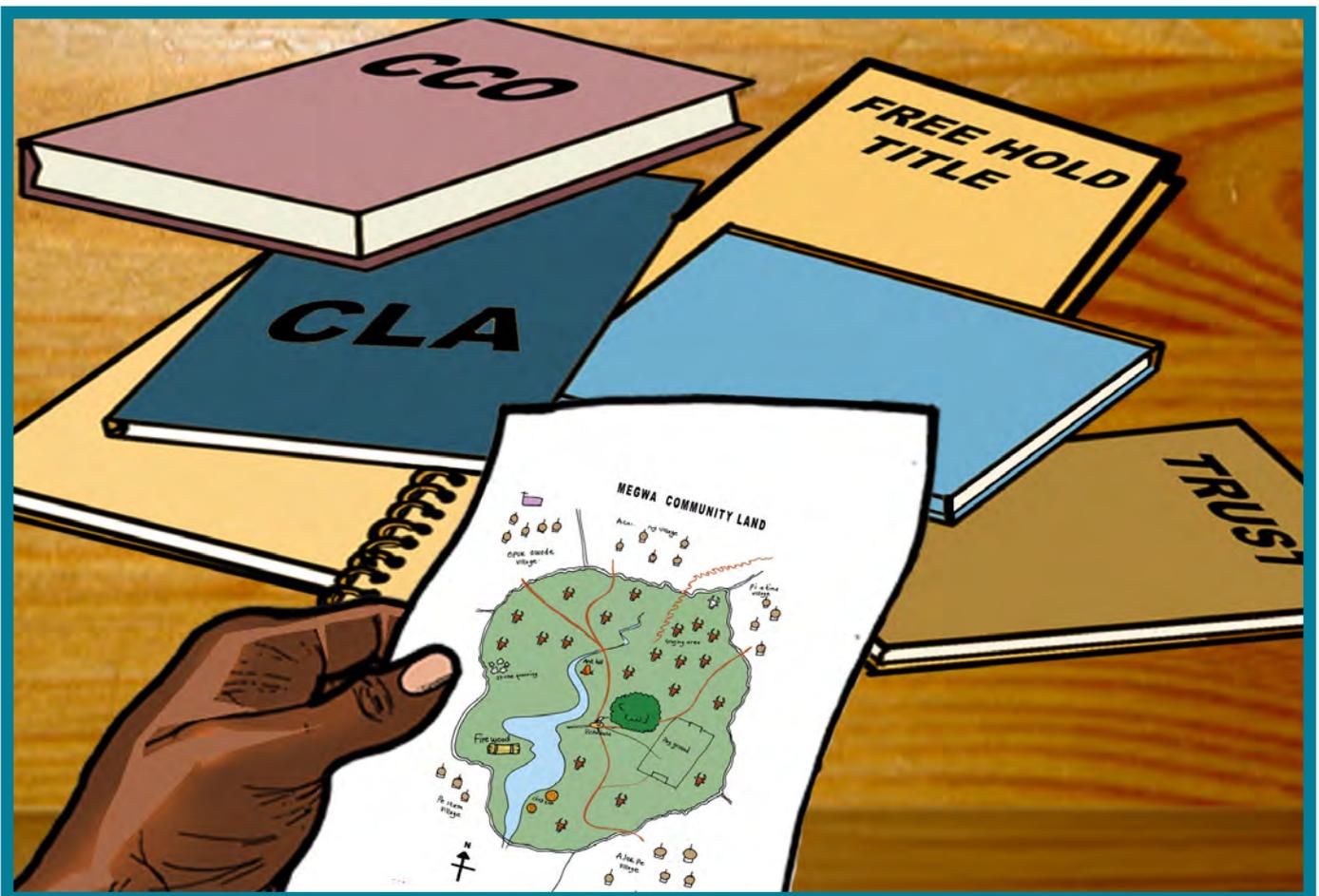
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CHOOSE HOW YOU WANT TO DOCUMENT YOUR COMMUNITY'S LAND

Communities in Uganda have the option to choose one of three ways to document their community land:

1. Plant boundary trees and sign local MOUs without going for official papers
2. Get a Certificate of Customary Ownership (CCO) from the Ugandan Government
3. Get a Freehold Title from the Ugandan Government

What is good for one community may not be best for another community, so your community should sit together and think carefully about what is best for your particular situation. The pros and cons of each option are explained below.





Documentation Option 1: Write land and natural resource management rules and harmonize your boundaries without seeking government documents.

This option involves writing your community's rules, electing leaders, harmonizing your boundaries, planting boundary trees and other kinds of local markers, and signing agreements/MOUs (everything explained in this guide until now). Your community could stop now, and have good proof of your land rights.

Advantages: You don't have to pay any money for this, your community can undertake the whole process on your own, and your customary system of land management will still apply. It can help reduce conflicts within your village because all community members and local neighbours will know the boundaries of your community lands and what the rules are for using your lands and natural resources. It will help local leaders (such as the Chairperson of the grazing land, clan leaders, and LCs) to solve land disputes and manage natural resources. If you have a dispute, the maps and the papers could also be used in the Magistrate's Court as evidence. Because it is a crime to remove boundary trees, you can call the police if people try to encroach by cutting them down.

Disadvantages: The papers you write yourselves may not be as strong proof as a Certificate of Customary Ownership (CCO) or a freehold title in a court if someone from outside the village tries to claim your land, or if someone else processes a title for the same land. Thus, your land may be at risk of going to whoever wins in court. Also, if you do not have formal documents for your land rights, the outsiders or investors may find it easier to take over your land.

Documentation Option 2: Get a Certificate of Customary Ownership (CCO)

After writing your land and natural resource management rules and harmonizing your boundaries, you can get a Certificate of Customary Ownership (CCO) from the Ugandan Government. A CCO is strong proof that your community owns the land. To do this, you first need to register your community as a Communal Land Association

(CLA). Then you can apply for the CCO. You can use your own maps and you can mark the boundaries with trees. You don't need to survey the land.

Advantages: A CCO is not expensive - it costs 35,000/= UGX - and you only pay once. You get the certificate from the Sub-County; all papers are processed within the District. Over time, 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 for people from inside and outside the community. Since the CCO is under the customary system, the land stays under customary rules and customary law, so there is no change to the way disputes can be resolved. Your traditional structure (Chairperson of Grazing Lands, clan leaders, etc.) will still have authority over how disputes are solved and what happens to the land .if someone tries to illegally sell your land without the community's permission, the sale would not be valid and the land would remain yours).

Disadvantages: While a CCO is not expensive, you have to put some time into making your community a formal Communal Land Association. To do this, you will have to add some sections to your community's rules for land and natural resources management (See Chapter 11). A CCO is strong proof of ownership, but it might not be considered as strong as a freehold title. Because CCOs are a relatively new land documentation option, Ugandan law is not clear on all the ways that CCOs will work: there are no clear rules for the number of people whose names can appear on the CCO, how to replace the names of people listed on the CCO when one of them dies, and how to change or manage the CCO when land is transacted. There is no functioning Registry for customary land and most districts do not have the Registrars needed to process CCO applications.

Documentation Option 3: Get a Freehold Title

After writing your land and natural resource management rules and harmonizing your boundaries, you can get a freehold title. To get a title, a surveyor must survey your land. Before getting a title, your community must form an official Communal Land Association (just as for a CCO).

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CHOOSE HOW YOU WANT TO DOCUMENT YOUR COMMUNITY'S LAND



Advantages: A title is the strongest possible proof of your community's ownership. If you have a title, it is very hard for anyone else to claim or take your land. 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 the marking stones and boundary trees are destroyed, taken or moved. If your community wants to get a loan, you can often use a title as security with a bank.

Disadvantages: While the title itself is not very expensive, surveying the land is expensive and you have to put some time into making your community a formal Communal Land Association. If you want to change the boundaries of your land, you will have to pay again to conduct a new survey and apply to have the previous title cancelled and

apply for a new one to include the new boundaries created. ***Titling might limit customary practices especially in determination of ownership as that can only be done by State Courts and the Registrar of Titles.***

You have to be very careful with your title, and keep it locked up in a very safe place. If someone sells your land, even if they have no right to do so, if the buyer did not know the person was acting illegally, they can keep the land. If your community decides to transact the land, you may need to hire a lawyer to help process the transaction legally. Your community will also need to keep the names on the title updated when community members die or are new members are born.

Every community needs to think what is best for you. Before you decide, have long discussions about what land documentation option makes the most sense for your community. If you are not sure, you can ask your trusted NGO questions to help inform your decision. Make this decision carefully, but also remember also that you can always change your mind over time: you can stop at writing your rules, drawing maps and planting boundary trees, and then decide in the future to get a CCO. Or you can get a CCO now, and in the future decide to seek a formal freehold title. Note that; a freehold title can't be converted back into a CCO. The decision is up to you

CHOOSE HOW TO REGISTER YOUR COMMUNITY AS A LEGAL ENTITY

If you choose to get official papers (CCO or Title) for your land, you will need to first register your community as a Communal Land Association (CLA) or a Trust.

In Uganda, you may choose to register your community as one of the following legal entities: A Communal Land Association; A Trust; a "Cooperative Society"; or a company. After a legal analysis of all the options, it may be best for communities to register as Communal Land Associations (CLAs). The table on the next set of pages can help as you discuss as a group what option to take so your community can be recognized as a legal body.

Your community can decide whatever you think is best for your needs and the future needs of your grandchildren. You can even explore combining different options (for example, as both a CLA and as a Trust).

If your community lands are owned by a group of villages together, you must find a way for all the heads of families (husbands and wives, widows, unmarried adult women, divorced women) of all the villages to agree on what to do. You may choose to have meetings in each village first, then to have a general meeting of all the villages afterwards. If your community decides together to form a Communal Land Association, the steps to be followed are explained below.

A. HOW TO FORM A COMMUNAL LAND ASSOCIATION

Step 1: Inform the District Registrar you are forming a CLA.

By law, you are supposed to contact the District Registrar of Titles to invite him or her to help you write your rules and form your management committee. However, these efforts take a lot of time,

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CHOOSE HOW YOU WANT TO DOCUMENT YOUR COMMUNITY'S LAND



so it is best to agree things amongst yourselves first, and then contact the Registrar to confirm that everything is in order and help you finalize your rules and Committee.

Step 2: Write your Community rules and Constitution

By now, your community has already written your rules (also called “by-laws”). If your community decides to form a Communal Land Association, you will need to top up on these rules with others that the law requires you to have. Together, the rules and those added will become the “Constitution” for your Communal Land Association.

Remember: the rules should make sure to protect the rights of all land users in your community, and must be fair. You should keep minutes and a signed attendance list of these meetings to prove that all members agreed to the rules.

Step 3: Elect the Management Committee

By now, your community has also already chosen a Management Committee of three to nine people (with one third of these being women). This Committee can help lead the community in drafting the CLA constitution and represent the Association when you register your Communal Land Association with the District Registrar.

Step 4: Apply to the District Land Office

One or more Committee members should go to the District Lands Office and ask for an “Application to form a Communal Land Association.” (Form 44). This form is free, but you may be required to pay for photocopying. Fill it in and give it to the District Registrar. Ask the District Lands Office to sign and date your copy so that you have proof of when you submitted it. The application fee is UGX 15,000/=, which you pay to the cashier at the District Lands Office. Make sure you get a receipt. Keep this receipt because you will need it later.

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

Go and see the District Registrar after going to the District Lands Office. Uganda’s Land Act says that the District Registrar of Titles should chair a meeting with all Community Land Association

members to check if they really agree to form an Association. The law says that the Association (your community) has the right to choose a location for this meeting that is convenient for you. Talk to the Registrar to decide if he or she will call the meeting or whether the community should organize the meeting.

Step 6: Register as a CLA

Your community must fill in three copies of Form 47 in the community’s name – this was tried out and was successful for 2 communities in Oyam District (which they can get from the District Lands Office) and give them to the Registrar. You should fill an extra copy for yourselves and get the Registrar to sign and date it as evidence of what was submitted. The registration fee is UGX 10,000/=. Collect the receipt and keep it safe. Keep all copies of your papers in a file held by the Secretary of your Association.

Step 7: Get Your Certificate of Incorporation

The District Registrar of Titles should issue you a certificate called a ‘Certificate of Incorporation’ (Form 48). You must go to the Registrar’s office and request for a copy of your certificate.

Step 8: Get a Stamp

You must have an official stamp of your community’s Association, with which you will stamp all of your official Association letters and documents. You must buy this stamp yourselves. You can decide for yourselves what it should look like and what it should say.

Fees for acquiring a CLA	Amount to pay	Where to pay
Application to form a CLA (Form 44)	15,000/=	District cashier
Issuance of a “Certificate of Incorporation” (Form 48)	10,000/=	District cashier
Application to dissolve association (Form 49)	10,000/=	District cashier

...You Can Now Apply for Papers for your Land!

After you have your Certificate of Incorporation of your CLA, your community can apply for a Certificate of Customary Ownership (CCO) or Freehold Title for your communal lands!



PROS AND CONS OF REGISTRATION OPTIONS

	Communal Land Association (CLA) (Under Sections 15-26 in the 1998 Land Act (Cap 227) amended in 2004, 2010)	Cooperative Society (Cooperative Societies Act Cap 112)
Formation	<p>Unlimited number of members allowed</p> <p>Elect a Committee of 3 to 9 members, 1/3 of whom are women</p> <p>Write a constitution and by-laws</p> <p>Committee applies to the Registrar of Titles for Certificate of Incorporation</p> <p>District Registrar calls a community meeting where rules are confirmed</p> <p>Estimated processing cost:150,000/=</p>	<p>Requires 30 or more members.</p> <p>Prepare byelaws.</p> <p>Apply to the Registrar of Cooperatives in Kampala.</p> <p>Estimated cost: 80,000/- plus ongoing costs of an accountant and auditor.</p>
Pros	<p>The Act prevents sale of land without the knowledge of a majority of members.</p> <p>You can include a “no sale” clause in the constitution so the land is kept for future generations.</p> <p>Once incorporated, members may choose to keep the land under customary tenure</p>	<p>Every member’s name is incorporated.</p> <p>Communities that want to pursue joint livelihood projects can all be shareholders and entitled to profits.</p>
Cons	<p>Incorporates the CLA in the names of 3 to 9 committee members only; NOT in the names of all the individual community members who are members of the CLA.</p> <p>Committee has powers to act on behalf of members; may sell the land if not spelled out in the rules</p> <p>Registrar has power to order changes to constitution.</p> <p>No clear systems for: enforcing rules, replacing CLA members upon death or exit.</p> <p>No information about who will oversee land transactions or whether taxes must be paid.</p>	<p>Registrar has excessive powers including appointing a liquidator who can sell the land.</p> <p>Activities and legal requirements too technical for instance annual auditing.</p> <p>Suitable for profit making associations.</p>
Feasibility	<p>This is the legally prescribed form of registering communal lands. Gaps in the law (in names of individuals rather than the community itself) may be cured by drafting a strong constitution with clear clauses to prevent sale of community land and list steps for updating names of committee members over time. Rural communities may be fairly able to manage a CLA on their own because the rules and membership list is easily updateable.</p>	<p>A society is intended for profit making ventures which may not be the case for all communities. There is a need for skilled professionals to guide the community through the technical requirements such as accounting and auditing. This may be difficult for rural communities to maintain.</p>

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CHOOSE HOW YOU WANT TO DOCUMENT YOUR COMMUNITY'S LAND



Trust (Under the 1954 Trustees Act (Cap 164) and the 1939 Trustees Incorporation Act (Cap 165))	Company (Companies Act, 2013)
<p>Unlimited number of members agrees to appoint a group of representatives called “trustees”.</p> <p>Write a “Trust-creating instrument” (TCI)</p> <p>TCI is approved by and registered with the Minister of Lands.</p> <p>Estimated cost of incorporation: 2,000,000/= (According to the experience of Centre for Public Interest Law (CEPIL) in Amuru District (2013-14).</p>	<p>1 to 100 people.</p> <p>Register possible names for the company.</p> <p>Prepare Memorandum Of Understanding and Articles Of Association</p> <p>Register with Registrar of Companies in Kampala</p> <p>Estimated cost: ____ plus costs of a lawyer, 5,000/- for each change to the MOU or AOA, and taxes.</p>
<p>Law is detailed on how trustees should perform their roles, and what happens if they mismanage the land.</p> <p>You can include a “no sale” clause in the rules so the land is kept for future generations.</p>	<p>Communities that want to pursue joint livelihood projects can all be shareholders and entitled to profits.</p>
<p>If community chooses to get a land title, the 1998 Uganda Land Act provides that the title will be in the name of the trustees. However, you can choose to write the name of the community and not individuals.</p> <p>Community members became “beneficiaries” of their own property. This means that someone else owns the community land on the community’s behalf.</p> <p>TCI needs constant updates</p> <p>Not clear how to replace Trustees upon death or exit; whether taxes must be paid.</p>	<p>Number of members limited to 100</p> <p>Will be taxed by Government</p> <p>Every resolution, amendment of MOU or AOA has to be registered with Registrar of Companies in Kampala.</p> <p>Formation requires a lawyer.</p>
<p>This is similar to a CLA, except the law is very clear on trustees’ duties and powers (what they can and cannot do). The beneficiaries need to understand their rights and the remedies they have in case of mismanagement. Manageability is fairly simple. Once incorporated, members may choose to keep the land under customary tenure.</p>	<p>This is the least favorable as it limits all members from being registered. Even if it were registered as Public Limited Company with unlimited membership, this would open it up to non-community members acquiring shares which may potentially marginalize community members. It is very expensive to register and manage.</p>



What Does Incorporation Mean for our Community?

A trust or an Association is a legal “entity” and can sign a contract and make legal agreements.

Your Management Committee (or Trustees) are not allowed to sell your land, to rent it out or to use it to get a loan unless they call a meeting of all the Association’s/Trust’s members and obtain their approval. Your community’s rules/by-laws should set out what percentage of your community must approve before land can be sold, rented or transacted. It is best if your rules say that at least 2/3 (66%) of the community must approve.

B. HOW TO WRITE A COMMUNAL LAND ASSOCIATION CONSTITUTION

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

The Land Act requires that when a community wants to form a Communal Land Association, they must write a “constitution” to help regulate the Association’s activities. Once your community is recognized as a Communal Land Association, your constitution will be legally binding on all the members of your community, and it will be clear to outsiders that your community/Communal Land Association can officially negotiate and represent itself in land transactions as well as sue others and be sued.

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

Because you have already written your community’s rules, you are very close to having a complete Communal Land Association constitution. However, for the government to legally recognize your Communal Land Association, you must add a few additional rules. These points are listed and explained below.

Just like your rules, **your community can change your Communal Land Association constitution as long as you follow the procedures for changing the rules you set out in your community’s – laws.**

RULES TO INCLUDE IN A COMMUNITY LAND ASSOCIATION CONSTITUTION

From the Land Act 1998, Section 17; accompanying Regulations Third Schedule, Regulation 81 (“Contents of a Model Constitution of a Communal Land Association”)

1) The name of your Communal Land Association: You must state the name that your community has decided to call itself. Will you use the name of the village? What about if there is more than one village in your “community” - what name will the community choose? It is good to choose a neutral name that all the villages that share the community land can easily agree upon.

2) The address of your Communal Land Association: 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 or church in your area.

3) The objectives of your Association, including the identity of the community covered by your Association: Here, state your community’s reasons for forming your Association: what are your goals and how will you achieve these goals? State also which clans and villages form this Association – what are the identities of the people included in your community’s Community Land Association?

4) The land to be held or owned by your Communal Land Association: Describe all land that the Association owns, the size of your land, the boundaries of your land, what the land is used for, and where it is located. To help with this, attach the map as drawn by the community and witnessed by the Area Land Committee, Local Councillors, and neighbours of your area. We recommend that your community leaves this section blank until you are finished agreeing your boundaries and resolving any disputes over the land.

5) The names and signatures of all the owners and users of your Communal Land Association: List the names of all the male and female 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. Your constitution should say how the list will be changed when members die or leave the community, or when new members are born. This list should be attached to your constitution. Updating it should be the responsibility of the Association Officers (or your Management Committee).

6) The Qualifications for membership in your Communal Land Association, including:

- An explanation of who can be a member of your Association. Will membership be by individuals or by household? Are seasonal users included? You may have membership by birth or marriage, and membership by registration. Can outsiders become members? (It is best to be as inclusive as possible. It is best to state that all residents of your community are automatically members of your Community Land Association by virtue of living together and using the land together for many years. Be specific about who can be a member of your Association and why they will be included.)
- An explanation of who cannot be a member of your Association. Will migrants or displaced persons be allowed to be included? What about people from other communities who have relatives in your community?
- A process for resolving disputes regarding Association membership. 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?
- What happens to the names in the certificate of CLA incorporation in case of death: Your community must make a plan for how to update the names of the people listed on the Community Land Association file with the District registrar when those people die.

7) The classes of membership (if any) and the rights of members of the different classes: If your community decides to have different “categories” of

members, your constitution must list the different rights and responsibilities of each category.

8) The rights of members to use the property of your Communal Land Association: If your community acquires tools or shared resources that relate to your community land, your constitution should state how these resources can be used by members, and what rights and responsibilities members have related to these resources. For example, if your Association has a cattle dip, the right of members to use the cattle dip should be in your constitution. Your constitution should state whether members can use the resources free of charge.

9) Who will be involved in Association’s decision-making processes: Your rules should already include all these sections. If they do not already, make sure to include rules that describe how your community will make decisions and make sure everyone is included in the decision-making process.

10) The purpose for which the land may be used: Your constitution should clearly define which activities may be done on your communal land. Such activities may include: hunting, grazing, collecting fire wood, gathering building materials, drawing water, gathering medicines, etc. Your community can make this list according to natural resources you have on your lands, or intended future uses of your lands.

11) The procedure for election of officers, and officers’ terms of office and powers: If your by-laws do not already say this, your community must include rules about how Community Land Association officers will be elected and what their powers, roles and responsibilities will be. How long can they remain in office? How will they be removed if they are not acting in the community’s interests or not doing their jobs well?

12) 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 community land. Your community must have at least one “Annual General Meeting.” We suggest having a meeting

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CHOOSE HOW YOU WANT TO DOCUMENT YOUR COMMUNITY'S LAND



every 3 months (4 times a year). Who will call these meetings? Are there penalties for not attending meetings? How many members of the Association must be present in order for a decision to be “real” or valid? What will happen if a meeting is called and very few people come?

13) The powers of the Association: Your constitution should state what powers the Association has and does not have. For example, powers to rent the land and under what terms?

14) 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 read those minutes? What happens if the person who keeps minutes refuses to share with a member who wants to read it?

15) How will the Association handle finances?: If your Association does activities that bring in money, how will you manage this money? The constitution should clearly give members the right to know what the account books say. 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?

16) The steps for changing the Constitution: The constitution should state how your community may be changed or added to. How many people

should agree before it is changed? We suggest that more than 60% of the members should agree before a change is made. What will be the process of changing it?

17) The steps to dissolve, or disband, the Association: Your constitution should say what you will do if your community decides to end your 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?

18) How corruption, theft of Association property, nepotism and breach of officers’ duties will 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? What processes will your community follow?

19) The dispute resolution processes: If there is a disagreement in the Association, how will your community resolve it? Will you use local mediation? Who will mediate? If mediation does not work, what ways will you try to resolve the conflict?

20) How your community will manage natural resources found within or nearby the community land: Your rules should already include all these areas. Work with your local NGO to find a way to attach your full rules to the Constitution you have made for your association, so that they are one complete document.



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FILL APPLICATION FORMS FOR REGISTRATION



A) HOW TO GET A CERTIFICATE OF CUSTOMARY OWNERSHIP (CCO)

Step 1: Register as a Communal Land Association

- To get a CCO for your communal lands, your community must first write your rules, elect managers, agree on your boundaries, and form a Communal Land Association, as described in previous chapters.
- You cannot 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:

- Form 1: “Application for a Certificate of Customary Ownership”
- Form 23: “Demarcation form for Certificate of Customary Ownership” and
- Form 9: “Notice of hearing of application for grant of a Certificate of Customary Ownership”.

If you need help, ask the Sub County Chief. **The forms should be given to you for free.** However, you may be asked to pay for photocopies since you must fill in three copies of the form. Remember: You are only supposed to pay a fee when you are submitting your application to Area Land Committee.



Step 3: Fill out the Forms

- The Area Land Committee will fill in Form 9, don't write anything on this form.
- Don't write on Form 23. The Area Land Committee will use this form for drawing a map of your lands.
- Fill in Part One of Form 1. **Make sure you fill in Form 1 correctly.** The following advice will help you avoid mistakes.
 - » Question 1: Write in the official name of your Communal Land Association, as it is written on your Certificate of Registration of the Communal Land Association. Do not fill in the part for age, sex and marital status – you are applying as a community, so these questions do not relate to you. Fill in the part for nationality and indicate 'Ugandan'.
 - » Question 2: Write the official address of your Communal Land Association, according to what you wrote on your Communal Land Association application.
 - » Question 3: Fill in the details of your village, parish, Sub-County, County and District.
 - » Question 5: Explain what you are using the land for now, such as: grazing, collecting firewood and farming.
 - » Question 7: Write that you want to hold the land **as an individual, and not communally.** This seems wrong, since it is communal land, but this is because your Association owns the land and the law thinks of your Association as being a "legal person" or individual – the Association itself is one "legal body."

• **Do not fill in Parts 2 or 3.** These are for government officials to fill in later.

• You will already have chosen the 9 leaders (Management Committee) of your Communal Land Association. These 9 people must sign the application on behalf of all community members (everyone in the Association). It is important to note that all community members – rich or poor, from whatever clans – automatically are association members because they are natives/residents of the community. People who cannot pay fees and

fees should not be excluded during the registration process.

Step 4: Submit the forms

- After filling the forms, give them to the Secretary or Chairperson of the Area Land Committee (ALC). You have to fill in three copies, but **it is a good idea to fill in an extra (fourth) copy** 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.

Step 5: Give public notice of a public hearing to discuss the CCO application

- The Area Land Committee will fill in a public notice for you using **Form 9**. You must post these notices in public places such as markets, on the communal land itself and other meeting places so that everyone can know that your community has applied for a CCO. It is also a good idea to spread this information by making radio announcements and going door to door. Make sure that all clans and local leaders are informed so that they can attend including the neighbours of the community land must also know about the public hearing.

Step 6: Hold a public meeting to measure and mark the land

- On the date of the inspection, the Area Land Committee will hold a public hearing that should be attended by all your neighbours and other people who may be affected by your application. At the hearing, they must confirm to the ALC that it is truly a communal land by interacting with neighbours and that they agree with the boundaries. If there is no complaint, the ALC measures the land, draw a sketch map and marks the boundaries. (You should have planted boundary trees before now, but if not, it is a good idea to plant boundary trees like *omara-omara* or *ituba* together with the ALC). Remember that you cannot get a CCO for a wetland or lake shore, so the boundaries of your community land must not include the areas that flood every year.
- If there are any disputes 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 ALC's report to the District Land Board.

- **You will be required to pay the Area Land Committee to come to your land for this inspection.** Find out in advance from the committee how much they must be paid – there are no set rules about ALC payment in Uganda. If you think that what they are asking is not reasonable, contact the LC 3 Chairperson. If he or she fails to help you, contact the Chairperson of the District Land Board or the District Lands Officer for help.

- After the meeting, the ALC will write a report of their boundary inspection.

Step 7: The ALC draws a sketch map and submits its recommendations to the District Land Board

- The Area Land Committee will then draw the sketch map of your community's land. The map will show the boundaries of the land, streams, forests, animal tracks, water points, clay spots, 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 also write its 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 of the land. They will also state whether or not they think the application for a CCO should be approved.

- **The ALC must give the community a copy of everything they send to the DLB.** They must give you a copy of what they send to the DLB, so that you know what they are recommending.

Step 8: The District Land Board approves or denies the application

- The District Land Board will meet to decide if it will accept the recommendations of the Area Land Committee. Talk to the Secretary of the District Land Board and ask when the Board is going to meet follow up when the decision to approve or deny is reached. After the meeting, the Secretary of the District Land Board will inform your community what they decided. They may not send you the letter containing their decision - you may have to go to

their office to get it.

- **According to Ugandan law, you do not have to pay for this letter.** It should be given for free.

- If the District Land Board has approved your application, they will give you a letter to give to the District Land Officer.

o Out of the three application forms and the three maps, one set shall remain with the Secretary of the District Land Board or Land Officer as their records of your file in the Land Office. This is why the application and supporting documents have to be in triplicate.

Step 9: Request a Certificate of Customary Ownership from the Sub-County Chief

- Take the letter from the District Land Board to the District Land Officer. He/she 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.**

- Next, 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, and a copy of your application. The Sub-County Chief will tell you when to come back to pick your certificate.

Step 10: Receive your community's CCO!

- The Sub-county chief will issue your Certificate of Customary Ownership.

- You will have to pay the Sub-County Chief 5,000/= for the certificate. Pay this to the cashier at the Sub-County. **Make sure you get a receipt for the money.**

- The Sub-County chief 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: decide together as a community how you are going to keep these important documents. Your community may choose to keep the documents in a bank and have the Chairperson, the Treasure and the General Secretary as signatories.



B. HOW TO GET A FREEHOLD TITLE TO COMMUNITY LAND

Step 1: Register as a Communal Land Association

- If you want to get a Freehold Title on communal land, then you must first write your rules, elect managers, agree on your boundaries, and form a Communal Land Association.
- You cannot apply for a Freehold Title until you have your Certificate as a Communal Land Association.

Step 2: Request Forms and Application Materials

- Go to Secretary or the Chairman of the Area Land Committee in your sub-county. You can also get the forms from the District Land Office. You will need to get three (3) separate forms. Ask for:

- » Form 4: "Application for a Freehold Title". The official title on the form is "Application for Conversion from customary tenure to freehold tenure/grant of freehold".
- » Form 10: "Notice of Hearing for Application for Grant in Freehold".
- » Form 23: "Demarcation Form for Certificate of Customary Ownership". **Even if you are applying for a freehold title, this is the correct form to fill because this certificate shows that the Area Land Committee and your neighbours validate the correctness of your boundaries..**

- Pick up four copies of each form, because you have to fill in each form three times (and keep one copy for your records).

- **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

- Fill in the forms together with the ALC. Each form must be filled in three times (plus a fourth copy for your community's records). Make sure that each time you fill in a form, you write the answers in exactly the same way. The ALC should know how to fill in the forms, and should help make sure that you understand everything and can be sure everything is done correctly.

- **Don't fill in Form 10 and Form 23**—give these two forms to the ALC and they will fill them in.

- Fill in **Form 4 only**. 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.' Leave those lines blank. Write 'Ugandan' for nationality.
- » For Question 2, write the official address of the CLA, just 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'.
- » For Question 8, if you are applying for a



title as an CLA, tick that you are applying as an individual. 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 a “legal person” or an individual – the Association itself is one “legal body.”

- » All members of the Communal Land Association’s Executive Committee should sign the form.

Step 4: Submit the forms

- 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.
- Leave the copies of the other forms with the ALC. They will take them to the District Land Board. **You must pay the ALC 20,000/= now**, before they take the forms to the District Land Board. **Make sure you get a receipt for this money** and keep the receipt carefully as proof that you have paid and submitted the application.
- The ALC 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.

Step 5: Hold a public meeting and inspect the boundaries of the land

- On the date of the inspection, the Area Land Committee will hold a public meeting. Make sure that all your neighbours and people who may be affected by your application come to this meeting, so that they can confirm to the ALC that it is truly a communal land. If there are no objections, the ALC will measure the land and mark its boundaries. (If you have not yet planted boundary trees like omara-omara or ituba, plant them now, with the ALC.) Remember that you cannot get a Freehold Title for a wetland, so the boundaries of your community land must **not** include the areas that flood every year.
- If there are any disputes 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.

- **You will be required to pay the Area Land Committee to come to your land for this inspection.** Find out in advance from the committee how much they must be paid – there are no set rules about ALC payment in Uganda. If you think that what they are asking is not reasonable, contact the LC 3 Chairperson. If he or she fails to help you, contact the Chairperson of the District Land Board or the District Lands Officer for help.

- After the meeting, the ALC will write a report of their boundary inspection.

Step 6: The ALC draws a sketch map and submits its recommendations to the District Land Board

- The Area Land Committee will then draw the sketch map of your community’s land. The map will show the boundaries of the land, streams, forests, animal tracks, water points, clay spots, 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 also write its recommendation to the District Land Board (DLB), saying whether or not they agree that the land is a community property and whether or not the community applying for the land is really the owner of the land. They will also state whether or not they think the application for a Freehold should be approved.

- **The ALC must give the community a copy of everything they send to the DLB.** They must give you a copy of what they send to the DLB, so that you know what they are recommending.

Step 7: Seek District Land Board approval

- The ALC will then give your application and the ALC’s recommendation, to the District Land Board.
- The DLB will meet to discuss your application, It will either confirm the ALC’s recommendation, reject it, or send the report back to the ALC telling the ALC what to do next (for example, it may ask for the map to have more details).

Step 8: 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 our trusted NGO or the District Land Office (part of the District Local Government, different than the District Land Board) for help in getting the contact details of a surveyor. (The next chapter of this guide explains the survey process in detail.)

Step 9: Fill out forms with the District Land Board and pay fees

- Take the deed plan (made by the surveyor) to the District Land Board. The Secretary will prepare **Form 19**, called “A Freehold Offer”.
- You must pay a fee that is called “Assurance of Title.” It costs 20,000/=.
- You also have to pay two more fees: one called a “Registration of Grant” (10,000/=) and one called “Issue of Certificate” (20,000/=).
- 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.

Step 10: Send Your Completed Application to Kampala

- Go to the District Land Officer, who will check your file. When he/she is satisfied that you have paid the necessary fees and that all your papers are correct, the District Land Officer will write a letter to the Commissioner of Lands Registration in Kampala.

Step 11: Your Title is Issued!

- The Commissioner of Lands Registration will then issue a title for your community’s lands. You must go to the Lands Registry in Kampala to get your title.
- 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 check and they will tell you to go and make any necessary corrections.
- **KEEP THE TITLE SAFE!!!!**



C. HOW TO SURVEY YOUR COMMUNITY’S LAND

“**Surveying**” is when a professional person records the boundaries of your land using special techniques and machines and creates an official map of the plot. If you do not want to title your land, you do not need to survey your land. After the survey has been done, the “surveyor” creates a digital, computer-made map of your land that the government will keep in its records (and your community can keep in your records) as paper proof that the land on the map is yours. This map is then registered with the Government in the Land Registry. Your supporting NGO may also be able to assist you with making

a GPS map of your land. This may be done if your land has not yet been surveyed.

How to survey your community’s land?

When the District Land Board has approved your application for freehold title, the District Surveyor will give you instructions about how to survey your land. **It is best to seek help from your supporting NGO throughout the surveying process, especially when signing any contracts.** Here is a summary of the steps you will need to follow:

Step 1– Identify a surveyor

You must first find a professional surveyor. It is

12 FILL APPLICATION FORMS FOR REGISTRATION



always a good idea to find more than one, so that they have to compete with each other in price! Choose a surveyor you can trust and has a price you can afford. Make sure that your surveyor has a **practicing certificate***. If someone contacts you and tells you that he/she is a surveyor, make sure that his or her name is on the list of registered surveyors, or that he or she is working as the employee of a registered surveyor.

Step 2 – 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. **The cost may range from one to three million shillings.** All other costs (such as surveyor's upkeep and the upkeep of the workers) should be included in the fee; you do not need to pay anything in addition to the agreed cost. Do not pay the whole cost before the survey is done - the surveyor will likely ask you for a partial payment in advance, and then you can pay the rest when they finish the agreed

work. Make sure you agree when the work will be completed and what will happen if the agreement is not followed. However, if the surveyor is also processing the title application for you, be aware that the Registry sometimes takes a long time to process applications. If they surveyor is processing the title application for you, make sure he or she gives you papers proving that he or she submitted the application and paid all fees. Keep these papers for your records.

You may need some advice in these discussions.

You can ask your supporting NGO, the District Land Officer, a lawyer, or anyone that you can trust who knows about surveying to help you with engaging the Surveyor.

Step 3 – Sign a contract

Write down everything that you have agreed with the surveyor – the work they will do, what time they will take to do it, how much you will pay, when you will pay it, etc. Your community's Management



* **Surveying can only be done by a qualified person.** A person who is allowed to practice as a surveyor will have a "practicing certificate" for that year. 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.



Committee should sign for the community and the surveyor should also sign the agreement. **Always make sure that you understand everything in a contract before you sign it.** If there is anything written in the contract that you do not understand, then DO NOT SIGN IT. Make sure everyone in the community agrees with the contract and knows about it so that there can be no arguments afterwards. Sign two copies of the agreement—one for your community and one for the surveyor. **Always keep a copy of every contract you sign.**

Step 4 – Make sure that your neighbours and the local authorities are present during the surveying

Inform all the neighbours of your communal land of the date of surveying so that they can take part. It is also a good idea to invite local authorities (e.g. LC1 of each village and the LC2) and customary leaders to witness the survey process.

Step 5 – The surveyor does his/her work

The surveyor will come and take measurements and place the marker stones. Your community and your neighbours must be present to make sure they take measurements and put stones at the

right places. We suggest that your community's Management Committee, leaders, and a respected group of community representatives goes along with the surveyor at all times: sometimes new conflicts can come up as the surveying is done, so this team can help to resolve any disputes that may arise. You may want to bring copies of any boundary agreements that have been signed to help sooth potential conflicts.

Step 6 – A Complete Work is Handed Over to You by the Surveyor

After surveying your land, the surveyor will work with a cartographer to make a technical map (plotting) of your community's lands, then submit this map (and a letter written by the District Land Officer or District Surveyor) to the Commissioner Surveys and mapping in Entebbe. The Commissioner Surveys and mapping then checks it, makes a set of three Deed Plans, and signs and stamps each copy. The surveyor should then bring you the signed, stamped deed plans. Your community can then take these deed Plans to the District Land Board to continue processing your title. Once you get these deed plans, it is time to pay the surveyor the remaining amount of his or her fee.

Where can our community make complaints about surveyors? If you have any complaint about the behavior of your surveyor, you can make a complaint in writing to the District Surveyor or Chairperson of the District Land Board. If they do not help, you can ask your supporting NGO to write to the Surveyors' Registration Board or to provide any other assistance in regard to the surveyor.

13 LIVING OUT YOUR COMMUNITY'S RULES & RESPECT THE AGREED BOUNDARIES

Congratulations! Your community has shown strong commitment to serving your current and the future generations by coming together to write your rules, strengthen the management of your lands and natural resources, resolve disputes, and document your land rights.



Making Sure that Your By-laws are Followed

As a community, you have decided to protect your communal lands, have written and agreed on your rules, and harmonized your boundaries with your neighbours. Now is the time to live by what you have agreed. Watch to make sure that your rules are:

- **Respected:** People are obeying the rules your community agreed on.
- **Implemented:** Your community and its leaders are putting all of your agreed rules into practice (not just some of them).
- **Enforced:** When people break the rules, penalties are handed out the same for everyone.
- **Revisited every year:** Once a year, your whole community should sit together and go over your by-laws to add, change, or remove rules as necessary to promote the community's best interests.

You should also make sure that your leaders and Management Committee are:

- Listening to people's suggestions for how to better manage the community lands and natural resources.
- Bringing major decisions to the entire community for group discussion and decision.
- Making decisions and taking actions that ensure that the community's grazing lands, forests, water bodies, wetlands and animals are healthy and thriving.
- Protecting the land rights of women, orphans, minority groups, and other people who may face land grabbing.
- Resolving local land disputes between community members fairly.
- Collecting, managing and using the fees and fines attached to your rules properly and are providing accountabilities whenever required.

Your community should meet regularly, and discuss questions about land and natural resources management as they come up. Some questions to

think about may include:

How are our rules serving us?

- » Do we need to add, change, or remove any of them to better arrive at our community's desired future vision?
- » Have we been able to keep and enforce all of our rules? Which rules are being followed and enforced? Which rules are not? Why?

Is our Management Committee serving the community well?

- » Do they bring major decisions to the entire community for group discussion and decision? Are they listening to people's suggestions and making decisions that best protect the entire community's interests?
- » Do they protect the land rights of women and stop land grabbers?

» Are they managing our local natural resources well? Is firewood easier to find? Are our wetlands in good condition? Are all of our animals healthy and able to graze freely?

» Are they collecting, managing and using the fees and fines attached to our rules properly and fairly, in a way that promotes the community's growth and prosperity?

If your Management Committee is not acting in your community's best interests, or if they are facing challenges enforcing your rules, you can call community-wide meetings to discuss the problems, have traditional and government leaders hear complaints, or ask a trusted NGO for advice. Many questions will come up as you continue to manage your community land. You can always talk with your trusted NGO and local leaders for advice, as well as with other communities who have gone through a similar process.

Enforcing Your Agreed Boundaries

After you have agreed to your boundaries and signed agreements with your neighbours, everyone should respect the boundaries. But maps and papers will not always stop people from encroaching on your land. To help make sure that your agreed

13

LIVING OUT YOUR COMMUNITY'S RULES & RESPECT THE AGREED BOUNDARIES

boundaries hold:

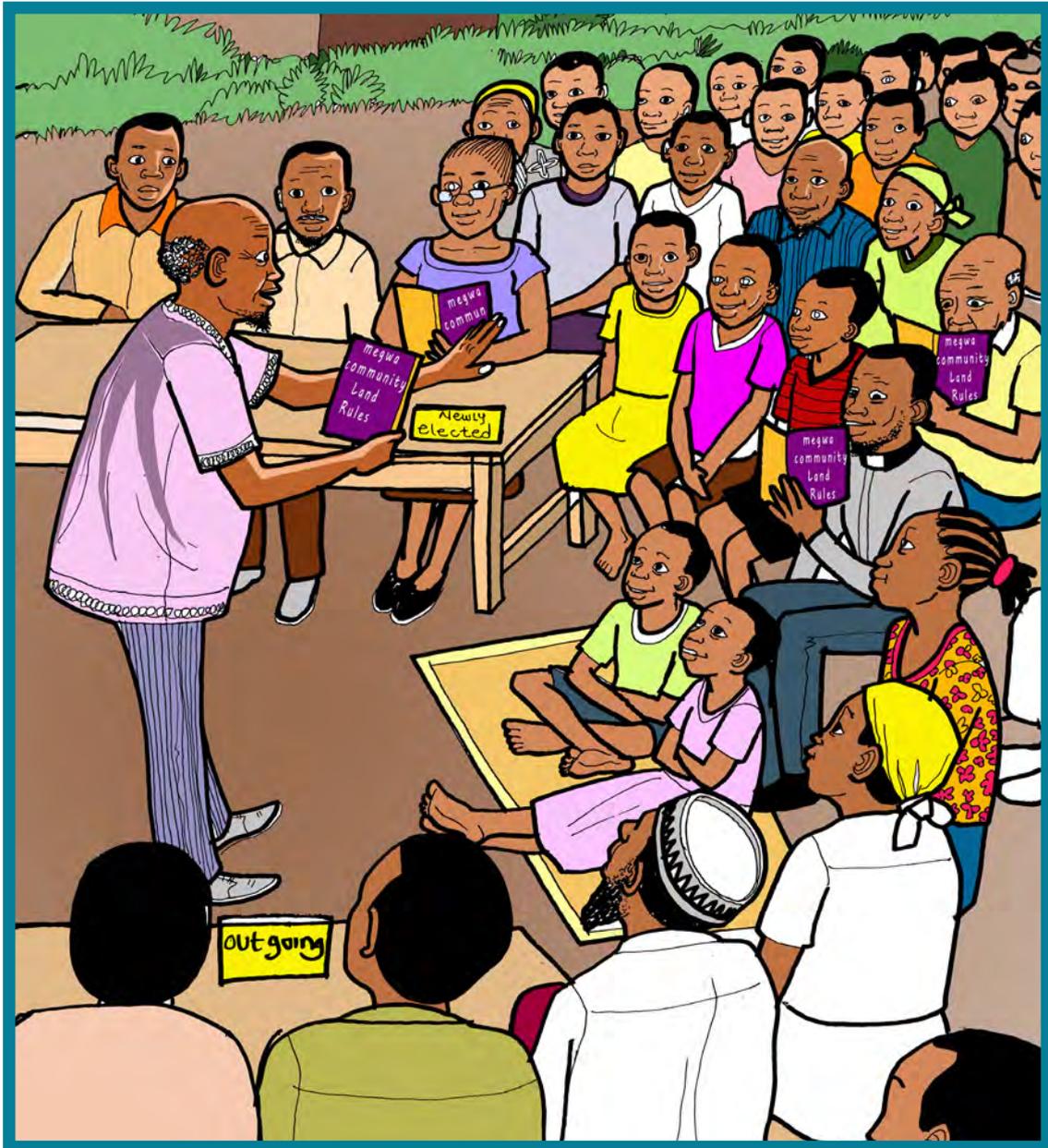
- Make sure that the boundary markers are permanent, visible, and obvious to everyone. One way to do this is by clearing around the boundary trees every year before the dry season. This protects boundary trees against bush fire, and prevents new trees from growing nearby and causing confusion later. You might also put signs on some of the boundary trees that clearly state that this is the boundary of the community's lands.
- Make sure that no one destroys any of the boundary trees. If they do, make sure to replant the trees. You may also report such a person to police as it is a crime to cut down or move a boundary tree, just as it is an offence to remove a marker stone. (Section 338 and 339 of the Penal Code Act, Cap 120)
- Your management committee should meet with your neighbours once every six months to discuss the boundaries and make sure that everyone still agrees. If any conflicts come up, try to peacefully resolve them together.
- If an individual or group is challenging or crossing over an agreed boundary without permission, your Management Committee and local leaders should

work together with your neighbours to solve the issue peacefully. To solve problems about previously agreed boundaries:

- » Together with your neighbours, refer back to your community's rules, signed agreements with neighbours, and community maps.
 - » Talk over these documents – and the original agreements and find a peaceful solution everyone can agree with.
 - » If the talks with your neighbours do not work, work with trusted parish and district leaders to solve disputes.
- If neighbours or other outsiders want to enter your community and use your lands and natural resources, refer back to your rules to see what they say about making land deals with outsiders. Then, meet as a community with the people who are asking to use your land to talk to them about what they are planning and how much land and natural resources they are seeking. Once you have information about their plans, your community can meet and discuss whether to share your lands and natural resources with them or not. You can also talk about how much you would request in fees and licenses in return.



14 MOVING TOWARDS YOUR DESIRED FUTURE VISION



14 MOVING TOWARDS YOUR DESIRED FUTURE VISION

Now that you have secured your lands and strengthened your community's governance, you have made real progress towards your community vision of a prosperous and healthy future!

To make sure your community continues to grow in the direction of your vision, your community should revisit your vision in a large community meeting every year. This will help your community to check on your progress and see if any changes need to be made to better help the community prosper. As you meet, think about the following:

Are we moving closer to our community vision?

- If yes, what is working well, and how can we do more of that? What more can we do to support each other and our leaders to support the fulfilment of our goals?
- If not, what can we do to get our community back on track? What is holding us back from creating the changes we want to see? What expertise and resources do we ourselves have that we can use to help our community thrive?
- What kinds of knowledge, resources or support do we need to accomplish our goals?

Do we need to change our vision, or add to it?

- Do we need to be more specific about parts of our existing vision, to help us take steps to get there?
- What other ideas, projects, and plans would make our community an even better place to live? How can we accomplish those plans?

FREQUENTLY ASKED QUESTIONS

Now that we've protected our community land, how can we make it more productive?

- Disaggregate community members and help them identify their interests within their social groups
- List good ideas and come up with a community "wish list"
- Identify the ideas that the community can engage in independently.

- Research on NGOs that provide livelihood projects (the sub-county can assist with this)
- Encourage land use zoning so that the community land is optimally used.

At what point do we decide as a community what projects we want to bring on our community land?

- A good point to start is during visioning when the community is collectively trying to identify what their vision for in the land. However, avoid anything concrete at this point.
- After boundary harmonization, it is a lot easier as the community is cohesive and community rules to follow are in place.
- It is important that all community members fully participate in decided what project and when to do it. In case there are conflicting ideas, consider putting it to a vote.

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

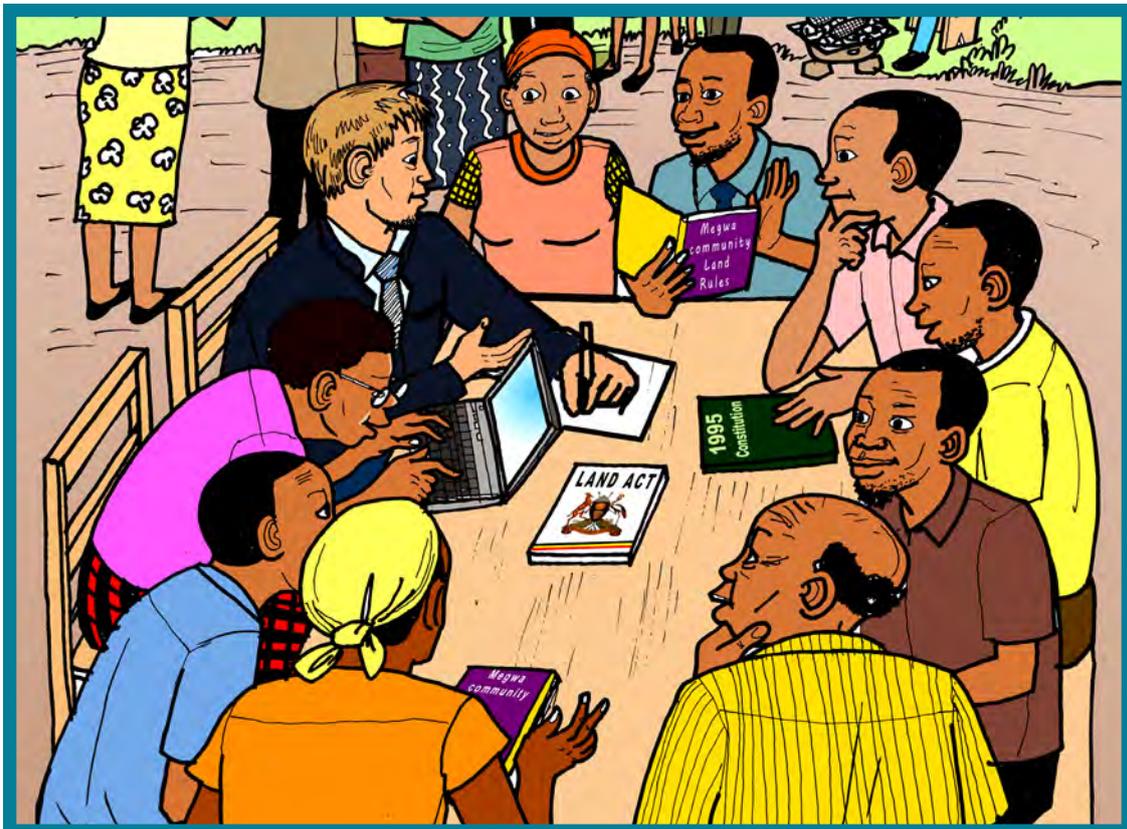
Yes, the community can decide to borrow money from a bank using the land as security. But **REMEMBER** that if the community fails to pay back the money borrowed from the bank, the bank will take ownership of the land. However, the land cannot be used to get a loan unless the community agrees in a special meeting. If the Management 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.

15 WHAT TO DO WHEN COMPANIES OR INVESTORS REQUEST YOUR COMMUNITY'S LANDS OR NATURAL RESOURCES

Business men and companies may come to your community to ask you to share your lands with them for investment projects such as farming, mining, oil exploration, or logging activities. These investors may come representing a big company, or it may just be one individual looking for land for his or her own private business.

A good investment that comes out of a fair contract between a community and an investor can bring development and prosperity to your community. But an investment that is allowed without proper community consultation, fair negotiation, real consent from the whole community (given with full knowledge of the investor's plans, wealth, and intended profits, as well as any environmental and social impacts the investment may have in your community) and **a bad contract may increase poverty, damage your community's environment, block your access to important resources, and lead to corruption and conflict.**

As the caretakers of your customary lands, your whole community must decide together whether or not to share your land with investors. If you do decide to rent or lease your land to outsiders, your community must also decide how outsiders and investors may use your land. No one person is the owner of your community's lands – not the elders, not your Local Council, not your elected Management Committee. **Any decisions about whether to sell or lease community land should be made by the community together as a whole.**



Your rules will guide you on how to deal with people who are interested in using or developing your community's lands and resources. Think carefully about your vision and plans for the community's future progress, and how the proposed use of the land will affect your ability to make your vision into reality. **You have the right to tell a company or an investor what they can and cannot do in your community.**

If a company or investor comes:

1. Immediately call a local NGO or trusted government office to ask for help and support.

2. As a community, value your resources.

Whether or not any investor has ever approached your community, it is a good idea to put a monetary value on all the resources your communal land provides— so that you can make an informed decision whether or not to share your lands with an investor. See Chapter 4 of this guide for how to do this.

3. As soon as possible, gather information about the investor and the planned investment. Your community should think carefully about what will be gained and lost by letting an outside company into your community. You may need more information to make a good decision. Ask your supporting NGO to help you gather information about the investor. It is good to know everything you can including:

- Has the company/investor met government standards? Ask government officials (at the District Councillors, the Uganda Investment Authority, the Ministry of Energy, the National Environment Management Authority, National Investment authority or Ministry of Agriculture) if the company is legally operating in Uganda and in your region.
- How much money the investor expects to make from his/her investment. What are the investors' plans and activities? How much profit does the investor expect to make each year?
- How the investment will impact community livelihoods and the environment. How will the investment affect people's access to grazing land, water, hunting and fishing areas, etc? Will the investment keep the community's water clean, or pollute it? Will the investment destroy the local

forests, or help to plant trees? What social changes will happen as a result of the investment?

- What is the investor offering your community as rent or payment for your lands and natural resources? What rent or payments will the investor offer? How many jobs will be created – and will these jobs be given to people in the community, or to outsiders? Beware of one-time payments: think back to your community's valuation exercises and remember how much value you are getting out of your community land every year. How much rent would you need to receive to meet – and exceed! – that amount?

4. Talk to neighbouring communities who already have investors operating on their lands.

Ask your neighbours how things have changed in their community since the investor came. Have things have gotten better or worse?

5. Discuss the investor's request in a big community meeting.

Your entire community (including leaders, elders, women, youth and the Management Committee) should meet several times to discuss the investor's intended plans. Take time to hear what everyone thinks - including the youth, women, elders, displaced persons, and seasonal cattle grazers. It is best to discuss until everyone agrees whether to accept or reject an investor's request.

During these discussions, it is a good idea to re-read your rules to see what rules your community has already made about how to make decisions on investors. Will you decide by majority vote (where more than half of the community agrees), or consensus (everyone agrees)? Make sure you follow the rules you've already agreed on.

6. If you decide to accept the investors' request, make sure that you have help from a trusted NGO or local leader when negotiating a contract.

If your whole community decides to agree to let an investor use your land, be ready to ask for terms and conditions that will make your community prosper and develop. Think about the long-term vision you have for your community. Remember that the investor will be making money every year. Instead of a one-time payment of a school or a road, **ask the investor to compensate**

15 WHAT TO DO WHEN COMPANIES OR INVESTORS REQUEST YOUR COMMUNITY'S LANDS OR NATURAL RESOURCES

your community for sharing your land with them in the form of monthly or yearly rental payments or as a shareholder. Make sure that the contract restricts the investor from polluting your community's environment.

7. Get all agreements in writing! After you have negotiated with the investors, get a formal, contract signed and witnessed. If you are signing a social agreement, make sure you say when you want the company to build the roads, bridges, schools, clinics, etc. you have asked for. Do not try to do this on your own. Get help from an NGO you trust, and ask the NGO to bring a lawyer to make sure that a fair contract agreement is made.

Make sure you take time and don't rush any decision to sign away your land. Hold as many meetings as you need and make sure that the whole community is aware of what is happening and agrees with every step you take. Remember that the management committee must consult you on such decisions. Your constitution should state the required number of members who must approve such partnerships. If the members are not included and the constitution is not followed, such agreements shall be null and void.

FREQUENTLY ASKED QUESTIONS

Can we sell communally owned land?

Yes, you can sell communally owned land, but ONLY IF the entire community has agreed to do so. The law does not allow the Management 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 Association should say how many people must be at the meeting for it to count as a real meeting (a "quorum").

Can the community rent out the land or lease it?

Yes, the community owns the land and so it has the right to rent it out. But again, the Management Committee cannot do this without calling a meeting and without the majority of the community agreeing to do this. You can rent out all the land or part of it: whether for a short time (like one season) or for a long time (like 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, signed by both the tenant and the landlord (for example, the Management 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 broken.

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

If you have evidence that the land does in fact belong to the Communal Land Association, then your community has strong evidence to convince a court to cancel the sale. The law is very clear for land under a Certificate of Customary Ownership (CCO). 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 under a CCO.

BUT...If you have a Freehold Title for your land and someone (like 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 he did not know the committee was acting illegally. **This is an important difference: for land under a CCO, the sale would not be valid and the land would remain yours; but for land under a Title, the community could possibly lose the land.**

Annex A

WHAT CAN YOU DO IN A WETLAND?



Your community's lands may include or lie next to wetlands, swamps, major rivers, or lakes. Most people know that wetlands "belong to Government." But because they are very important for the environment of the country, wetlands really belong to all Ugandans—the government is just responsible for protecting them for everyone.

Because the government owns all wetlands in Uganda, your community cannot get papers to say you own the parts of your communal land that are wetlands. But Ugandan law allows anybody to access wetlands and use them in a way that does not destroy the vegetation, drain the water, or damage them in any way. Parliament has made laws to protect the wetlands that tell you what you can do (graze your cattle, fetch water for washing) and what you can't do (build, fill in the water with soil, etc.).

What is a wetland?

The National Environment Act, Cap 153 under Section 1 (ooo) says that a wetland is a place that is permanently or seasonally flooded by water and where water based plants and animals live. This includes swamps, areas of marsh, peat land, mountain bogs, banks of rivers, vegetation, areas of impeded drainage, or brackish salt.¹ Wetlands play a very important role in the local environment - they maintain the purity of local water supplies (ensuring that water is drinkable) and prevent soil erosion (helping to avoid mudslides, control floods, and keep soils fertile). Wetlands also provide habitats for birds and fish, reliable grazing grounds for cattle, and materials for handicrafts and home construction.

¹Sections 29 and 30 of The National Environment (Wetlands, River Banks And Lake Shores Management) Regulations, No. 3/2000, under Section 107 of the National Environmental Act (Cap 153).

Article 237(b) of the 1995 Constitution of the Republic of Uganda says that wetlands are managed by Government “for the common good of all citizens.” This means that no individual or community can ever “own” a wetland. But even though the wetland is managed or “held in trust” by the Government, the law allows communities to use or graze animals on or near a wetland. The Government is not allowed to give the wetland to anyone else to use, or to stop your community from using the wetland in ways allowed by law.

What are the boundaries of a wetland?

The Ugandan government has not yet marked the boundaries of most wetlands. If you are marking the borders of your community property, you should work with your District Environment Officer to mark the parts of your community lands that are wetlands. The measurements for different types of wetland boundaries are listed in the table below.

Wetland Type	Examples	Boundary
Along major rivers ⁴	River Acwa, Kafu, Nile	Up to 100 meters from highest water mark ⁵
Along smaller rivers	River Toci, Adip, Abalanga	Up to 30 meters from highest water mark
Along major lakes	Lake Kwania (including Olweny Swamp), Kyoga (including Okole Wetland)	Up to 200 meters from lowest water mark
Along smaller lakes	Lake Arocha	Up to 100 meters from lowest water mark

Note: The highest water mark is the farthest recorded point the water has risen/moved from the bank whereas the lowest water point is farthest recorded point the water has receded. You may consult with the District Natural Resource and Environment Officer or the Sub County Environment Focal Point Person for assistance with identifying water marks.

What can you do on a wetland?

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”. The Minister responsible for protecting Uganda’s environment decides the kind of protection your wetland will have. The level of protection determines what kinds of activities your community can do in your wetlands. You must ask the District Environment Officer or Wetland Officer in your District under what category your wetland falls.

If your wetland is fully protected, then you cannot use it. You are only allowed to use it for tourism and nothing else. Very few wetlands in Uganda fall in this category.

Most wetlands are not fully protected, so there are many things that you can use them for—as long as you take good care of the wetland. The charts below explain what your community can and cannot do in a wetland, and what you need a permit for.

You CAN use wetlands in the following “traditional” ways without having to ask for a Permit:

- Harvesting papyrus, medicinal plants, trees and reeds;
- Farming, but only on a small area, not more than quarter of the total area of wetland;
- Fishing, but you must not fish by building a fence across a wetland;
- Collect water for home (small-scale) use;
- Hunt (as long as the laws about wildlife allow you hunt those animals);
- Grazing your animals; and
- Carrying out any of your traditional activities, as long as they do not damage the wetland

(Section 11(2) of National Environment Regulations (2000))

⁴Sections 29, 30 of National Environment (Wetlands, River Banks And Lake Shores Management) Regulations, No. 3/2000, under Section 107 of the National Environmental Act (Cap 153).

⁵The “highest water mark” is the point where the water reaches when the wetland is fully flooded. The “lowest water mark” is the point at which the lowest level of contact between the water and the shore or the bank was recorded.

Annex A

WHAT CAN YOU DO IN A WETLAND?

You CANNOT do the following activities AT ANY TIME in a wetland:

- Reclaims it (ie, by dumping soil to turn the wetland into dry land)
- Drain it
- Erect any structure on it
- Damage it in any way
- Bring anything on it (like rubbish, chemicals, pesticides, etc.) that is damaging
- Introduce a new plant or animal in it

(Section 37 of National Environment Regulations (2000))

You CAN use wetlands in the following ways, but ONLY IF you have a Wetland User Permit:

- Brick making
- Cultivation and commercial exploitation of wetlands
- Fish farming
- Burning
- Sewerage filtration
- Any commercial activity
- Introduce a new plant or animal in it

(Section 11, 12 and Second Schedule of National Environment Regulations (2000))

How do you get a Wetland User Permit?

If you want to use your wetland for activities that you need a permit for, such as brick-making or fish farming, then you need to apply at the District Environment Office. If you have a permit, it allows you to use a specific part of the wetland for a specific purpose during a specific time and block others without a permit from using that area. You have to pay for a permit. It is best for your whole community to apply together for a permit, instead of each person having to pay for their own permit. If your community has a permit together, it will help you to limit how much of each activity can be done, so as to make sure that the wetlands are protected.

To apply for a Wetland User Permit, 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 license. If permission is granted, then you have to pay an additional 100,000/= when they give you your license. There are no other fees. Remember always to ask for receipts for your payments. Keep these safely, together with copies of the forms that you give to the District.



What happens if a person does what the law prohibits on a wetland?

If a person builds, settles or does something that is not allowed by law on a wetland, your community can report them to the District Environment Officer or Wetland Officer. The Environment Officer will write a letter (called an "Improvement Notice") giving that person 21 days to stop the illegal activity and leave the wetland. Where a person has damaged the wetland, that person must restore the wetland and demolish any buildings or structures built illegally.

If such a person refuses to leave the wetland, the District Environment Officer will have the Director of the National Environment Management Authority (NEMA) write a letter (called a "Restoration Order") to get help from Environment Police to remove that person from the wetland. You may need to ask the Environmental Police to come from Kampala to your community to do this - or you can ask local police to remove the person from the wetland. The District Environment Officer can also take the matter to court on behalf of the district for encroachment on the wetland. If found guilty, the offending person may be fined, sent to prison and/or ordered to return the wetland to its original condition.

If your District Environment Officer does not issue an Improvement Notice or Restoration Order to the offending person, get help from your trusted NGO. Together, you can approach the District Environment Officer's supervisor, the Chief Administrative Officer (CAO). You can also talk to NEMA representatives who are supposed to make quarterly trips to your area. Keep a detailed record of dates you visit the authorities seeking for the law to be enforced.

FREQUENTLY ASKED QUESTIONS

Are rock out-crops, forests, riverbanks, lakeshores and game reserves part of community land?

If this resource falls within the community land, then they are part of the community resources to be protected.

There are some resources that may be under the protection of the Government held in trust for the communities. These may be used within the limits of the law.

Can community members enforce rules on wetlands?

The communities most adjacent to a wetland are charged with the duty to protect it. Communities may write rules aimed at wetland protection and may administer environment boosting penalties such restoration of a wetland, planting trees to replace the ones cut etc. The community may also administer fines that fall within the limit of their jurisdiction, i.e. parish level

Annex B

TABLE OF OFFICIAL COSTS (2015)

Make sure you get a receipt for each payment you make!

This will help prove the steps you have taken and keep your application from getting lost.

Name of Process or Form	Costs	Where to File Papers and Pay Fees
Forming a Communal Land Association (CLA)		
Cost of the application to form a Communal Land Association	15,000/=	Sub-county Cashier
Issuing a Certificate	10,000/=	Sub-county Cashier
Getting a Certificate of Customary Ownership (CCO)		
Application for a Certificate of Customary Ownership (CCO)	5,000/=	Sub-county Cashier
Issuing of Certificate of Customary Ownership	5,000/=	Sub-county Cashier
Lodging a "caveat" (interest) on the Certificate of Customary Ownership	5,000/=	Sub-county Cashier
Withdrawal of Certificate of Customary Ownership	5,000/=	Sub-county Cashier
Getting a Freehold Title		
Application for a Freehold Title	20,000/=	Sub-county Cashier
Application to convert Customary Certificate to Freehold.	(15,000/=)	Sub-county Cashier
Issuing of Certificate of Freehold Title	20,000/=	District Land Office/cashier
Assurance of Title	20,000/=	District Land Office/cashier
Registration	10,000/=	District Land Office/cashier
Surveying your Land		
Survey Costs (estimates vary)	1,000,000/= or greater	Private Surveyor
Total cost to form a Communal Land Association and get a Certificate of Customary Ownership	45,000/=	
Total cost to form a Communal Land Association and get a Freehold Title	Total fees 115,000/= plus costs of a Surveyor	



Land and
Equity Movement
in Uganda (LEMU)

Making land work for us all



The Land and Equity Movement in Uganda (LEMU) is a non-profit organization that works to unite the efforts of local people, government, civil society organizations, students, elders, volunteers, and others to improve the land rights and tenure security of the poor.

LEMU works to ensure that policies, laws and structures are put in place to allow all Ugandans to have fair and profitable access to land.

To this end, LEMU undertakes research, policy analysis, and grassroots legal advocacy. LEMU serves as a link between government and communities.

LEMU also educates rural communities about their rights, roles, and responsibilities under Uganda's Land Act, and works to help government actors and policy makers understand rural communities' experiences of land tenure insecurity.

www.land-in-uganda.org

Namati is an international organization dedicated to advancing the field of legal empowerment and to strengthening people's capacity to exercise and defend their rights. In partnership with civil society organizations and governments, Namati develops, implements, and evaluates legal empowerment strategies that address five urgent global challenges: delivering quality legal aid at scale; protecting community land rights; closing the enforcement gap in environmental law; fulfilling the right to citizenship; and ensuring that essential services like healthcare and education are accountable to local communities.

Namati's Community Land Protection Program supports communities to follow national land documentation laws to protect their customary and indigenous land claims. The Program's integrated model supports communities to defend and protect their lands and natural resources as well as galvanize positive intra-community change. The Program:

- Works in partnership with national and local CSO to support community land protection efforts;
- Supports governments to enact and implement legislation promoting community land documentation; and
- Advocates for increased global emphasis on protections for community land and natural resource rights.

www.namati.org