



THE REPUBLIC OF UGANDA
MINISTRY OF LANDS, HOUSING
AND URBAN DEVELOPMENT



EUROPEAN UNION

LAND CAPACITY BUILDING GUIDE

FOCUSING ON *private Mailo land*



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PREFACE

This training guide is to be used by trainers for the training on land administration structures and local communities (including landlords and tenants) in the districts of Mityana, Mubende and Kassanda as part of the ‘Improvement of Land Governance in Uganda to increase the productivity of small-scale farmers on private Mailo-land project (ILGU)’ project. The project is jointly funded by the European Union and the German Government and is part of the ‘Responsible Land Policy in Uganda (RELAPU)’ project, which is part of the Special Initiative “One World, No Hunger” of the German Federal Ministry for Economic Cooperation and Development (BMZ). It is implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH in collaboration with the Ministry of Lands, Housing and Urban Development (MLHUD).

The training guide is to be used as a reference for trainers during community level training of community members, landlords, tenants and other land actors involved in the adjudication and demarcation of private Mailo land. The guide outlines the steps, methods and techniques to be used during the training. It offers an outline of the materials used during each training session and offers an extensive reference list which can be consulted by the trainer for more in-depth discussions on the materials presented in the guide.

The guide is organised in six sessions which are deliberately corresponding to the structure of a five-days training workshop. This structure will help trainers to provide adequate training to cover a wide range of issues related to private Mailo land.

With the content addressing the historical background and challenges of the landlord-tenant relationship on private Mailo land, the guide can serve as a useful reference for the training on land administration structures in other districts of the country where the Mailo tenure system is prevalent.

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Disclaimer:

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The contents of this publication are the sole responsibility of the authors and can in no way be taken to reflect the views of the European Union.

LIST OF ABBREVIATIONS

ADR	Alternative Dispute Resolution
ALC	Area Land Committee
BLB	Buganda Land Board
BMZ	Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung German Federal Ministry of Economic Cooperation and Development
CSO	Civil Society Organization
CDO	Community Development Officer
CoO	Certificate of Occupancy
DLB	District Land Board
DLO	District Land Office
EU	European Union
FAO	Food and Agricultural Organization
FFP	Fit-for-Purpose
FIG	Fédération Internationale des Géomètres International Federation of Surveyors
GGIM	Global Geospatial Information Management
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit German International Cooperation
GoU	Government of Uganda
ILGU	Improvement of Land Governance on private Mailo land
LC	Local Council
LIP	Land Inventory Protocol
MLHUD	Ministry of Lands, Housing and Urban Development
RELAPU	Responsible Land Policy in Uganda
RTA	Registration of Titles Act
SAS	Senior Assistant Secretary
ULC	Uganda Land Commission





Introduction

INTRODUCTION

Land plays a pivotal role in the life of the people of Uganda and the development of its economy. More than three-quarters of the population derive their income from agriculture, social and cultural norms in rural areas are largely shaped by land use practices. The Government of Uganda (GoU) works with various development partners and Civil Society Organizations (CSO) to ensure sustainable use and management of land and its proper governance in the nation's agenda for food security, poverty reduction, and accelerated economic growth to achieve the status of a middle-income country.

The German Federal Ministry of Economic Cooperation and Development (BMZ) created the Special Initiative *"One World, No Hunger"* aimed to eradicate extreme hunger and poverty. Special focus is on Action Area 6 *"Promotion of responsible land use and improvement of access to land"*. Responsible land use as well as fair and secure land rights is a precondition for sustainable rural development. In many regions around the globe people's food security is dependent on access to land. An estimated $\frac{1}{4}$ of the world's malnourished are dependent on agriculture but do not own land themselves. Furthermore, $\frac{1}{2}$ of the people facing poverty are small-scale farmers, often with less than one hectare of land to cultivate. At the same time estimates show that national and international investors target to purchase or lease around 30% of the overall global arable land.

In the past, countries that have implemented land reforms successfully have developed substantially better and quicker. Fair access to land also led to greater political participation and increasing investments. In many countries people lack access to land, especially women and children are vulnerable.

Responsible Land Policy in Uganda (RELAPU) is one of six country projects that contribute to the initiative. The EU and BMZ co-financed component *"Improvement of Land Governance on private Mailo land (ILGU)"* is focused on documenting land use rights for the rural smallholder farmer households commonly referred to as 'bibanja' holders or tenants. The project will produce Land Inventory Protocols (LIP). LIPs will be handed out upon demand. The LIP is a social document (not a juridical document) that captures data about a land parcel occupied by a household. The data details on the parcel will include: location, shape, dimensions, size and usage of the land. Such information is useful and empowering land owners and landlords, tenants, Area Land Committees and District Land Offices.

The LIP processes and procedures followed are in line with state and traditional regulations and norms (ALC, etc.). They form a basis for further improvements of land rights security such as CoOs, land sharing, leasing, buy-out of registered right etc. The ILGU project is implemented in the districts of Mityana, Kassanda and Mubende (Central Uganda).

The overall aim of this training manual is to be used as a tool for facilitators who will be involved in training of the land actors in the adjudication and demarcation of private Mailo land (landlords, tenants and local leaders) to acquire relevant knowledge for the successful implementation of the ILGU project.

1.1 Objectives of the manual

The objectives of the manual include:

- To assist facilitators in training land administrators
- To outline the steps to be followed to have a successful training
- To suggest methods and techniques to be used to conduct training sessions
- To outline materials to be used while training
- To enable the trainees to learn efficiently
- To formulate achievable objectives for each training session

1.2 Structure of the manual

The manual is organised into modules which are comprised of different sessions. This training is supposed to be conducted in five days.

1.3 Definition of terms

Training: Preparing people for certain tasks in a systematic manner and to enable them to perform after acquiring the relevant knowledge, skills and attitudes. This training is based on the objectives of the RELAPU program and the specified activities RELAPU will execute.

Learning: Gaining deeper knowledge and skills to enable the trainees to appreciate the likely situations and how to deal with them.

Facilitating: This manual makes learning processes easier through brainstorming, sharing and discussing situations.

1.4 Target group

The training shall consist of local leaders and authorities who are involved in adjudication and demarcation of land. The trainees include: Members of the Area Land Committees, Senior Assistant Secretaries (SAS), members of the Local Councils (LCIIIs) and Community Development Officers (CDO). These play a key role in land administration and registration.

1.5 Training methodology

The training shall include the sharing of knowledge, life experiences and brain storming, small group discussions, open discussions, questions and answers, as the key methods of facilitation. Other methods may as well be adopted by the facilitator where necessary.

1.6 Qualities of facilitators

This manual is to be used by facilitators who have technical and practical knowledge in land matters and are familiar with the provisions of the Constitution of Uganda, 1995, the Land Act 1998 (as amended in 2004 and 2010), the Land Regulations 2004 and the National Land Policy 2013.

The facilitator should have the following qualities:

- Be highly respectful
- Open for learning during the training
- Be flexible
- Be a good listener and a good speaker
- Always be a good time keeper and prepare in advance
- Be positive and have a great sense of humour
- Be patient, attentive, interested and respect the opinion of others
- Be mindful of non-verbal language

1.7 Management of training

Facilitation must be done in a simple manner with a careful selection of the language used. The language must be simple for the trainees to comprehend. The use of local illustrations and institutions shall be maintained throughout the training. Important points for the facilitator to note are outlined in Table 1 below.

Table 1: Guide for the facilitator

Issues	Remarks
Duration of sessions	This manual suggests the duration per session, but the trainer should use his or her discretion
Time Allocation	Keep time and allow breaks in between the training session. A timetable for the training should be available for the trainees
Plagiarism	Avoid presenting another trainer's presentation. Not only it is unethical, but it is also dangerous. Give yourself time to prepare the training material in advance
Take-aways	You should consider having the following course material available for all participants: <ul style="list-style-type: none"> • Outline - why the training is taking place and what it is designed to achieve • Timetable - update each day and detail down to the comfort breaks • Handouts - printed versions of the main points of each presentation • Slides - some participants will want to download your slides • Business cards – provide your contact details for participants who want to follow up • Copies of the relevant legislation for reference

Issues	Remarks
Materials used during training	The materials for training and the language of instruction must be compatible with the context and the local situation
Activities	Keep participants active. The session should not be about you talking to them. It's about engaging the trainees, allowing them to participate and ensuring that they take ownership of the training
Sharing responsibilities during training	Some of the responsibilities such as time keeping, recording of the proceeding, officiating the workshop, evaluation of sessions, and arranging the venue should be done by the trainees Matters concerning logistic shall be handled by the project team administration
Period of Training	It is assumed that most of the trainees shall have been exposed and acquired minimal knowledge about the Land Act and other land related issues. The training shall take a minimum of 5 days
Training Methodology	Sharing of life experiences and brainstorming, large and small group discussions, questions and answers and demonstration shall be the key methods for facilitating the trainees

1.8 Arrangements of topics

Each topic is organised as follows:

- Title of the module
- Introduction
- Objectives
- Steps for conducting the session
- Technical votes

1.9 Teaching materials required for all the modules

Flipcharts, White-wash board, Markers, Manila shaped cards, Masking tapes, Handouts on the different sessions and appropriate visual aids.

1.10 Preliminaries before training

The training proposed shall bring together different land administration actors from different sub-counties within the given district. Therefore, it is important to set the environment, so that the trainees are free to interact with one another and are at-ease. This helps them to get to know each other and enable the facilitators to know their trainees.

1.11 Setting the stage

The objective of setting the stage is to prepare the trainees for what to expect and for the facilitators to identify the needs of trainees while getting to know them. The specific objectives include:

- a. Acquainting the trainers and trainees to each other
- b. Obtaining the trainees' expectations of the training
- c. Establishing a positive climate and spirit of cooperation
- d. Providing suggestions for effective participation in the training
- e. Introducing the approach of the training
- f. Introducing the overall goal of the program

1.12 Procedure

Step 1:	Greet the trainees, introduce yourself as a facilitator. Share details about yourself which have a bearing to the subject
Step 2:	Ask the trainees to introduce themselves to the group. The introduction should include enough details about each trainee
Step 3:	Distribute Manila-cut to cards to the trainees. Trainees shall write down their expectations of the training
Step 4:	Ask the trainees to break out into groups. Trainees shall set rules for creating a positive learning environment. Come up with measures for adhering the rules
Step 5:	Give the trainees additional suggestions or developed rules (Do's and Don'ts) to guarantee a smooth running of the sessions
Step 6:	Record all listed rules on a flip chart for future reference



MODULE 1:
HISTORY AND DEVELOPMENT
OF MAILO TENURE IN UGANDA

MODULE 1: HISTORY AND DEVELOPMENT OF MAILO TENURE IN UGANDA

Session 1: What is Land?

This session introduces the trainees to the general definition of land and the land rights therein. The session helps trainees to appreciate land as an economic commodity that can be utilized in various way to enhance people's livelihoods beyond subsistence farming and gives them a better understanding of the different estates and interests in land.

Objectives

At the end of this session, trainees should be able to:

1. Explain the concept of land and the related rights and estates in land
2. Appreciate land as an economic commodity that can be utilized in various ways

Procedure

Step 1:	Introduce the session by asking the trainees what they think land is
Step 2:	Based on their definitions and the learning points provide the different definitions of land
Step 3:	Give a brief lecture on the different rights and estates on land
Step 4:	Allow the participants to ask questions, brainstorm as a group and provide answers where questions are raised

Technical Notes

What is Land?

The Common Law definition of land states that a landowner owns the land, the air space above it and everything below it. However, the legal conception of land is slightly different as it limits ownership of land to a certain height below and above the surface beyond. The rest is taken as a public domain.

In Section 1 (j) of The Registration of Titles Act (Cap. 230), land is defined as including **‘messuages, resources, tenements and hereditaments corporeal and incorporeal’**

- Messuage – a house or similar structure and garden
- Tenement – any type of property of a permanent nature
- Corporeal – physical soil and structures thereon
- Incorporeal – legal rights over land e.g. easements

According to chapter one of the National Land Policy 2013, Land is defined as followed:

“Land is the most basic resource in terms of the space it provides, the environmental resources it contains and supports, and the capital it represents and generates. It is a commercial asset that can be used and traded. It is a critical factor of production and an essential part of the national patrimony. It is a key factor in shaping individual and collective identity through its history, the cultural expressions and idioms with which it is associated. It also influences spirituality and aesthetic values of all human societies. Land is perhaps, the most essential pillar of human existence and national development.”

Proprietary Rights

Proprietary rights are rights that become part of the land and are not personal to the parties that created them. They can be attached to the land itself so that any person who comes into ownership or possession of the land may be entitled for the benefits or burdens that now come or are imposed with the land or may be subject to the burdens imposed on the land.

An estate is a right to use and control land, for example – Mailo land: While an interest in land are rights that one person enjoys in the land of another such as a mortgage, a restrictive covenant, an option and an easement.

Session 2: Historical background of land management in Uganda

Objectives

At the end of this session, the trainees should be able to:

1. Know about landholding in Buganda prior to the colonial period (before the 1900 Buganda Agreement)
2. Understand the changes in landholding that were brought by the 1900 Buganda Agreement
3. Understand the origin of the landlord-tenants challenges on Mailo land
4. Understand the effect of the post-independence land reforms on land rights in Buganda

Procedure

Step 1: Give a detailed lecture explaining the evolution of landholding in Buganda

Step 2: Allow the participants to ask questions, brainstorm as a group and provide answers where necessary

Technical Notes

Land ownership in Buganda before the colonial period

- Before the reign of Kabaka Mawanda, the clan heads had their estates and their jurisdictions. These were controlled and managed by the individual clan heads.
- However, Kabaka Mawanda (1740-1760) created a new administration where land was owned at his will.
- Senior chiefs held land at the pleasure of the Kabaka and lost it when they were retired or dismissed.

Categories of rights of control in Buganda before the colonial period

Obutaka (rights of clans over land)

- Rights accrued to heads of clans and sub-clans
- Clan/ancestry land – traditional seat of the head of clan/sub-clan
- Head determined the right to reside on clan land
- Land passed on to his successor in the role of mutaka

Obutongole (rights of the Kabaka and the chiefs)

- Kabaka – paramount title to all land
- Granted land to his greater chiefs (bakungu) and his lesser chiefs (batongole)
- Abakungu and abatongole had user rights in the estates attached to their offices
- Rights were only good during the chief's time in office
- Batongole could allow peasants to reside and use the land

Obwesengeze (individual hereditary rights)

- Individual rights over land stemming from long and undisputed occupation and/or original grant by the Kabaka (ekibanja eky'Obwesengeze)
- Could be acquired by a chief or individual tenant
- No political/cultural rights attached to this tenure
- Land passed on to the children or heir
- No labour obligations
- Ekibanja eky'Obwesengeze would only be confirmed by the Kabaka sending a special messenger to plant a bark-cloth tree on the holding (okukusimbira omutuba)

Ebibanja (peasant rights of occupation)

- Peasants were free to choose a chief under whom to live
- Peasants had undisturbed occupation under a chief
- Chief would organise security and general welfare
- Peasants would render some tribute and occasionally work for the chief
- Peasants were subject to eviction at any time
- Peasant's right of tenure depended on his social and political behaviour
- Peasant's heir had right to remain in occupation

Technical Notes

Land ownership in the rest of present-day Uganda before the colonial period

- Land was held under customary tenure
- Utilise the land, reside on the land, lend the land for temporary purposes
- Sell land subject to the family/clan approval
- Dispose of the land according to customary laws of inheritance
- Prohibit grazing near the homestead
- Fence homestead

Clan/family had the following rights:

- Settle land disputes within the area of control
- Exercise the right to buy any land offered for sale by its members
- Prohibit sale of land to undesirable persons
- Declare void any land transactions not sanctioned by the clan/family
- General community had the following rights
- The right to graze communally in the whole area. Damage to crops had to be made minimal
- The right of free access to salt licks
- The right to water cattle at running or open waters
- The right to access water from springs

Land ownership in Buganda (1900 – 1962)

1900 Buganda Agreement – Mailo land

- Under this agreement large extensions of land called Mailo estates were conferred to the King of Buganda (350 square miles), chiefs, reagents, and Namasole among others
- Mailo land is quasi-freehold unique to Buganda
- Rest of the land – Crown Land

Busuulu and Envujjo Law of 1928

- Regulated the rights and obligations of bibanja holders and Mailo holders
- Bibanja holders – deemed to enjoy inheritable permanent right of occupancy subject to payment of a fixed annual rent and tribute
- Kibanja holder – sell, mortgage, pass it on to his children, etc. Only requirement was to introduce the new tenant to the Mailo owner

Land ownership in the rest of the country (1900 – 1962)

Native freeholds

- Kingdoms of Ankole and Toro – 1900 Toro Agreement & 1901 Ankole Agreement
- 255 sq. miles – King & senior chiefs in private ownership
- 122 sq. miles – official estates
- Freehold grants made from Crown land

Adjudicated Freeholds

- Kigezi, Bugisu and Ankole land registration pilot schemes
- 1955 – proposal to encourage individual ownership among natives

Technical Notes

- Rejected in most districts except Kigezi, Ankole & Bugisu – population pressure & multiplicity of boundary disputes
- Pilot schemes adjudicated individual title under customary law

Land ownership at Independence and up to Amin’s Land Reform Decree (1962 – 1975)

Buganda Mailo land

- Set-up of Buganda Land Board to manage the crown land (1962 Constitution)
- **Rest of the country -- Customary tenure**
- All land in Uganda except Mailo and native freehold was Crown land – public land – 1962 Public Lands Act (Cap. 201)
- Uganda Land Commission set up to manage public land
- Tenants at will of the government with no legal protection against eviction
- Government had no legal obligation to compensate for land except for the loss of improvements made on the land
- Revised by the Public Lands Act, 1969

Land ownership up to 1995 constitution (1975 – 1995)

Land Reform Decree 1975

- Attempt to overhaul Uganda’s land tenure system
- All land in Uganda became public land vested in Uganda Land Commission (ULC)
- ULC given sole power to manage and allocate land on behalf of the state
- Mailo & all other freeholds abolished and automatically converted into 99 years leaseholds for individuals and 199 years leaseholds for public bodies
- Imposed development conditions against all converted leaseholds
- Failure to comply – 8 years – forfeiture of the land to the government
- Sale or sub-lease subject to written consent of ULC

Session 3: Present land tenure systems in Uganda: Policy and legal frameworks

Objectives

By the end of the session, trainees should be able to:

1. Understand the fundamental reforms on land enshrined in the 1995 Constitution to assert their land rights
2. Understand the land tenure systems in Uganda
3. Appreciate the National Land Policy 2013 policy statements and strategies for each tenure system
4. Get an overview of the legal framework for the management of Mailo tenure

Procedure

Step 1:	Explain the different legal provisions for each tenure system
Step 2:	Explain the policy statements and implementation strategies in the National Land Policy with respect to each tenure system
Step 3:	Allow for questions and answers and wrap up the session

Technical Notes

The 1995 Constitution of Uganda

The 1995 Constitution made radical changes and vested all land in Uganda to the citizens of Uganda. Article 237 (3) recognises four land tenure systems: Freehold, Mailo, Customary and Leasehold.

Freehold land tenure

Freehold tenure is a form of tenure deriving its legality from the Constitution and its incidents from the written law which:

- a) involves the holding of registered land in perpetuity or for a period less than perpetuity which may be fixed by a condition,
- b) enables the holder to exercise, subject to the law, full powers of ownership of land, including but not necessarily limited to:
 - i. using and developing the land for any lawful purpose
 - ii. taking and using all produce from the land
 - iii. entering into any transaction in connection with the land, including but not limited to selling, leasing, mortgaging or pledging, subdividing creating rights and interests for other people in the land and creating trusts of the land
 - iv. disposing of the land to any person by will
- c) For the avoidance of doubt, a freehold title may be created which is subject to conditions, restrictions or limitations which may be positive or negative in their application, applicable to any of the incidents of the tenure

National Land Policy 2013 statement

- The state, through its agencies, shall exercise regulatory power on freehold tenure in compliance with physical planning standards, regulations and guidelines for orderly development

National Land Policy 2013 Strategy

- The government shall impose and put in place measures to enforce conditional covenants under freehold land tenure, to regulate its use and development

Mailo land tenure

- Derives its legality from the Constitution and its rights from written law (section 3(4) of the Land Act 1998)
- From a legal perspective, Mailo land tenure is equivalent to freehold land tenure. Just like freehold, it entails holding registered land in perpetuity and enables the holder to exercise, subject to the law, full powers of ownership of land, including but not necessarily limited to:
 - i. using and developing the land for any lawful purpose
 - ii. taking and using any and all produce from the land

Technical Notes

- iii. entering into any transaction in connection with the land, including but not limited to selling, leasing, mortgaging or pledging, subdividing creating rights and interests for other people in the land and creating trusts of the land
- iv. disposing of the land to any person by will
- The only legal significant difference between freehold land tenure and Mailo land tenure is that Mailo is subject to customary and statutory rights of lawful or bonafide occupants of the land. In effect Mailo land tenure permits the separation of ownership of land from the ownership of developments on land made by a lawful or bona fide occupant.

Lawful and bonafide occupants

Lawful occupant

- a) A person occupying land by the repealed:
 - Busuulu and Envujjo Law of 1928
 - Toro Landlord and Tenant Law of 1937
 - Ankole Landlord and Tenant Law of 1937
- b) A person who entered the land with the consent of the registered owner and includes a purchaser
- c) A person who was in occupation of certain land under customary tenure but whose tenancy was not disclosed or compensated for by the registered owner when he or she applied for a public lease over the land

Bonafide occupant

- a) A person who before the 1995 Constitution had occupied, utilized or developed land unchallenged by the registered owner (or agent of the registered owner) for 12 years or more.
- b) Had been settled on land by the government or its agent including a local authority. However, in this case:
 - i. The government shall compensate the registered owner whose land has been occupied by persons resettled by the government – 5 years after coming into force of the Land Act
 - ii. Persons resettled on registered land may be enabled to acquire registrable interest in the land on which they are settled

Tenants by occupancy – lawful and bonafide tenants

- The Land Act deems a bonafide or lawful occupant of land to be a tenant by occupancy of the registered owner of the land.
- Such a tenant holds the land subject to terms and conditions as stated in the act or prescribed by the minister. These terms include:
 - i. Payment of annual nominal ground rent
 - ii. The right of a tenant by occupancy is to enter into transactions having with the following options:
 - i) Option to purchase
 - ii) Subdivision and/or co-ownership between tenant and the registered owner
 - iii) Application for a Certificate of Occupancy

Technical Notes

Termination of tenancy by occupancy

- Non-payment of nominal ground rent
- Voluntary abandonment:
 - i) Informs the registered proprietor in writing i.e. evidence must exist
 - ii) The whole piece of land is left unattended for more than 3 years
- Forced abandonment by statutory authority, e.g. buildings are condemned by statutory power due to planning regulations

National Land Policy 2013 statement

- The government shall resolve and disentangle the multiple, overlapping and conflicting interests and rights on Mailo tenure

National Land Policy 2013 Strategies

- 1) Promote the principle and practice of land sharing and land re-adjustment through negotiations between the registered land owner and the lawful or bonafide occupant
- 2) Facilitate tenants on registered or government land to access the Land Fund to purchase or acquire registerable interests
- 3) Establish an administrative mediation committee in districts with predominantly landlord tenant issues to mediate between landlords and tenants
- 4) By statutory instrument, fix annual nominal ground rent for rural areas and economic ground rent for urban areas are subject to periodic reviews
- 5) Ensure that annual nominal ground rent for absentee land owners is deposited at the sub-county headquarters where the land in question is located
- 6) Ensure that a lawful or bonafide occupant is not evicted from registered land, except for non-payment of annual nominal ground rent for rural areas, or economic rent for urban areas
- 7) Ensure that a mechanism is in place that lawful and bonafide occupants, if landlords are absent, can inform the area local leaders before sale of their occupancy

Customary land tenure

It is 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
- applicable to any persons acquiring land in that area in accordance with those rules
- characterised by local customary regulation
- applying local customary regulation and management to individual and household ownership, use and occupation of, and transactions in land
- providing for communal ownership and use of land, in which parcels of land may be recognised as subdivisions belonging to a person, a family or a traditional institution and owned in perpetuity

National Land Policy 2013 statement

- 1) The state shall recognize customary tenure in its form as equal to other tenure systems
- 2) The state shall establish a land registry system for registration of land rights under customary land

National Land Policy 2013 Strategies

- 1) Design and implement a land registry system to support the registration of land rights under customary tenure

Technical Notes

- 2) Issue Certificates of Customary Ownership based on a customary land registry that confers rights equivalent to freehold tenure
- 3) Facilitate the conversion of customary land which is already privatized and individualized into freehold tenure
- 4) Document customary land tenure rules applicable to specific communities at the district or sub-county levels
- 5) Promote systematic demarcation as a measure to reduce the cost of registering rights under customary tenure
- 6) Make an inventory of common property resources owned by communities managed under customary law
- 7) Amend the Land Act (Cap 227) to permit only individually owned customary land to be converted to freehold
- 8) Amend the registration of Titles Act (Cap 230) to place customary tenure at par (same level) with other tenure systems
- 9) Modify the rules of transmission of the land rights under customary land tenure to guarantee gender equality and equity
- 10) Make provision for joint ownership of family land by spouses
- 11) Recognize the role of customary institutions in making rules governing land, resolving disputes and protecting land rights
- 12) Define family, individual land rights and communal rights under customary land tenure and distinguish the rights and obligations of customary institutions vis a vis those of the community and individuals
- 13) Provide for registration of customary land held under trusteeship in the names of trustees.
- 14) Recognize and enforce decisions of traditional land management institutions by local government and state institutions
- 15) Ensure full judicial backing for traditional institutions as mechanisms of first instance in respect of land rights allocation, land use regulation and land dispute for land under customary tenure
- 16) Ensure that the decisions of traditional land management institutions uphold constitutional rights and obligations regarding gender equity
- 17) Develop guidelines and procedures under customary land law for the allocation and distribution of land complying with principles of equity and natural justice

Leasehold land tenure

A form of tenure whereby one-party grants to another a right to exclusive possession of land for a specified period, usually though not necessarily in return for a periodic payment of money called rent:

- A lease can be granted for any duration. For non-Ugandan citizens the maximum duration is 99 years
- A lease can be granted on customary, freehold or Mailo
- Uganda Land Commission (ULC) and the District Land Boards (DLB) have the power to grant leases out of the land vested in them
- Buganda Land Board (BLB), Anglican, Catholic and Muslim Land Boards etc. also have the power to grant leases

MODULE 2:

INTRODUCTION TO RESPONSIBLE GOVERNANCE OF TENURE



MODULE 2: INTRODUCTION TO RESPONSIBLE GOVERNANCE OF TENURE

This module provides an introduction to the principles of responsible governance of tenure including the Voluntary Guidelines on Responsible Tenure and Fit-for-Purpose land administration. It aims to link the ILGU project to the global goal of achieving the Sustainable Development Goals (SDGs).

Session 1: Responsible Governance of Tenure

Objectives

At the end of this session, the trainees should be able to:

1. Understand the importance of the governance of tenure
2. Appreciate the need for the Voluntary Guidelines on Responsible Governance of Tenure
3. Know the principles of responsible governance of tenure and how they can be implemented

Procedure

Step 1:	Using the lecture format, define and explain the term tenure
Step 2:	Explain the governance of tenure and when it can be responsible
Step 3:	Explain the Voluntary Guidelines on Responsible Governance of Tenure
Step 4:	Explain the principles of responsible governance of tenure and how they can be implemented

Technical Notes

What is tenure?

- Tenure are the rights and duties that someone has in relation to a natural resource such as land, fisheries or forests
- These rights and duties can be created under legal systems, often in documents. They can arise from custom, depending on the system in a particular country
- Having tenure does not necessarily mean being the owner of the resource. You can have a use right even someone else owns the rights related to the natural resource

Technical Notes

Legitimate tenure rights

- Legitimate tenure rights mean that the person's or group's tenure rights give rise to real activities, such as farming or hunting, based upon strong claims and are generally known to others, accepted and acknowledged
- Legitimate tenure rights = Formal, documented tenure rights + informally documented rights

Governance of tenure

- This is the way in which access to and control over natural resources is managed in society
- It refers to the organizations (government, courts and agencies), the rules and processes that regulate tenure rights
- It includes, among other things, the reconciliation of competing priorities and interests of different groups
- The governance of tenure is a crucial element in determining if and how people, communities and others are able to acquire rights and associated duties, to use and control natural resources
- Governments and their agencies are a central part of governance. They are often in charge of the management of tenure rights of natural resources, particularly land, fisheries and forests, but also water, minerals, oil, gas and coal, and other naturally occurring resources
- Similarly, in customary tenure systems, the customary institutions and offices within the group or community are central to governance

When can governance of tenure be considered responsible?

- Governance of tenure can be considered responsible when it is fair, equitable and seeks to bring the greatest good to the people, while minimizing adverse impacts on individuals or groups and keeping in mind the principle of sustainability.
- We could also say that there is responsible governance of tenure in a country when the following general principles are reflected in the country's systems.

Principles of Responsible Governance of Tenure

- 1) Recognition and respect for tenure right holders and their rights
- 2) Safeguarding and protection of tenure rights against threats and infringements
- 3) Promotion and facilitation of the enjoyment and exercise of tenure rights
- 4) Provision of access to justice to deal with infringements of tenure rights
- 5) Prevention of tenure disputes, violent conflicts and corruption

Implementing Responsible Governance of Tenure

The ten principles of implementation recommend how states and others should approach responsible governance of tenure. They include:

- 1) Human dignity
- 2) Non-discrimination
- 3) Equity and justice
- 4) Gender equality
- 5) Holistic and sustainable approach

Technical Notes

- 6) Consultation and participation
- 7) Rule of law
- 8) Transparency
- 9) Accountability
- 10) Continuous improvement

Processes, mechanisms and frameworks

Processes and mechanisms that promote progression to responsible governance of tenure include:

- The participatory process in formulation and implementation of policies and laws on the governance of tenure
- Policy frameworks that promote responsible governance of tenure
- Organizing frameworks covering the government agencies and bodies that implement and administer the policies and laws, provide services, supervise and enforce compliance with laws



Session 2: Pro-poor Land Recordation

Objectives

At the end of this session, the trainees should be able to:

1. Understand the concept of pro-poor land recordation
2. Identify the advantages of land documentation and the challenges of not documenting land

Procedure

Step 1:	Form random groups among the trainees with equal number of members
Step 2:	Ask the trainees to brainstorm about why there is need to document land rights and the challenges that hinder documentation of land rights in their groups
Step 3:	Allow each group to present and allow questions
Step 4:	Make a presentation on pro-poor land documentation wrapping up all the different ideas of the presentations
Step 5:	Explain what the Fit-for-Purpose (FFP) approach is, its key principles, how to approach its implementation and the biggest changes in its adaptation
Step 6:	<p>Show some of the video clips below to highlight FFP implementation in different countries:</p> <p>a) Securing Land Tenure Security through Community Mapping in Kenya https://www.youtube.com/watch?v=-5DBC_1nD94 </p> <p>b) Securing customary land rights through the Social Tenure Domain Model in Zambia https://www.youtube.com/watch?v=3Jwjdvx3q0 </p>

Technical Note

Fit-for-Purpose (FFP) Land Administration

Introduction

There is an urgent need to build systems which can identify the way land is occupied and used, provide security of tenure and control the use of land. When building such systems, the focus should be on a “fit-for-purpose approach” that meets the need of society today and can be incrementally improved over time.

The fit for purpose approach includes the following elements:

- **Flexibility** in the spatial data capture approaches for varying use and occupation
- **Inclusive** in its scope to cover all tenure and all land
- **Participatory** in its approach to data capture and use to ensure community support
- **Affordable** for the government to establish and operate, and for societies to use
- **Reliable** in terms of information that is authoritative and up-to-date
- **Attainable** to establish the system within a short timeframe and within available resources
- **Upgradable** regarding incremental improvement over time in response to social and legal needs and emerging economic opportunities.

Key Principles of the FFP Approach

KEY PRINCIPLES		
Spatial Framework	Legal Framework	Institutional Framework
<ul style="list-style-type: none"> ▪ Visible (physical) boundaries rather than fixed boundaries ▪ Aerial / satellite imagery rather than field surveys ▪ Accuracy relates to the purpose rather than technical standards ▪ Demands for updating and opportunities for upgrading and ongoing improvement 	<ul style="list-style-type: none"> ▪ A flexible framework designed along administrative rather than judicial lines. ▪ A continuum of tenure rather than just individual ownership ▪ Flexible recordation rather than only one register ▪ Ensuring gender equity for land and property rights. 	<ul style="list-style-type: none"> ▪ Good land governance rather than bureaucratic barriers ▪ Holistic institutional framework rather than sectorial siloes ▪ Flexible IT approach rather than high-end technology solutions ▪ Transparent land information with easy and affordable access for all

Technical Note

Building the spatial framework – a continuum of accuracy

Visual boundaries rather than fixed boundaries

- Visual (General) boundaries will be sufficient for most land administration purposes..

Aerial/ satellite imageries rather than field surveys.

- Aerial imageries are 3-5 times cheaper and less capacity demanding than field surveys.
- Aerial imageries provide not only the framework of the parcels but also the general topography to be used for a range of land administration functions

Accuracy relates to the purpose rather than technical standards

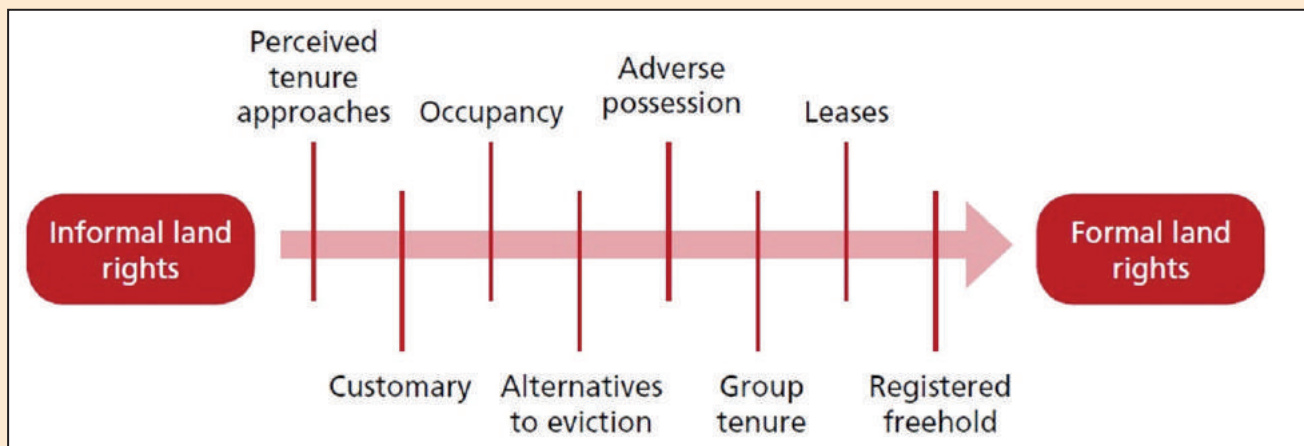
- Accuracy should be seen as a relative term related to the use of the information

Opportunities for updating, upgrading and improvement

- Building the spatial framework is **not** a one stop process
- In turn, incremental improvement will establish a fully integrated land administration system.
- This could be named as a **“Continuum of Accuracy”**

Legal Framework – continuum of land rights

- The continuum of land rights is not a theory, it is a powerful concept for understanding this rich land tenure diversity
- Rights to land are regarded as lying on a continuum between informal and formal. In between these lies a wide and complex spectrum of rights



- Tenure can take a variety of forms along this continuum: Documented as well as undocumented, formal as well as informal, for individuals as well as groups, including pastoralists and residents of slums and other settlements which may be legal or extra-legal
- Rights do not lie in a single line and may overlap
- Registered freehold should not be the preferred or ultimate form – it is one of a number of appropriate and legitimate forms (customary, leasehold, group tenure, others). The most appropriate form depends on the context (See: Handling Land, GLTN 2012)
- The continuum offers a powerful and practical alternative approach to the dominant focus on titling individually held private property as the ultimate form of tenure security

Technical Note

- It recognizes that there are several tenure forms that are appropriate, robust, effective, legitimate. It builds on what is there
- It promotes an increase of security across the continuum, with opportunity for movement between tenure forms
- The concept and approach is widely accepted, as part of a global shift in understanding of land tenure

Building the Institutional Framework – a continuum of service

- **Good and transparent land governance rather than bureaucratic barriers.**
 - The term “good governance” includes for government to be legitimate, transparent, accountable, and dedicated to integrity.
- **A holistic Institutional framework rather than sectorial siloes**
 - Focusing on treating land and natural resources as a coherent whole

- **Flexible IT-approach rather than high-end technology solutions**
 - Clear description of mandates, work processes and responsibilities
 - Alternatives such as open source solutions should be considered.
- **Transparent land information with access for all**
 - Applying the FAO Guidelines on Responsible Governance of Tenure.

How do we know the FFP approach to land administration will work?

- The FFP approach has been successfully implemented in several developing countries and the results provide excellent best practices for other countries. New FFP approaches have recently been tested in countries such as Rwanda, Ethiopia and Kyrgyzstan.

How to make FFP land administration work?

- The agenda for change needs to be designed to trigger and to build significant change on a number of fronts and levels that can potentially develop into a deep-seated change across the global land administration communities. The implementation of the FFP approach involves significant change across all stakeholders in the land sector. As with all cultural and behavioural change, it has to be sensitively managed. There is increasing political pressure for change that can more effectively support the global land agenda and contribute to the global challenges of the twenty-first century. Key elements of this agenda of change are structured testing, knowledge sharing, and especially advocacy from the global land institutions. Organizations like the World Bank, the Food and Agricultural Organization of the United Nations (UN-FAO), UN-Habitat, United Nations Initiative on Global Geospatial Information Management (UN-GGIM), the International Federation of Surveyors (FIG) and other land-related professional bodies have a key role.

Technical Note

What are the biggest challenges in adopting the FFP approach?

- Successful behavioural and cultural change across the key stakeholders in the land sector is essential. There are three key challenges confronting countries implementing the FFP approach:
 - 1) The adoption of this new FFP paradigm is not driven by state-of-the-art positioning and surveying technology. This requires a mind-set change across land professionals, recognition of the benefits of change, and an effective change management strategy driven by strong leadership.
 - 2) The revision of the legal framework to provide the required flexibility to accommodate the FFP approach. Changes of laws can be problematic and time consuming and politicians need to be well briefed on the need for change.
 - 3) The need for capacity development to build scale quickly.

Why is documentation important?

- Evidence and proof of land rights for the acceptance in the community
- Notice to the world, including the state
- The creation of rank and priorities between different recorded documents
- An index linked to the names of the parties, which will facilitate ease of access to information
- A geometrical index, which facilitates linking the land documents to the ground
- Easier operations for (local) government for services and to organize other land management activities
- An increased level of status in the eyes of the community, depending on the acceptance by the community of the system, its presence on the ground, the land documents and other services
- Lead to improved access to subsidies, consumer loans, etc.
- Act as a proxy concerning participation in democratization
- Be the first step on the tenure rights ladder, or continuum, eventually leading to full ownership
- Be the foundation for capital formation
- Increase predictability and efficiency by reducing adhoc land related activities by the state
- Decrease some of the conflict over land by increasing predictability. The land records themselves would contribute to a better local dispute resolution in general
- Make it possible to make large investments that take a long time to recoup

What hinders land documentation?

- It is very expensive to register land
- The process of acquiring a land title is very long and tedious
- Corruption in the land offices
- Ignorance of the people
- Most of the land forms are in English language, which is not understood by everyone
- It involves a lot of bureaucracy and legal requirements
- Unresolved conflicts



MODULE 3:
LAND MANAGEMENT
INSTITUTIONS AND THEIR ROLES

MODULE 3: LAND MANAGEMENT INSTITUTIONS AND THEIR ROLES

This module highlights the various land management institutions and their roles. Participants will be introduced to the roles of the Ministry of Lands, Housing and Urban Development, Uganda Land Commission, District Land Boards, District Land Offices and Area Land Committees.

Session 1: National Land Management Institutions

Objectives

By the end of the session, trainees should be able to:

1. Name the national land management institutions and their roles
2. Reflect on and appreciate the mandate of each institution

Procedure

- | | |
|----------------|---|
| Step 1: | Ask the trainees to name the land management institutions they know and their roles |
| Step 2: | Present the existing land administration institutions in Uganda, explain the responsibilities, roles and mandates of each institution |

Technical Notes

Land management institutions

Ministry of Lands, Housing and Urban Development

- 1) Formulate national policies, strategies and programmes in the land, housing and urban development sectors
- 2) Initiate, review and make amendments to existing legislation in lands, housing and urban development sectors
- 3) Set national standards for matters regarding sustainable use and development of land and provision of safe, planned and improved housing and human settlements
- 4) Monitor and coordinate initiatives in the Local Governments about the land, housing and urban development sectors
- 5) Provide support, supervision and technical back-stopping to Local Governments on matters of land, housing and urban development

Technical Notes

Directorate of Land Management

- Department of Surveys and Mapping
 - ◊ Responsible for the establishment of survey and geodetic controls, quality checks of cadastral jobs, survey of government land and international boundaries, production and printing of topographical maps and producing a national atlas.
- Department of Land Registration
 - ◊ Responsible for issuance of certificates and titles, general conveyance, keeping custody of the national land register, coordination, inspection, monitoring and back-up technical support relating to land registration and acquisition processes to local governments.
- Department of Land Administration
 - ◊ Responsible for supervision of land administration institutions and valuation of land and other properties.

Directorate of Physical Planning and Urban Development

- Department of Physical Planning
 - ◊ Responsible for policy making, standard setting, national planning, regulation, coordination, inspection, monitoring and back-up technical support relating to urban and regional planning.
- Department of Urban Development
 - ◊ Responsible for formulation of urban policies, regulations, development and review of relevant laws, standard setting to enhance orderly urban development.
- Department of Land Use Regulation and Compliance
 - ◊ Responsible for formulation of land use related policies, plans and regulations. It also provides technical support and guidance to local governments in the field of land use regulation, monitoring and evaluation, and systematization of the land use compliance monitoring function and practice.

Uganda Land Commission (ULC)

Article 238 of the Constitution establishes the Uganda Land Commission with the following functions:

- 1) Hold and manage any land in Uganda which is vested in or acquired by the Government in accordance with the Constitution.
- 2) Where applicable, hold and manage any land acquired by the Government abroad, except that the commission may delegate the management of such land to Uganda's missions abroad.
- 3) Procure certificates of title for any land vested in or acquired by the Government.
- 4) Perform such other functions as may be prescribed by or under the Act or any other enactment.
- 5) The committee shall assist the District Land Board in its advisory capacity on matters related to land, including ascertaining rights in land, and shall perform any other function conferred on it by or under this Act or any other law.

Technical Notes

National Environment Management Authority (NEMA)

Functions of the authority

- 1) To coordinate the implementation of Government policies and the decisions of the policy committee
- 2) To ensure the integration of environmental concerns in overall national planning through coordination with the relevant ministries, departments and agencies of the Government
- 3) To liaise with the private sector, intergovernmental organizations, nongovernmental agencies and governmental agencies of other states on issues related to the environment
- 4) To propose environmental policies and strategies to the policy committee
- 5) To initiate legislative proposals, standards and guidelines related to environment in accordance with this Act
- 6) To review and approve environmental impact assessments and environmental impact statements submitted in accordance with this Act or any other law

National Physical Planning Board

- To advise the government on all matters related to physical planning

Session 2: District land management institutions

Objectives

By the end of the session, the trainees should be able to:

1. Name the district land management institutions and their roles
2. Reflect and appreciate the role of the Area Land Committee
3. Know the role of the District Land Office

Technical Notes

District Land Board (DLB)

Article 240 of the Constitution establishes the DLB

The functions of a board shall be to:

- 1) Hold and allocate land in the district which is not owned by any person or authority
- 2) Facilitate the registration and transfer of interests in land
- 3) Take over the role and exercise the powers of the lessor in the case of a lease granted by a former controlling authority
- 4) Cause surveys, plans, maps, drawings and estimates to be made by or through its officers or agents

Technical Notes

- 5) Compile and maintain a list of rates of compensation payable in respect of crops, buildings of a nonpermanent nature and any other thing that may be prescribed
- 6) Review yearly the list of rates of compensation. (The board in compiling a list of rates of compensation consult the technical officers in the district)

Note

In the performance of its functions, a District Land Board shall be independent of the Uganda Land Commission and shall not be subject to the direction or control of any person or authority but shall consider national and district council policies on land.

District Land Office

Role of the District Land Office:

- Gives technical advice and services to the District Land Board
- Assists the board in carrying out its duties (implement the Board's decisions)
- Protect government land from encroachment
- Assist in the collection of revenue e.g. Premium & Ground rent
- Ensure that there is harmony in various interests in land use
- Keep records on behalf of the Board
- Give advice to the district council and the public in matters relating to land

Area Land Committees

Section 64 the Land Act, 1998

- Provides that a district council on the advice of the sub-county or division council may in accordance with this section, appoint a land committee at sub-county or division level which shall exercise the functions conferred on a committee by this Act or any other law
- The committee shall consist of a chairperson and four other members who shall serve on a part time basis
- The committee members shall hold office for a period of three years and are eligible for re-appointment for one further term

Functions of the Committee

- The committee shall assist the District Land Board in an advisory capacity on matters related to land, including ascertaining rights in land. The committee shall perform any other function conferred on it by or under this Act or any other law, including land inspections

Qualification for appointment as member of a committee

A person shall qualify for appointment as a member of the committee if:

Technical Notes

- He or she is thirty years of age or more
- He or she has not been convicted of an offence involving moral turpitude
- In the case of the chairperson, he or she is able to speak and write English
- At least one of the members referred to in section 64 shall be a woman
- At least one of the members referred to in section 64 shall be a person with knowledge and experience in matters relating to land

Remuneration of members of committees

- A member of the committee shall be paid such remuneration as may be determined by the district council on the recommendation of the district executive committee
- All expenses incurred by or on behalf of the committee shall be charged on the district administration funds

Meetings of the committee

- The chairperson shall preside at all meetings of the committee and shall, in addition to the chairperson's deliberative vote, have a casting vote
- Where the chairperson is absent from any meeting of the committee, the members present shall elect one of theirs to preside over the meeting and the person shall have a casting vote in addition to his or her deliberative vote
- The quorum of the committee shall be three
- Proceedings and decisions of the committee shall be in writing and the records shall be kept
- A decision of the committee shall be reached by consensus and in case of a contentious matter by majority vote
- The records and instruments of the committee shall be kept by the chairperson
- Subject to this Act, the committee may regulate its own procedure

Recorder

- 1) There shall be, for the purposes of sections 4 and 33 of the Land Act, a recorder for each sub-county, each gazette area and each division in the case of a city, who shall be answerable to the District Land Board
- 2) The recorder shall be responsible for keeping records relating to Certificates of Customary Ownership and Certificates of Occupancy
- 3) For the purposes of sub-section (1), in the case of:

Technical Notes

- A rural area, the sub-county chief shall be the recorder
- A gazetited urban area, the town clerk shall be the recorder
- A division of a city, the assistant town clerk in charge of the division shall be the recorder
 - 1) A copy of each certificate referred to in sub-section (2) shall be deposited with the district board

The constitution as well established the Land Tribunals, but these are not operational.

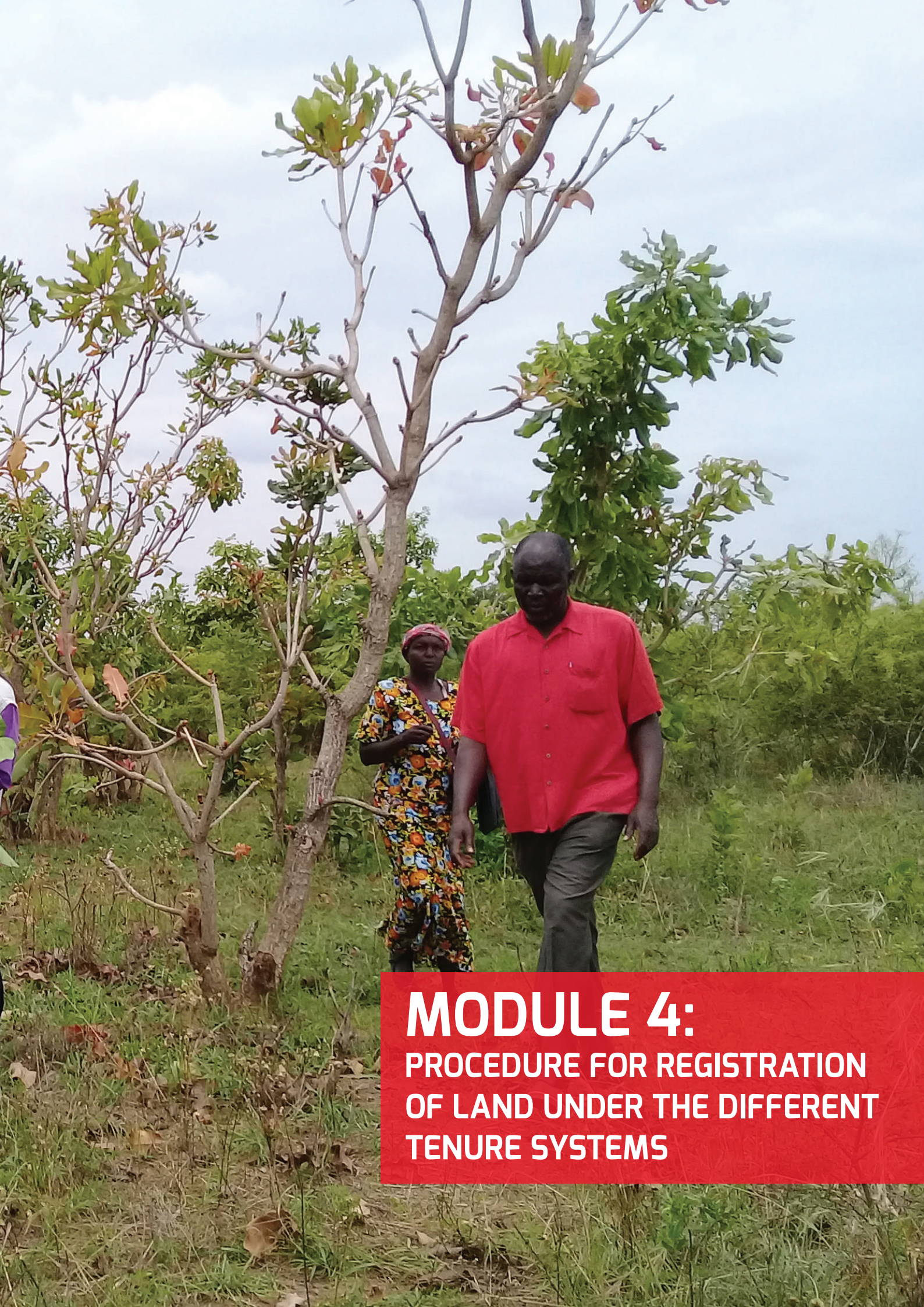
District Physical Planning Board

- To advise the district on all matters relating to physical planning

Sub-county Physical Planning Committees

- 1) Initiating the preparation of local physical development plans
- 2) Recommending local physical development plans to the district physical planning committee for consideration
- 3) Recommending to the district physical planning committee the approval of local physical development plans
- 4) Implementing structure plans, in close consultation with the district physical planner
- 5) Implementing, in close consultation with the district physical planner, detailed plans and area action plans which shall address the specified matters





MODULE 4:
PROCEDURE FOR REGISTRATION
OF LAND UNDER THE DIFFERENT
TENURE SYSTEMS

MODULE 4: PROCEDURE FOR REGISTRATION OF LAND UNDER THE DIFFERENT TENURE SYSTEMS

Different steps and procedures are followed while registering land under the different tenure systems. This module intends to introduce these procedures. An emphasis is on the registration procedures for Mailo land.

Objectives

By the end of this session, the trainees should be able to:

1. Explain the procedures for obtaining a Certificate of Occupancy
2. Understand the forms used in the documentation of land rights

Procedure

Step 1:	Explain the different documents that are used during the registration of each tenure system
Step 2:	Discuss procedures followed to acquire such documents emphasizing and explaining the forms that are involved in each process and at what stage
Step 3:	Print out the forms used in the process of registration for each tenure system and share with the trainees during the explanations
Step 4:	Allow room for questions and answer them all

Technical Notes

Certificate of Occupancy (Section 33 of the Land Act 1998)

- 1) A tenant by occupancy (lawful and bonafide) may apply to the registered owner for and be issued with a Certificate of Occupancy
- 2) The registered owner shall notify the Area Land Committee

Technical Notes

- 3) The committee shall appoint a day for a meeting, being not less than three weeks and not more than three months from the date of the receipt of the application, to determine, verify and adjudicate on the boundaries of the land and shall inform the tenant by occupancy and the owner
- 4) In the hearing the committee must comply with the rules of natural justice and may:
 - Hear evidence which would not be admissible in a court of law
 - Call evidence of its own motion
 - Use evidence contained in any official record or adduced in any other claim
 - Generally, determine its own procedures
- 5) A determination of the committee on the boundaries of the land shall be sent to the tenant by occupancy and the owner of the land
- 6) A tenant by occupancy shall only be entitled to be issued with a Certificate of Occupancy if he or she has paid the ground rent for the land and has no arrears of ground rent
- 7) On receiving the decision of the committee, the recorder shall issue the certificate in the prescribed format
- 8) The recorder shall notify the registrar of the issue of a Certificate of Occupancy, and every such certificate shall be notified as an encumbrance on the certificate of title of the owner of the land

Forms involved in applying for a Certificate of Occupancy (Land Regulations 2004)

- Application for CO/grant of consent - Form 2
- Notice of application for CO - Form 22
- Order to attend hearing by ALC - Form 11
- Order to produce documents - Form 12
- Summons to attend hearing by ALC - Form 13
- Demarcation form for CO - Form 24
- Certificate of Occupancy - Form 32
- Form of sub-division of land held under CO - Form 28

Forms involved in the registration of Mailo land

- Mutation form
- Transfer form
- Consent form





MODULE 5:
DISPUTES OVER LAND

MODULE 5: DISPUTES OVER LAND

This module is about the formal and customary mechanisms of resolving land disputes, the principles governing these mechanisms and the options available for persons in land conflicts to seek peaceful resolution. It allows the participants the opportunity to brainstorm on the unique causes of disputes in their sub-county.

Session 1: Causes of land disputes

Objectives

By the end of the session, the trainees should be able to:

1. Identify the main causes of disputes on land
2. Name the different methods of resolving disputes on land

Procedure

Step 1:	<p>Show the trainees some of the video clips below highlighting some of the current land disputes in various areas in Uganda:</p> <p>Links to the video clips:</p> <ul style="list-style-type: none"> a) Kiruhura Land Dispute - NTV (https://www.youtube.com/watch?v=ui3a3Lt_QNk) b) Evictions in Northern Uganda via Al-Jazeera (https://www.youtube.com/watch?v=gC4is6XimeM) c) Lusanja Land Eviction – NBS TV (https://www.youtube.com/watch?v=mrou8gNPu1o) d) Lusanja Eviction based on a wrong court order – NTV (https://www.youtube.com/watch?v=1WgwJodyKA)
Step 2:	Form groups among trainees according to the sub-counties where they come from
Step 3:	Prompt the trainees to articulate the various causes of land disputes in their areas and how they are always resolved
Step 4:	Using flip charts, allow the representatives of the groups to present
Step 5:	Using the list generated, explain further the different types of land disputes
Step 6:	Allow the trainees to ask questions and respond to the questions



Technical Notes

Disputes

- When the competition between individuals or groups is limited in nature and claims can be addressed under existing law, e.g. a dispute may occur between neighbours about boundaries

Conflicts

- When competing claims are made by groups, reflect broader and deeper competing interests and are not easily resolved within the existing legal framework
- There is no agreement and parties often have fundamentally different views of the nature of the conflict
- A conflict may be caused by unequal, discriminatory access to natural resources between different groups

Types of land disputes and conflicts

These are some of the main disputes arising over land:

- Boundary disputes
- Ownership disputes
- Landlord-Tenant disputes
- Succession and inheritance disputes
- Government and individual interests

Minor disputes, where parties are willing to mediate, can be resolved by the Area Land Committee. Otherwise, they may have to proceed to courts.

Addressing disputes and conflicts

The following steps can be taken to reduce disputes before they escalate into violence to manage them peacefully:

- Understanding the causes
- Using and strengthening dispute resolution mechanisms
- Undertaking policy or legal reform

Approaches to dispute resolution

5) Adjudication

Adjudication relies on an authoritative decision-maker to prescribe the resolution of a dispute based on compliance with the law. Adjudication is typically implemented by the courts maintained by the state

6) Alternative Dispute Resolution (ADR) mechanism

- ADR refers to a range of possible approaches that rely on consent of the parties. Examples include arbitration, mediation, etc.
- They share the following characteristics:
 - a) Alternative dispute resolution approaches do not require the resolution to be a result of the application of the law to the facts of the dispute
 - b) The approach allows and encourages a compromise, which often produces different results than the application of the rules

Technical Notes

- c) Both parties must voluntarily submit themselves to alternative dispute resolution processes
- d) Their participation is not typically compelled by law, though a court may order the parties to find a mediated solution before proceeding to adjudication

ADR approaches recommended for ALCs

Arbitration

The parties agree on an arbitrator who promises to find a decision that is fair in all circumstances. The parties agree to binding arbitration, or they only agree to the process, reserving the right to decide whether to agree to the result once they see it.

Mediation

The parties request a mediator to help them agree to a compromise. The mediator has no authority to 'decide' the dispute in terms of a binding or non-binding decision. The dispute must be resolved through the negotiated agreement of the parties. The law remains in the background in such discussions but can affect the outcome because it is the default solution if the mediation fails.

GROUP WORK

- 1) Identify the major causes of land disputes and conflicts in your sub-county
- 2) For each of the causes identified above, what do you think would be the most appropriate approach for dispute resolution? Give reasons for your answer

Session 2: Standard procedure for conducting field inspection, minute taking and report writing skills

Objectives

By the end of the session, the trainees should be able to:

1. Understand the proper procedure of carrying out field inspections
2. Appreciate and explain the contents and differences between a report and minute

Procedure

Step 1:	Ask the trainees to explain briefly how they have been carrying out field inspections
Step 2:	Based on their answers explain the most desired way of carrying out field inspections
Step 3:	Ask the trainees how they have been preparing reports and minutes
Step 4:	Based on their answers explain the differences between reports and minutes
Step 5:	Illustrate the contents of good reports and minutes

Technical Notes

Conducting of ALC Inspections

- The ALC gives notice in Form 22, appointing a day, not less than 3 weeks and not greater than 3 months, to meet on the land to determine, verify and adjudicate on boundaries (RP and Tenant notified) for a Certificate of Occupancy
- For leasehold and Certificates of Customary Ownership the notice is Form 9 and is not less than 14 days. It must indicate the place and time of inspection
- For freehold, the notice is in Form 10 and is not less than 14 days
- The notice is for the public. It has to be pinned in a conspicuous place to notify the public of the applicant's intention and date, place and time of the meeting
- It is important that the LC1 Chairperson is informed and the notice is displayed on site and the sub-county notice board

Conducting of ALC Inspections – on the day of inspection

Area Land Committee

- Verifies the applicant's presence on the land
- Hears claims of affected parties (natural justice observed i.e. hears evidence and generally determines its procedures)
- Walks around the land in presence of the applicant, neighbors and owners of the adjacent land and other interested parties
- Marks boundaries using common boundary marks in that area
- Mark the rights of way and other forms of easements under Form 24 for CoO, Form 23 for CCO and freehold

Signing Form 23 or 24

- Two adult residents of the area must be present as witnesses (neither owners nor neighbours) to certify the correctness of boundaries
- Members of ALC present also sign and stamp
- Though the quorum for the ALC members is three, it has raised suspicion that missing members are side-lined deliberately. Hence all five where practicable must sign, if not give an explanation why they never participated

Marking boundaries

- Boundaries are measured in meters, using a tape as a minimum
- A sketch is drawn with a black pen. Connected straight lines forming a closed shape, indicating:
 - ◇ Distances
 - ◇ Names of adjacent owners
 - ◇ Approximate north direction
 - ◇ Permanent features near the land like roads, rivers and forests
- The right of way is indicated on the sketch in dotted lines

Reporting

- The ALC makes 5 copies of the sketch map of the area for a Certificate of Occupancy and 3 copies of the sketch map for a Certificate of Customary Ownership and freehold
- The ALC makes a report of its findings to make recommendations for issue or rejection of the

Technical Notes

application and forwards it to the DLB

- The ALC does not retain the file. It must be forwarded to the board for a final decision since the ALC plays an advisory role
- The report is accompanied with an attendance list and the minutes of the meeting to ensure the DLB is well informed of what transpired

What is a report?

- It is a spoken or written account of something that one has observed, heard, done or investigated
- An account given of a particular matter especially in the form of an official document, after thorough investigation or consideration by an appointed person or body

Qualities of a good report

- 1) Must have a suitable title - provided according to the nature of contents
- 2) Must be simple i.e. easy for someone to understand and readable for an ordinary layman
- 3) Contain only relevant information i.e. accuracy of facts
- 4) Unbiased i.e. characterized by a lack of partiality
- 5) It must be clear, articulate, precise, accurate and specific i.e. does not permit guessing
- 6) Chronological events i.e. consistence
- 7) Timeliness and promptness i.e. must come out on time
- 8) It must be owned i.e. the author(s) must sign it

What is expected in a report of an Area Land Committee?

- 1) Background - the name of the applicant, location of the land and date of inspection (title)
- 2) Observations - ALC address, applicant's speech on how he or she came to own the land, assurance of boundaries by neighbours, any interests by third parties if any, current user, easements if any
- 3) A full account of what was exposed in the meeting
- 4) Recommendation - whether the committee is recommending the grant of the application or rejecting the application

What are minutes?

- Notes taken during the meeting to remind you what was discussed and agreed
- Minutes describe the events of the meeting and may include a list of attendees, a statement of the issues considered by the participants and related responses or decisions for the issues
- Minutes do need to record clearly and simply what decisions were made at the meeting and who is going to carry them out

Contents of minutes

- 1) Title and reason for the meeting
- 2) Calendar dates when the meeting took place
- 3) Members present
- 4) Members not present and reasons if any

Technical Notes

- 5) Agenda
- 6) Approval of previous minutes if any
- 7) Business (communications, reactions and way forward)
- 8) Adjournment
- 9) Minute recorder (secretary) and chairperson (have to sign when the minutes are approved)

How to write effective minutes

Effective minutes should include:

- The reason for the meeting, what it was about and where and when it was held
- The names of the participants and list of attendees.
- Agenda items
- Calendar or due dates
- Actions or tasks that were agreed upon and assigned
- The main points discussed in the meeting
- Decisions made by the participants
- Future decisions

Minute taking skills

- 1) Be prepared for the meeting:
 - Be ready for the meeting
 - Make sure you arrive early
 - Set up your writing station before the meeting starts
 - Ensure that you have all the correct writing tools (extra pens and highlighters), enough writing paper, and relevant documents (such as the agenda, if available)
- 2) Keep it simple:
 - Remember that your notes do not have to consist of a word-for-word record of what everyone says in the meeting
 - Focus on the agreed suggestions and proposals, and make a note of who suggested it
- 3) Listen before writing:
 - Listen to each point first before trying to write everything down. This way, you will be able to figure out what needs to be recorded and to summarize what was said
 - The minute-taking process does not have to feel like a “do or die” process. If you have missed something important, simply make a note on the side so that you remember to ask the relevant person after the meeting
- 4) Use bullet points and keywords:
 - Make use of bullet points to write down lists of suggestions and comments
 - Use keywords instead of full sentences - a lot quicker and easier
- 5) Use a comfortable method of recording:
 - Do not make things complicated for yourself by writing everything down on a notepad if you are comfortable using a different recording method





MODULE 6: FAMILY, GENDER AND LAND RIGHTS

MODULE 6: FAMILY, GENDER AND LAND RIGHTS

This module dwells on land rights in marriage, separation and divorce as well as under circumstances of death as determined in formal laws. It also focuses on how gender affects land rights, in particular how the rights of women can be protected.

Session 1: Marriage

Objectives:

By the end of the session, the trainees will be able to:

1. Appreciate the types of marriage, their characteristics and requirements for legal recognition
2. Know their rights, responsibilities and obligations in marriage
3. Appreciate how their land rights are secured in marriage
4. Understand the implications of cohabitation on land rights

Procedure:

Step 1:	Introduce the session by brainstorming on the definition of marriage and write down the responses
Step 2:	In a question and answer session, randomly ask the participants to name the types of marriages known to them and write the responses on the flipchart
Step 3:	Give a brief lecture on the different forms of marriage
Step 4:	Get four conversant volunteers with the different types of marriage to share their experience on how the marriages are conducted
Step 5:	Listen to their narrations and record the requirements for each type of marriage on a flipchart
Step 6:	Give a brief lecture to clarify the implications of the different forms of marriage on land rights
Step 7:	Wind up the session with a case study illustrating land rights in marriage and test if participants can identify the land rights

Technical Notes

- Marriage is a union between a man and a woman
- Marriage forms recognised under the laws of Uganda: Customary marriage, Civil marriage, Church marriage, Mohammedan marriage and the Hindu marriage
- The requirements of a marriage must be fulfilled for it to be valid
- Marriage accords land rights to women and men in accordance with formal legislation and customary rules
- Cohabitation is not a form of a marriage
- Land rights of women and men in cohabitation are not guaranteed unless the parties co-own the land. The parties interests in the land must be documented in writing unless bequeathed or passed on in a will
- Cohabitation does not compromise the rights of children born therein

Session 2: Separation and divorce

Objectives:

By the end of the session, participants will be able to:

1. Distinguish between separation and divorce
2. Know how formal legislation and customary rules apply to land rights at separation and divorce

Procedure:

Step 1:	Start the session with a question on the definition of separation and divorce and note the responses on a flipchart
Step 2:	Draw a two columned table: write separation and divorce in column 1 and 2 respectively
Step 3:	Brainstorm with the participants about the distinction between separation and divorce and write under the corresponding columns
Step 4:	Wrap up with a lecture to make corrections of the responses in the columns
Step 5:	In a brainstorming session with the participants, list down the grounds for separation and for divorce
Step 6:	Draw a table on the flipchart with four columns illustrating customary, church, civil and Islamic Marriages, ask participants to brainstorm on the procedures of divorce in each form of marriage
Step 7:	Ask the participants to do a role acting about the two systems under which divorce under customary marriage is handled
Step 8:	Wrap up the session with an explanation of the procedures of divorce, including how formal and customary systems can be harmonized in dissolving a customary marriage

Technical Notes

- Separation and divorce are not the same: separation is temporal, divorce is permanent
- Separation occurs where a husband and wife agree to stay apart for a given period after which they could decide to either get back together or initiate divorce proceedings
- Separation can either be by court order or by a simple mutual agreement
- Land rights at separation still exist
- Divorce involves the termination of marriage by a court of competent jurisdiction
- Reasons for divorce: Adultery, cruelty and desertion
- A divorce should be determined by court which will evaluate how matters of property and children are resolved
- Land rights do not exist in the marital home once a divorce is concluded. Any pending issues related to those rights are presumed to have been resolved by court
- Divorce is handled differently under respective forms of marriage
- Divorce under customary marriage is conducted in accordance with the customs of the people. However, the customs that have been outlawed cannot be carried out
- Refund of a bride price was declared unconstitutional in Uganda

Session 3: Succession

Objectives:

By the end of the session, trainees should be able to:

1. Know how land and property rights are conveyed in a testate and intestate succession
2. Appreciate the processes involved in will-making
3. Understand the role of the Administrator General in succession
4. Appreciate the processes of obtaining a Grant of Probate and Letters of Administration
5. Understand the role of the clan in matters of a deceased person under intestate succession

Procedure:

Step 1:	Start the session brainstorming on what succession, testate and intestate succession means, and the definition of a will
Step 2:	Lecture on the contents and qualifications for making a will
Step 3:	Share experience on the consequences of an invalid will
Step 4:	Use a dummy to illustrate a will
Step 5:	Illustrate the processes of applying for Letters of Probate on a poster
Step 6:	In a question and answer session ask the participants to narrate what they know about distribution of property under intestate succession
Step 7:	Conclude the session with a case study and ask the participants to identify property rights

Technical Notes

- There are two types of succession: **testate and intestate**
- Succession law recognises only valid marriages
- **Testate succession** is when the person who died had written a will describing how to divide her or his property
- A will is a **WRITTEN** document made while the person is alive. He or she gives instructions how his/her property and other affairs should be taken care of after death

Rules for making a valid will:

- 1) A will must be in writing and signed or marked by the person whose will it is (testator)
- 2) The testator **MUST** sign or mark his or her will in the presence of two or more witnesses
- 3) Both witnesses must be adults of sound mind
- 4) The witnesses should not be beneficiaries of the will
- 5) The two witnesses must both be present when the testator signs the will
- 6) The two witnesses must see the testator sign the will
- 7) If the will is more than one page, the testator should sign each page to guard against forgery
- 8) The will must be dated to ensure its validity
- 9) The family home cannot be passed on in a will unless to the surviving spouse and children
- 10) One cannot pass on property in a will what he or she does not own
- 11) A will can secure land and property rights of persons in cohabitation
- 12) Interfering with a will is criminal
- 13) A valid will must name the Executor i.e. the person who will carry out the will
- 14) The procedure for obtaining a Grant of Probate:
 - The Executor must obtain a death certificate from the National Identification and Registration Authority (NIRA)
 - The Executor then applies to the Administrator General for a Certificate of No Objection
 - The Executor takes the Certificate of No Objection to court to apply for permission to carry out the will
 - The Executor then places an advertisement in the newspaper that she or he has applied to court for a Grant of Probate (permission to carry out the will)
 - If no complaint is filed, the court grants the Executor a Grant of Probate
- 15) Where a will is invalid, the estate is treated as though there is no will
- 16) An invalid will is void and renders the **estate intestate**
- 17) **Intestate succession** is when someone dies without making a will or where a court has declared the will invalid
- 18) Formal legislation provides for distribution of an intestate succession
- 19) Sections of formal law are unconstitutional pending amendment of the law
- 20) Procedure for Getting Letters of Administration:
 - A close adult relative should obtain a death certificate from NIRA
 - The relative should use the death certificate to report the death to the Administrator General
 - The Administrator General checks to confirm that the close adult relative is the right person to have a Letter of Administration and that there are no other persons with a claim to the deceased's property
 - Once satisfied, the Administrator General grants the relative a Certificate of No Objection

Technical Notes

- The relative takes the Certificate of No Objection to a court to apply for a Letter of Administration to manage the deceased's property
 - The relative then places an advertisement in the newspaper that she or he has applied to court for Letter of Administration
 - If no complaint is filed, the court grants the relative the Letter of Administration
- 21) A grant of the Letter of Administration does not entitle the administrator of the ownership of the estate
- 22) Cohabitation does not entitle one for the benefits of a widow or widower
- 23) Customary rules give guidance on management of a deceased person's estate but should be done in accordance with formal legislation

Session 4: Gender and land rights

Objectives

At the end of the session, the trainees should be able to:

1. Understand the difference between gender and sex
2. Explain why gender is important in land administration
3. Appreciate the current status of gender and land rights in Uganda

Procedure:

Step 1:	Ask the participants to differentiate between gender and sex
Step 2:	Show the participants some of the video clips below and thereafter engage the participants in a discussion based on the clips:
Links to the video clips:	<p>a) Women negotiating land rights in Uganda – Centre for International Forestry Research (https://www.youtube.com/watch?v=MCrxnMK5Jcw)</p> <p>b) Strengthening Women's land rights in Pader district – UCOBAC (https://www.youtube.com/watch?v=g2ubg0j2gA)</p> <p>c) USAID Women's land rights: A ripple effect (https://www.youtube.com/watch?v=lzch2MRHhs)</p>
Step 3:	Engage the trainees in an open discussion to highlight the different gender issues and how they affect women's land rights
Step 4:	Share with the trainees the presentation outlining the differences between sex and gender, why it is important in land administration and the current status of gender and land rights in Uganda
Step 5:	Allow room for any questions and answer all of them and finally wrap up the session



Technical Notes

Differences between Sex and Gender

SEX	Gender
<ul style="list-style-type: none"> • Biological characteristics of boys/men and girls/women • Biological/natural • Born with • Universal • Cannot change 	<ul style="list-style-type: none"> • Socially constructed roles, behaviors, activities, and attributes that a given society considers appropriate for men/boys and women/girls • Not born with • Different from society to society • Changes according to development

Gender determines how we

- Think
- Speak or not speak
- Dress
- Act
- Interact

Therefore, gender identity represents the roles and characteristics that a social group assigns to a particular sex

Why Gender and Land?

- 1) Are there factors and practices that shape or influence behaviour expected of a boy or girl, man or woman?
- 2) Are there different expectations, responsibilities or values based on gender?
- 3) Literature on gender and land rights provides rich evidence of global gender gaps particularly in land tenure and how this constrains women in sustainable social and economic development processes

Gender – key concepts

- **Gender** refers to social interpretations and values assigned to be a woman, a man, a boy or a girl. Gender is about social relationships
- **Gender equality** refers to the equal conditions for men and women to realize their full human rights and potential, to engage in and contribute to political, economic, social and cultural development, and to benefit from the outcomes
- **Gender equity** refers to the process of being fair to women and men
- **Gender mainstreaming** is the concept of assessing the different implications of any action for women and men, including legislation, policies or programs, in all areas and at all levels

Gender Stereotypes and land tenure security

GENDER STEREOTYPES	IMPLICATIONS ON LAND ACCESS AND TENURE SECURITY
A woman’s place is in the home/kitchen; the man is the breadwinner of the family	Men are given more opportunities to use land as a source of income, sons and other male relatives get priority in land inheritance
The man is the head of the family	Land tenure instruments (e.g. land titles, leasehold contracts, usufruct certificates, etc) are placed in the name of the man
Women are weak, dependent and emotional, whereas men are strong, independent and rational. Thus men are better leaders than women	Women are not involved in decision-making pertaining to land and other properties of the family; women are not on the or are less represented in community decision making structures

Why advocate for women’s access to land?

- Ensures social and economic development and food security
- Contributes to the realization of human rights
- Contributes to their empowerment and participation
- Protects women from violence and health hazards
- Enables women to play a bigger role in the stabilization of societies in crisis and conflict
- Security, stability, independence and freedom for women

Current status of gender and land rights in Uganda

The Constitution 1995

- Article 21 of the constitution states that all persons are equal before the law in all spheres of political, economic, social and cultural life and in every other aspect and shall enjoy equal protection of the law
- Article 31 (1) of the Constitution entitles women and men to equal rights during and after marriage
- Article 32 of the Constitution provides for affirmative action in favor of groups marginalized based on gender or any other reason created by history, tradition or custom
- Article 33 (4) states that the state shall provide facilities and opportunities necessary to enhance the welfare of women to enable them to realize their full potential and advancement

Land Act 1998

- Section 28 outlaw’s discrimination against women and children in respect of ownership, occupation and use of any land

Technical Notes

- Section 40 requires mandatory consent by spouses for transactions involving matrimonial land (where the family ordinarily resides) and land from which the family derives sustenance. The provision also covers minors, dependent children of majority age and orphans
- Provides for mandatory representation in women on land tenure governance institutions as follows:
 - ◊ Uganda Land Commission: At least one female member out of 5 members
 - ◊ District Land Boards: One third of the membership must be women
 - ◊ Area Land Committees: At least one third of the membership must be women (out of 5) members
 - ◊ Communal Land Management Associations: At least one third female members

National Land Policy 2013 commitment

- Guarantee that the transfer of land under all tenure regimes does not deny any person rights in land based on gender, age, ethnicity, social and economic status
- Ensure equity in the distribution of land resources and preserve and conserve land for future generations

National Land Policy 2013 Action Points

Government shall:

- 1) Modify the rules of transmission of land rights under customary land tenure to guarantee gender equality and equity
- 2) Make provision for a joint ownership of family land by spouses
- 3) Develop guidelines and procedures under customary land law for the allocation and distribution of land complying with the principles of equality and natural justice
- 4) Ensure rules and procedures relating to succession do not impede the transmission of land to women and children
- 5) Educate and sensitize the public on discrimination against women and children with respect to access, use and ownership of land
- 6) Review and regulate customary rules to avoid violation and abuse of family land held in trust for the family
- 7) Restore the power of traditional leaders in matters of land administration, conditional on their sensitivity to rights of vulnerable groups
- 8) Ensure that the head of family is held accountable for his or her fiduciary duties over the family land held in trust

To redress gender inequity and inequality to inheritance and ownership of land in statutory law, the Government will:

- Design and implement a regime of matrimonial property law aimed at the protection of spouses
- Make legal provision for a joint or spousal co-ownership of family land and the matrimonial home
- Amend the Succession Act Cap 162 to provide for the right of succession and inheritance of family land by women and children
- Amend the Land Act Cap 227 to restore the consent clause to protect children below 18 years

Technical Notes

Constraints of gender equity and equality in land tenure relations

- Customary norms and institutions related to land access and rights
- Formal legal framework and institutions
- Socio-cultural difficulties with women exercising land rights
- Land market

National Land Policy Strategies

- 1) Ensuring effective participation of women in decision processes
- 2) Combating intersectional and multiple forms of discrimination
- 3) Harmonizing existing laws, policies and programs
- 4) Ensuring women's right to legal security of tenure
- 5) Protection of women against forced evictions at the hands of public and private actors
- 6) Legal pluralism from a gender perspective
- 7) Access to justice and enforcement by women
- 8) Promoting the positive aspects of customary systems for women
- 9) Marital property rights and property rights after divorce
- 10) Working towards gender-equitable inheritance
- 11) Promoting gender-sensitive land laws and programming
- 12) Making land registration and titling more accessible and gender-equitable
- 13) Ensuring gender-equitable land institutions
- 14) Communication, media engagement and community awareness
- 15) Legal education and literacy
- 16) Urgent need for gender-sensitive data collection, monitoring and evaluation

COURSE EVALUATION AND ASSESSMENT

Objectives

1. To know whether the trainees understood the various topics of the training and to evaluate which topics need more training
2. To know whether the expectations of the trainees were met
3. To get different opinions from the trainees on how such trainings can be made better in case they are to happen again

Procedure

Step 1: Distribute evaluation forms with questions of interest

Step 2: Go through the questions together with the trainees so that they understand how to answer them

Step 3: Give the trainees time to fill the forms and then collect them

Step 4: Compile and analyse results from the evaluation

GLOSSARY OF TERMS

The terms below are commonly used both internationally and nationally in land administration and governance. It is necessary to provide their definitions in the context of Improved Land Governance in Uganda (ILGU).

Adjudication is the process whereby all existing rights on a particular parcel of land are finally and authoritatively ascertained. It is the ascertainment and conclusive determination of rights in land.

Area Land Committee is the lowest land administration institution in the decentralized land administration structure and is based at the sub-county level.

Bonafide Occupant is a person who had occupied land unchallenged by the registered owner for 12 years before 1995, that means before 1983. A person who had been settled on land by the Government or its agent including a local authority.

Community Land is that land under the use, care and management of a specific or identifiable community. It is subject to the rules and customs of that community.

Customary Tenure is the holding of land in accordance with the customs of a given community. It is mentioned in the Constitution of Uganda and regulated by the Land Act (1998) Cap 227.

Dispute Resolution is the process of resolving land disputes. Uganda has a parallel dispute resolution mechanism, including the formal or judicial through the courts, the quasi-formal or administrative courts (Local Council III) or a mediator also known as state administered or sanctioned alternative dispute resolution (ADR) mechanisms.

The informal dispute resolution systems that involve community or cultural leaders, elders, and village assemblies can have formal recognition by the state once they are registered at the magistrate court.

Encroachment is the illegal occupation of gazetted state lands sometimes, typically unclassified or under-utilized land.

Encumbrance is the recognized interest on registered land that unfavorably affects the land. These interests may be and are registerable in a formal real estate system and include restrictive agreements or contracts, easements, mortgages and registered leases.

Freehold Land Tenure is the holding of registered land in perpetuity subject to statutory and common law qualifications.

Land is a term which generally applies to the universe and its natural resources including water, minerals, rocks, forests and trees. *“Land: any portion of the earth over which rights of ownership, stewardship, or use may be exercised, including: the earth’s surface, water covered lands, water and mineral resources, as well as features and resources attached to the earth whether they be natural or artificial. (Barlowe, 1986).*

Land Administration is the processes of determining, recording and disseminating information about different tenures, value and use of land when implementing land management policies (UNECE 1964).

Land Dispute and Conflict is a contestation over land and rights in land. A land dispute occurs where specific individual or collective interests relating to land are in conflict.

Land Management is the all-encompassing process of managing the use and development of land and land-based resources in both the rural and urban settings.

Land Owner is any person who owns a piece of land. However, people who live and use registered land of another person are tenants.

Land Parcel is a clearly defined piece of land belonging to a person or group of persons.

Land Rights entitlements (inherent and otherwise) that a person enjoys a piece of land, acquired through many ways including: purchase, inheritance, marriage, gift, rent or tenancy, adverse possession.

Land Tenure is the way people hold land. It is the relationship among individuals with respect to land. This relationship can be legal or customary. Land tenure is also an institution and the rules governing land tenure were invented by societies to regulate behavior and use of the resources. Tenure rules define how property rights to land are allocated within societies.

Land Tenure System(s) explain who can use what resources and for how long. They assign rights in land to an individual or entity that is said to “hold” the land.

Land Title is the legal document issued by the Government recognizing a registered person as owner of that particular piece of land.

Lawful tenant includes a person occupying land by virtue of repealed law of the Busuulu and Envujo Law 1928, the Toro Landlord and Tenant Law 1937, the Ankole Landlord and Tenant Law of 1937, a person who occupied the land with the consent of the registered owner through buying, gift or where registration did not disclose or compensate the sitting person at the time of acquiring title.

Lease is a contractual agreement in which the land owner grants another person exclusive possession of its/his/her land for a given period of time.

Mortgage is a charge over land that is intended to secure the payment of a debt.

Parcel (of land) is a defined area of land with a unique record of ownership, use, or other characteristics. In our context it is that piece of land with commonly known boundaries by the community or users.

FREQUENTLY ASKED QUESTIONS

General

1. What is ILGU?

ILGU in full is the Improvement of Land Governance in Uganda project. The main objective is to increase the productivity of small-scale farmers on private Mailo land.

2. Who funds the project and what is the intention?

The project is funded by the European Union and the German Government, with the support of the Government of Uganda and District Local Governments. The intention is to create a peaceful co-existence between landlords and their tenants on private Mailo land.

3. How does GIZ or UCOBAC benefit if the mapping of Kibanja under ILGU project is for free?

GIZ and UCOBAC are non-profit making organizations. They are implementers of a government project supported by the European Union and the German Government. This explains why all activities under this project are free of charge.

4. How long will the project last?

For each sub-county, the project operates for 4 to 6 months. However, there is a permanent office established at the sub-county to serve people daily. The ILGU project will end in June 2021.

5. Will these services be free forever?

The services are only free during the 4 to 6 months. After that, the sub-county administration will charge a certain fee to enable them to run the services.

6. Is this project in Mityana and Mubende only or it is all over Uganda?

The ILGU project so far operates in the three districts of Kasanda, Mityana, and Mubende (respectively, in the sub-counties of Bukuya, Myanzi, Kakindu, Malangala, Kikandwa, Bulera, Kiyuuni, Nabingoola and Kigando). The project concentrates on private Mailo land which is mainly found in Central Uganda.

7. Won't the Government grab peoples' bibanja through mapping?

The government (through ILGU project partners and donors) is aiming at creating a peaceful co-existence between landlords and their tenants on Mailo land. So, no land grabbing will happen.

8. How much shall we pay for the Land Inventory Protocols (LIPs)?

The district council in liaison with the sub-county leadership has the mandate to declare the fees for LIPs. For example, in Myanzi it costs 10,000/=.

Landlord - Tenant

1. Do local council chairpersons have the mandate to sign Kibanja sale/purchase agreements?

The LC1 chairperson acknowledges residency while the landlord is the one who acknowledges the buyer's tenancy of the Kibanja. It is therefore recommended that both, the LC1 and the landlord witness and sign the Kibanja purchase or sale agreement.

2. Is Kibanja sharing or buy-out compulsory?

Kibanja buy-out and/or sharing is not compulsory, it is based on willing seller – willing buyer relationship. However, the government advises those with big parcels of kibanja to voluntarily negotiate with their landlords so that they can acquire a registrable interest in a fair share of the land instead of holding big parcels which are at times unproductive to them.

3. What is the ratio of Kibanja sharing between the tenant and the landlord?

There is no legal standard or ratio of kibanja sharing but we advocate for equity regarding this issue. The parties are encouraged to work closely with local leaders.

4. Will tenants without agreements be mapped?

They will be mapped if their landlord agrees, more so if one has a Busuulu receipt. He or she can submit that.

5. What is the recommended Busuulu amount?

The Busuulu amounts as set by the MLHUD are as follows:

City-50,000/=, Municipality-40,000/=, Town council-30,000/=, Town board-20,000/= and Village-5000/=.

Under the ILGU project we advise both parties to discuss and agree on the amount of Busuulu to be paid.

6. What is the difference between a bonafide and lawful occupant?

A bonafide occupant is the one who had occupied the kibanja for twelve years undisturbed before the enactment of the 1995 constitution of the Republic of Uganda. A bonafide occupant can also be someone who was settled on a kibanja by the government.

A lawful occupant is a person who either bought, inherited or received/was given a kibanja by a landlord or registered proprietor.

7. Will tenants with conflicts be mapped?

The ILGU project will map tenants involved in land conflicts only after conducting a mediation exercise and when conflicting parties have reached an agreement.

8. How will you handle tenants whose landlords are absent or unknown?

The mediation committee will first search for absent landlords. If landlords can't be traced the Area Land Committee and the LC3 chairperson will allow mapping.

9. How will you handle those whose Kibanja is on different land titles?

That implies that those are different bibanjas. The bibanja will be mapped separately and the Kibanja owner is supposed to seek consent from the respective landlords.

10. Where should one report if the landlord refuses Busuulu?

Tenant(s) should raise a formal complaint to the chairperson of the Area Land Committee through the LC1 & 2. If not helped, he or she can proceed to the office of the SAS at the sub-county.

11. What are the requirements for mapping?

The requirements are: National Identity Card, Kibanja sale or purchase agreement, Busuulu receipt and consent from his or her landlord.

12. Will you map my kibanja if we already agreed with my landlord to buyout/share?

Such kibanja will be mapped to enable both parties to verify the estimated kibanja size avoiding unfair sharing. The two parties must give a consent for mapping.

13. What can I do if we agreed with the landlord to share but he didn't give me the title?

If the transfer and mutation processes was done, you have to involve a mediator to fulfill the mandate. It is always advisable to involve respective community leaders in such processes.

14. Can one sell part of his or her kibanja after mapping?

Yes, one can sell a part of a kibanja after mapping. But you still need to seek consent of the landlord. Furthermore, the transaction can only be completed after going to the sub-county to update the information in the computer. There is need to involve a professional surveyor.

15. Won't the landlords use this opportunity to oppress bibanja holders?

The landlords won't use ILGU as an opportunity to oppress the bibanja holders. The ILGU project creates transparency and increases harmony between landlords and their tenants. So, there will be no oppression from the landlord.

16. What should I do if I have no National Identity Card?

You can present any other national document such as a passport, driving permit or a village or local council card but it is advisable for all to possess a National Identity Card.

17. Will the tenant pay busuulu after getting the LIP?

Yes, the kibanja holder will continue paying busuulu until he or she is able to do land sharing or buy out.

18. Is Kanza compulsory, what is the standard Kanza fee?

The Kanza is a traditional and historical requirement for a landlord to recognize his or her new tenant. There is no standard Kanza fee, but we advise the landlords and tenants to agree on the Kanza amount for a peaceful co-existence on Mailo land.

19. Is it possible for a landlord to allow tenants to be mapped whereas the title is not in his or her names?

I am the heir, but I have not put the land title in my name, will the project map my tenants?

By law, a landlord is someone who owns the land title in his or her names or has letters of administration. However, if the land title is not yet in the landlords' name, but the landlord can prove ownership of the land by a letter of administration, will, purchase agreement or if the community members agree that this landlord is their true land lord. Then the landlord can give a consent for mapping. However, we encourage the landlords whose titles are not yet in their names to use the collected funds (introductory fees and Busuulu) to put the title in their names.

20. How do I get letters of administration?

We advise the tenants to go to the land offices or court because it entails a lot of legal processes.

21. If I cannot trace my landlord, what do I do?

Make an official search at the nearest Ministry Zonal Office using block and plot number. Additionally, consult other landlords and elders in the community for further inquiries. You can also engage a professional surveyor to help you.

22. If I have spent 10 years without paying Busuulu, the landlord comes and starts asking me to start the buyout, what do I do?

Confirm first if that landlord is the true landlord. After confirmation, you may begin the voluntary negotiation. But first negotiate to pay Busuulu.

23. If I do a buyout for my Kibanja, and the landlord refuses to give me the transfer forms, where do I report him or her?

Report to the LCs, and if he refuses, go to police. But it's advisable to engage lawyers during buy-out processes or be careful when paying the last installment. The landlord must sign the transfer forms.

24. Will this project help us to trace our landlords?

It has already helped to trace many absentee landlords especially during landlords' meetings at sub-counties. Also, through land search at the district land lords can be located.

25. If I have many bibanja, do I have to pay Busuulu for each Kibanja?

You have to pay Busuulu for every Kibanja you have. Retain receipts for each Kibanja.

26. If my father gave me a part of his Kibanja, will the mapping team map me on my Kibanja independently?

As long you possess the agreement given to you by your father, you will be introduced to the landlord to pay Busuulu, and then be mapped independently.

27. If my kibanja is mapped now, but later I want to sell part of my Kibanja, will the mapping team come back and help me to make correct measurements?

You must first seek consent from the landlord. Then, go to the sub-county to seek the support of the Area Land Committee.

28. Why doesn't this project also help the landlords to open the boundaries of their land?

This project works primarily on three major components: awareness raising, conflict resolution and mapping of bibanja. We do not open up boundaries for the landlords. However, one can engage the services of a professional surveyor to do the boundary opening.

29. Why doesn't the Government punish the local leaders who facilitate the selling of bibanja without the consent of the landlords?

When such incidence happens, one can report to the LCIII court or police. It is illegal to sell a Kibanja or part of it without the consent of the landlord.

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