



# **Understanding the Opportunities and Barriers to Securing Customary Land Title in the Albertine Sub-Region, Uganda**

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## **EXECUTIVE SUMMARY**

The land sector in Uganda has attracted a great deal of attention associated with: 1) the recently completed computerization of the MLHUD, 2) the particular vibrancy of civil society in the land sector, 3) Uganda's full recognition of customary tenure and 4) the growing number of initiatives introducing the latest digital communication applications to demarcate and register land. With less than 20 percent of landholdings in the country currently registered, land governance in Uganda is at the forefront of a profound change as customary land is demarcated and registered. A key challenge is to ensure the equitability of this process involving 1) gender and social equality; 2) the protection of the poor and vulnerable comprising children and the disabled, and 3) the environment. It is in fact concern for the environment, the wellbeing of chimpanzees and the effects of deforestation that motivated this report. A better understanding of land governance in Uganda will allow the identification and leveraging of opportunities while minimizing or sustainably addressing barriers to customary land tenure security. Assured of tenure security, households are more inclined to better manage the land at their disposal and preserve forests. Such practices support agro-biodiversity, strengthen resilience and facilitate sustainable use of the environment. In addition to the obvious environmental, social, economic and conceivably political benefits, the preservation of forests is essential to the sustainability of the Albertine Sub-Region's chimpanzees that represents a significant portion of Uganda 5,000 chimpanzee population.



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It must be noted that while some of these people will not necessarily agree with certain aspects of the arguments put forward in this report, I am most thankful for their input and assistance in refining my thoughts and bringing my attention to alternative arguments that I trust have been acknowledged adequately in the body of the report.

All omissions and errors of interpretation within this report remain the sole responsibility of the author. The views and opinions expressed in this report are those of the authors and do not necessarily reflect or represent the views and opinions held by IIED.

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## LIST OF ACRONYMS

ALC	Area Land Committee
AJWS	American Jewish World-wide Service
ARLPI	Acholi Religious Leaders Peace Initiative
CAO	Chief Administration Officer
CCO	Certificate of Customary Ownership
CEDP	Competitive Enterprise Development Programme
CLA	Communal Land Association
CRED	Civic Response on Environment and Development
CSO	Community Service Organization
DFID	Department for International Development
DLB	District Land Board
DLO	District Land Office
DFS	District Forestry Services
DGF	Democratic Governance Facility
FAO	Food and Agriculture Organization
FFI	Fauna and Flora International
F&G	Framework and Guidelines on Land Policy in Africa
FGD	Focus Group Discussions
FM	Frequency Modulation
FSSD	Forestry Sector Support Department
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
HOT	Humanitarian Open Street Maps
IDP	Internally Displaced Person
ILSA	Integrated Land Solutions, Africa
IJM	International Justice Mission
JGI	Jane Goodall Institute
LADM	Land Administration Domain Model
LC1	Local Councilor 1
LC2	Local Councilor 2
LC3	Local Councilor 3
LC5	Local Councilor 5
LEMU	Land and Equity Movement in Uganda
LDPG	Land Sector Development Partners' Group
LSED	Land Security and Economic Development
MAAIF	Ministry of Agriculture, Animal Industry and Fisheries
MAST	Mobile Applications to Secure Tenure
MEMD	Ministry of Energy and Mineral Development
MFPED	Ministry of Finance, Planning and Economic Development
MLG	Ministry of Local Government
MLHUD	Ministry of Lands, Housing and Urban Development



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MOU	Memorandum of Understanding
MTWA	Ministry of Tourism, Wildlife and Antiquities
MWE	Ministry of Water and Environment
MZO	Ministry Zonal Office
NEMA	National Environmental Management Authority
NFA	National Forestry Authority
NLIC	National Land Information Centre
NULP	Northern Uganda Land Platform
OT	Open Tenure
PSFU	Private Sector Foundation Uganda
PWD	Persons with disabilities
RTA	Registration of Titles Act
SBE	The School of Built Environment
SIDA	Swedish International Development Aid
SLAAC	Systematic Land Adjudication and Certification
SOLA	Solutions for Open Land Administration
STDM	Social Tenure Domain Network
UBOS	Uganda Bureau of Statistics
UGX	Uganda shillings
UIA	Uganda Investment Authority
ULA	Uganda Land Alliance
UN	United Nations
UNHCR	United Nations High Commission for Refugees
USAID	United States of America International Development
UWA	Uganda Wildlife Authority
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
VSLA	Village Saving and Loans Association



## INTRODUCTION

The broader objective of this initiative is to identify robust and cost effective ways to address key issues associated with customary land tenure identified as challenges to reforestation and chimpanzees in the Albertine Sub-Region. More specifically, the report identifies the opportunities and barriers to secure customary land title in region. The Albertine Sub-Region has been the focus of oil exploration and extraction over the past decade fuelling the commoditization of land. The current slump in international crude oil prices has dampened the development of the sector. This has been exacerbated by challenges the Government of Uganda has experienced in the management of oil companies and investors. It is only a matter of time before demand resumes, crude oil prices pick up and Government resolves outstanding issues with the oil companies and investors. Driven by speculation, land and property values remain high and tensions associated with land tenure and governance in the region continue. The current lull provides an excellent opportunity to bring relevant stakeholders to the table.

The report starts with 1) a brief background to land governance in Uganda with a description of relevant stakeholders, current and planned initiatives, and challenges to customary land tenure across the country. It then 2) analyses the land tenure security of the population living in the two linkage areas identified by the 2014/15 Fauna and Flora International (FFI) scoping study conducted, with support of the Arcus Foundation, in western Uganda in the valleys between the Bugoma-Wambabya forests and the Budongo-Mukihani forests. The report then 3) examines the political context of the communities concerned including the power dynamics, identification of the key stakeholders and decision makers, how decisions are made and the barriers to change; before 4) presenting a realistic strategy to equitably strengthen the land tenure security of the individuals and communities involved linked to forest related sustainable livelihoods to preserve and restore forest cover in cooperation with civil society organizations (CSO) and appropriate local and national government institutions.

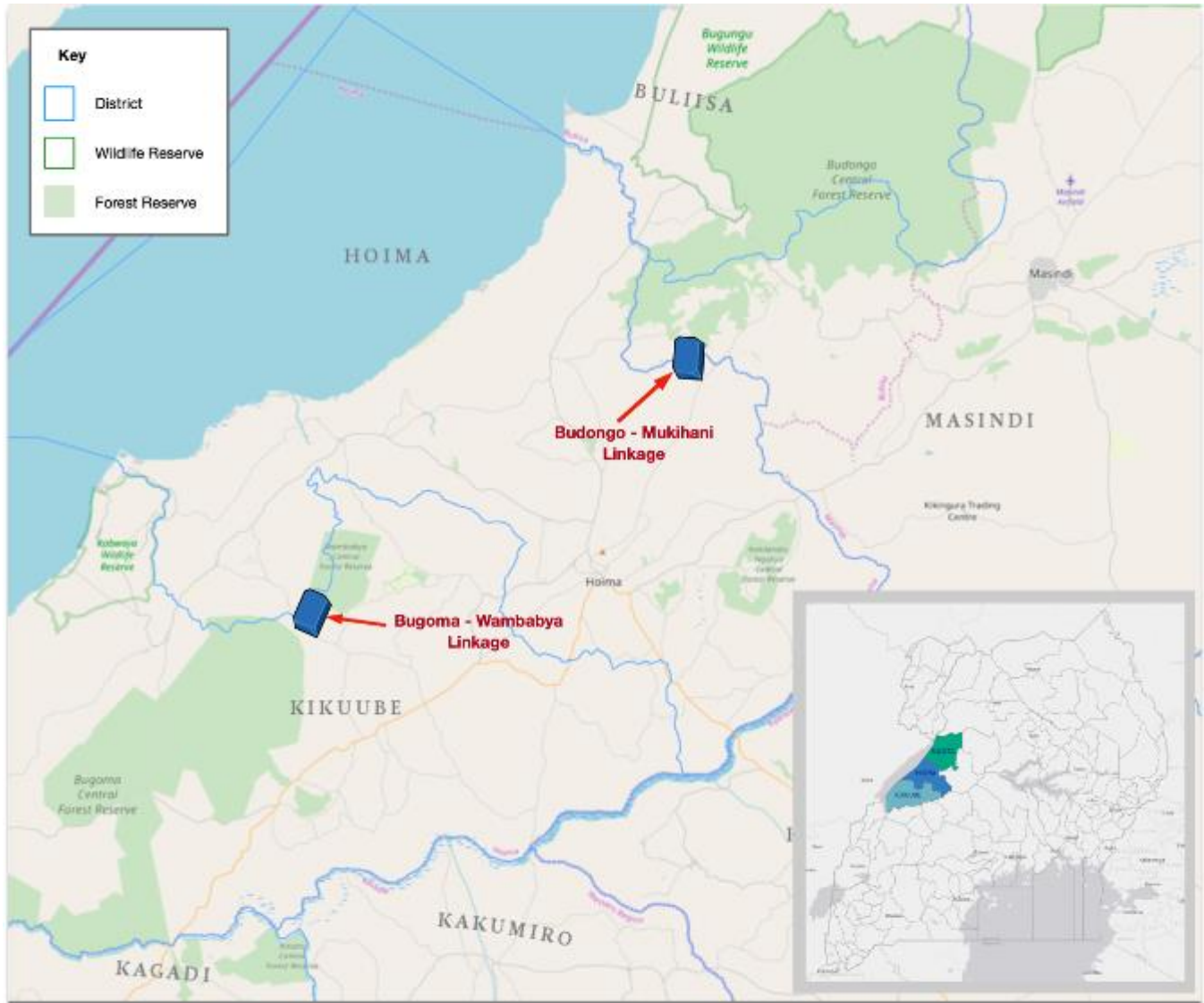
## BACKGROUND

Over the past decade, Uganda has consistently been registered among the countries with the highest population growth rates in the world putting enormous pressure on available resources.<sup>1</sup> De-forestation is occurring at a rapid rate as people cut down trees to expand subsistence agricultural production and exploit forests for timber and charcoal.<sup>2</sup> The Government of Uganda has identified minerals, oil and gas in addition to agriculture and tourism as the three priority growth opportunities for national development.<sup>3</sup> All of these factors exert pressure on forests throughout the Albertine Rift and represent a clear and present danger to indigenous flora and fauna including the remaining habitat of the already dwindling eastern chimpanzee (*Pan Troglodytes Schweinfurthii*) population in this region.<sup>4</sup>



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## Map of the Albertine Sub-Region



The rapid deforestation in the Albertine Sub Region is seriously threatening the movement of chimpanzees between Budongo Central Forest Reserve in Buliisa District and the Bugoma Central Forest Reserve in the new district of Kikuube. Of particular interest are the Budongo-Mukihani Linkage across the two districts of Hoima and Buliisa, and the Bugoma-Wambabya Linkage across the two districts of Hoima and Kikuube.

Uganda has made great strides in recent years towards environmental conservation in terms of updating policies and legislation<sup>5</sup> and is a signatory to a wide range of major international and regional environmental treaties.<sup>6</sup> The country is now recognized to have some of the most progressive land legislation in Africa and is a signatory to the Voluntary Guidelines on the Responsible Governance of





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Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) and the Framework and Guidelines on Land Policy in Africa (F&G) that promote equitable security of tenure and protect the environment.<sup>7</sup>

### **LAND GOVERNANCE IN UGANDA**

While Uganda has a very comprehensive collection of laws associated with land registration and administration (Appendix 3), land governance in practice is a multi-layered mix of different statutory and customary land tenure systems comprising colonial legacies, reforms and new initiatives. These different systems have often been overlapping on the same plot of land implemented over the past 120 years and resulted in conflicting tenure rights and interests.<sup>8</sup> Issues with land tenure security across Uganda arise from challenges in proving rights and interests, the expense and difficult procedures associated with land registration, a lack of accountability and transparency, the limited funding to the sector, legal and regulatory constraints, attitudes, culture, squatters, historical issues and capacity constraints.

The lack of resources and poverty compound problems. The Uganda National Household Survey 2016/2017 suggested that the proportion of the population living below the national poverty line rose from 20% in 2013 to approximately 21% in 2017 with an increase in the number of poor persons registered across most of the country.<sup>9</sup> Poverty and inequality are closely related to land tenure security.<sup>10</sup> Land governance and management across Uganda is vulnerable to elite capture. Individuals within communities and local government can exploit these challenges including the limited awareness and understanding of laws and policies, the lack of communications and coordination between relevant state institutions and ethnic politics for personal gain.

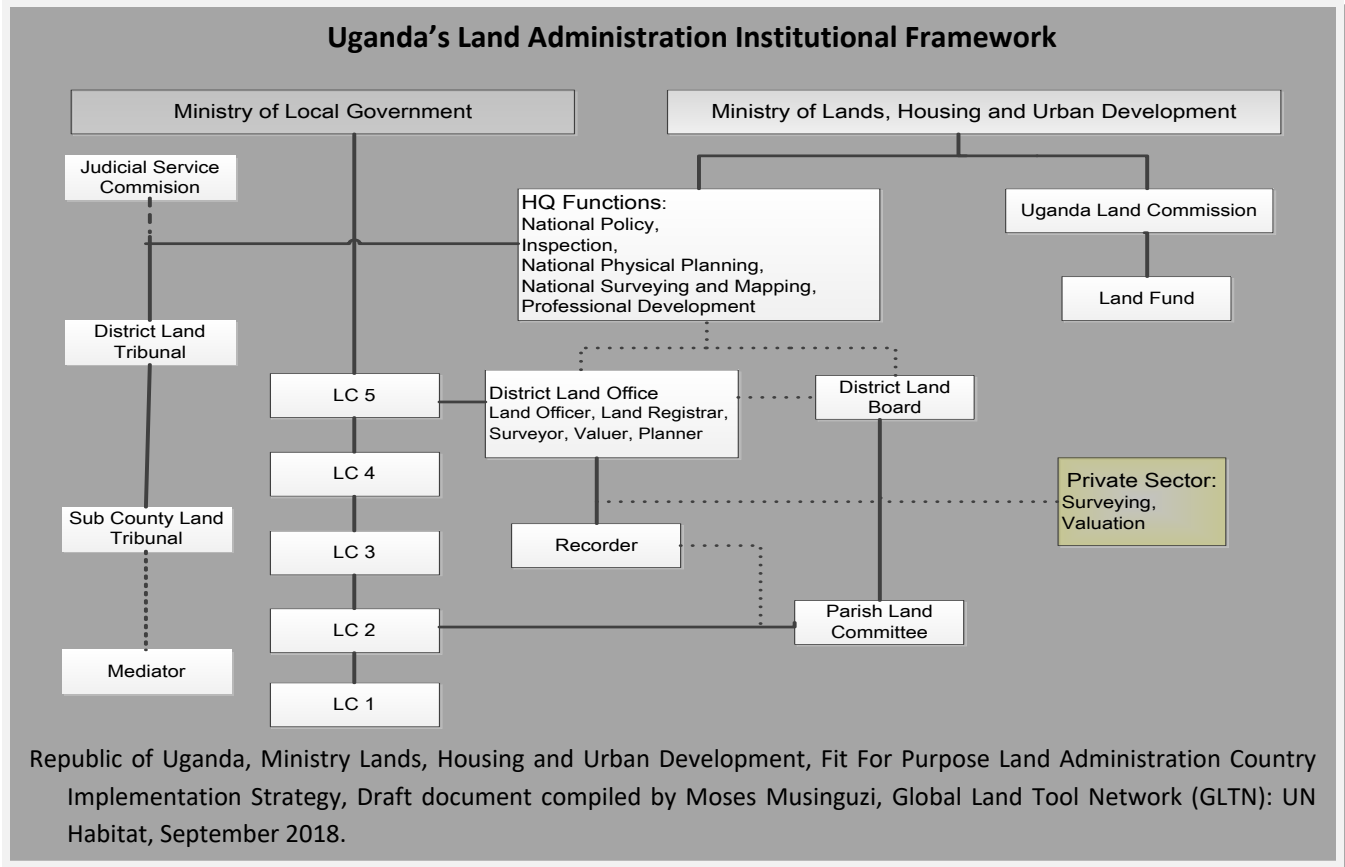
While sound legislation and policies are in place, the meaningful implementation of these laws and policies relies on the political will of government and the availability of resources. Under increasing scrutiny from development partners and potential investors, the Government of Uganda has demonstrated an increasing focus on the full and correct implementation of the country's laws and policies associated with land tenure, the environment and resources.

The institutions to implement land governance have only recently been put in place. Local Councilor Ones (LC 1s) at the village level and Local Councilor Twos (LC II) at the parish level were elected in July 2019, the first such elections since the introduction of multi-party politics in 2005.<sup>11</sup> This represents a significant contribution to the strengthening of local level land governance and dispute resolution.<sup>12</sup> LC 2s are mandated as the first court of instance to settle land disputes. Their judgments can be referred to the Area Land Committee (ALCs) at the Local Councilor Three (LCIII) sub county level which is an



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appellate court. Beyond this, land disputes are then referred to the magistrate's courts that are grossly under-resourced courts with substantial backlogs. The cost and distances of the magistrate's courts are largely beyond the reach of the majority of the population.



A number of recent and ongoing initiatives to address land governance in Uganda have built capacity; focused government's attention on strengthening land governance and improving security of tenure to reduce conflict; facilitated social and economic development; and attracted investment.

A centerpiece of the Government of Uganda's work in the land sector is the National Land Information System (NLIS) that focuses on demarcated and formally registered land.<sup>13</sup> The National Land Information System (NLIS) was fully completed in February 2020. The MLHUD is now fully digitized and decentralized with the delivery of statutory land governance services in 22 Ministry Zonal Offices (MZOs) across Uganda. The implementation of this system has significantly improved accountability, service delivery, security and cost effectiveness. The NLIS was implemented with support from the World Bank in the first phase (2014-2019) of the execution of the Competitive Enterprise Development Programme (CEDP). The Programme was extended a year to mid-2020. Planning for the next phase of the CEDP is still being planned and the land component is likely divided into the following components:



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- 1: Up-dating the legal framework to support modernization of land administration
- 2: Consolidating gains in land administration
- 3: Improving land use and management
- 4: Accelerating registration of individual and communal lands
- 5: Strengthening institutions and mechanisms to resolve land disputes
- 6: Capacity Development and Project Management

While the NLIS focuses on statutorily registered land, only 15 percent of land in Uganda has been surveyed and 8.6 percent of the land in the country registered over the past century or more.<sup>14</sup> The majority of surveyed and registered land in Uganda is within municipal and urban areas, particularly the capital city Kampala. This is primarily due to the relatively high value of the land and population density in these areas. There are credible reports that only 1.2 percent of land in rural areas across northern Uganda is registered.<sup>15</sup> Rapid population growth and spiraling demand for land for both subsistence and commercial agriculture have contributed to an exponential increase land prices across much of the country over the past decade. Speculative interest in mineral resources in Karamoja in the northeast of Uganda and developments in the oil industry in the rift valley in western Uganda over the past two decades have contributed to the already rocketing land values. While the benefits of land registration in terms of tenure security, conflict transformation, equitability and development is not without debate;<sup>16</sup> the Government of Uganda with support from the World Bank is recognized to be at the forefront of modernizing land governance in Africa.

It is anticipated that a key focus of the land governance component of the second phase of the Competitive Enterprise Development Programme (CEDP)<sup>17</sup> will be on increasing land registration, engaging in customary and communal land programmes and integrating local levels of government with the NLIS by strengthening the capacity and links between Sub County Area Land Committees (ALC), District Land Offices (DLO), District Land Boards (DLB) and the recently established Ministry Zonal Offices (MZOs).

Uganda is among the few countries in Africa to recognize customary land tenure as equivalent under law to freehold and leasehold land tenure regimes. The 1995 Constitution,<sup>18</sup> the 1998 Land Act<sup>19</sup> and subsequent amendments<sup>20</sup> recognize four categories of land in Uganda: 1) freehold, 2) leasehold, 3) mailo<sup>21</sup> and 4) customary land. The 1998 Land Act sets out in detail the issuance and management of customary certificates of ownership (CCO) that are primarily un-surveyed freehold titles. The fact that CCOs do not require removes the prohibitive costs associated with freehold titles rendering land registration more accessible to a larger percentage of the population. Land in Uganda can only be held by recognized legal entities comprising government, individuals/families or registered institutions/organizations/associations. These institutions/organizations/associations comprise: 1) registered commercial companies; 2) non-government organizations such as academic associations,



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registered clubs, trusts and associations; or 3) clan or community groups that may come together to establish a community land association (CLA). The 1998 Land Act provides for the establishment of Communal Land Associations (CLAs) as legally recognized entities comprising members of a particular community to register, lease or own land.<sup>22</sup> CLAs are most appropriate where land is held communally by a group of people who can clearly demonstrate their right to ownership of the land in question.

There is very little communal land still in Uganda with the exception of some areas of West Nile, the Acholi Sub-Region and Karamoja in northeastern Uganda where pastoralism is still widely practiced. The Land Act provides clear and detailed instructions on how a CLA is to be established involving the appointment of community representatives to form a management committee, the development of a constitution and a management plan. Once established, the CLAs can then be supported to exercise the principle of free, prior informed consent to decide on the most appropriate way to legally hold the land either as a freehold or CCO.<sup>23</sup> The constitution of the CLA governs the management committee and outlines the rights and responsibilities of different members of the community. Connected to CLA's, the 2003 National Forestry and Tree Planting Act provides for local community institutions to manage a community forest on behalf of the community as discussed in more detail below.<sup>24</sup>

### Principles of Free, Prior and Informed Consent<sup>25</sup>

Free	Prior	Informed	Consent
<b>No manipulation</b>	None of the following should be undertaken before consent has been obtained: <ul style="list-style-type: none"> <li>• Authorization or commencement of activities</li> <li>• Finalization of development plans</li> <li>• Adjudication</li> </ul>	Information to be provided will: <ul style="list-style-type: none"> <li>• Be accurate</li> <li>• Be in an appropriate language</li> <li>• Include information on social, economic, environmental &amp; cultural impacts</li> </ul>	Form may vary for different communities. It may be oral or written, but must always involve consultation and participation
<b>No coercion</b>	Specific time requirements of the consultation/ consensus process	<ul style="list-style-type: none"> <li>• Reasons for proposed activities, duration, affected locality, proposed benefits sharing</li> <li>• Legal arrangements and people likely to be involved</li> </ul>	The process should be participatory
<b>No incentives</b>		Be in a form that is understandable and that takes into account traditions of the community and not repugnant to best practice	Decision-making should not exclude or marginalize individuals due to gender, ethnicity or other factors

An alternative legal instrument to the establishment of a CLA that can also be used to bring a band of people together and have their rights to a particular plot of land registered as a group or community is



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through the establishment of a Communal Land Trust. Similar to CLAs, the establishment of a Land Trust requires a series of steps as presented in Appendix 5. These steps also involve the extensive organization of the community with meetings and negotiations to establish a formal constitution and leadership organization. Both CLAs and Land Trusts need to be drawn up with careful consideration of the particular customs, traditions, and practices of the group.<sup>26</sup> One particular group of advocates have strongly argued for the use of Land Trusts in the Acholi Sub-Region.<sup>27</sup> However, details are lacking about both procedural issues concerning the registration of land trusts within the MLHUD and how Trusts can be structured in ways to both minimize the danger of elite capture and strengthen land tenure security for each and every member of the group.<sup>28</sup> The prevailing thought among most government and civil society actors is against Land Trusts due to the legal power they concentrate in a relatively small group of representatives of the group to make important decisions including the sale or lease of the land.

It is anticipated that the second phase of the World Bank CEDP referred to above will also support the establishment of Community Land Associations (CLAs) and the systematic demarcation and the registration of customary land under Certificates of Customary Ownership (CCOs). The European Union has agreed to contribute US\$10 million to this.<sup>29</sup> A number of prominent development partners operating in Uganda have expressed interest to support the demarcation and registration of land as an equitable solution to land tenure security across the country.

While the statutory costs associated with the registration of land are relatively affordable, the main challenge to obtaining a customary or freehold title in Uganda is the prohibitive costs associated with having the land surveyed. Costs vary according to negotiating powers of the individuals involved, the size and location of the land; the cost of having even a small plot ( $\leq 1$  acre) surveyed in most rural areas is in excess UGX1,500,000 (US\$400). Larger plots can be substantially more. Monthly rural household incomes average UGX 303,000 (US\$81) across the country.<sup>30</sup> As such, the cost of registering land with a freehold or leasehold title is five times the average monthly salary and well beyond the reach of the vast majority of Ugandan households.

Systematic demarcation and registration initiatives such as the Systematic Land Adjudication and Certification (SLAAC) programme currently being implemented by the World Bank as a component of CEDP can bring the prices of surveying down.<sup>31</sup> The initial target was 800,000 plots in different regions across Uganda; however, challenges with the implementation of this programme proved insurmountable and not one plot was processed in the three year period of the initiative. In 2018, the project was then awarded to a private company GIS Transport with a revised target 50,000 plots.<sup>32</sup> An approach of this nature could be explored for a discrete number of plots in specific areas, but such initiatives are “one offs.” They are totally dependent on donor funding and do little if anything to build the capacity of stakeholders.



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Government and a significant number of civil society institutions operating in Uganda consider CCOs and CLAs pro-poor and effective in improving tenure security especially for women and vulnerable groups, some prominent land actors vehemently disagree. CCOs have been criticized on the grounds that they ignore or distort the roles of family, cultural leaders and women; do not capture local customary rights and interests; not all of the people are named, capacity to check these or other details; lack of clarity about the management of disputes involving.<sup>33</sup> Similarly CLAs and Land Trusts have been criticized on the grounds they lack clarity in law and application in addition to being overly complicated and beyond the capacity of communities to readily access.<sup>34</sup> A prominent expert on customary land in Uganda, Judy Adoko suggests the demarcation of customary plots and development of family trees to ascertain the historical or lineage rights of individuals to particular plots is sufficient to secure customary land tenure and less susceptible to elite capture.<sup>35</sup> The fact that many of the inhabitants in the areas of concern are relatively recent settlers as discussed in more detail below and concerns associated with protecting land against claims from government and investors necessitates the need to utilize statutorily recognized mechanisms that clearly demarcate, register and establish land tenure security in the region.

MLHUD and institutions implementing pilot CCO and CLA interventions in other regions of Uganda have endeavored to address the majority of these purported shortcomings by carefully establishing procedures to ensure the equitable access to women, poor and vulnerable, certify all appropriate names appear and create roles for cultural leaders in the issuance of CCOs: observing plot demarcation, ensuring that all relevant names are included on the document and cross checking the accuracy of the information. Nonetheless, some observers suggest more needs to be done.<sup>36</sup> While efforts are currently underway to fully integrate CCOs with the NLIS, more work remains to be done and this is anticipated under the next phase of the World Bank's initiative on land in Uganda. The computerization of CCOs will minimize the use of paper records, prevent encroachment on wetlands, forests, road reserves and other public land reserves.<sup>37</sup>

Individuals at the local level do not yet have full trust in central government to effectively implement land governance. They have expressed a strong preference to have their land management implemented at a local level with CCOs where the government representatives are often personally know to the local people, have an understanding of their constituents, the challenges they face and are and accessible to local community members.

The key challenges to scaling up the implementation of land registration are associated with resources. With low revenue generation in rural areas, local government is heavily dependent on grants from the central government. The funds disbursed to local government are grossly inadequate, and land governance is rarely prioritized. With limited budgets and the scarcity of qualified personnel, many of the districts are seriously under-resourced with over 90 percent of technical positions vacant in some



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structures.<sup>38</sup> The initial implementation of CCOs requires training and capacity building. Furthermore, with very few registered freehold or leasehold titles in rural areas, District Councils usually see little to no value in diverting limited resources to staffing land offices in the face of more pressing needs to support staff in education, health, production and infrastructural development. Furthermore they struggle to attract qualified staff. The District Land Officer by law should hold a law degree and few young lawyers are motivated to move to rural areas for the minimal government salaries.

The growing interest in the demarcation and registration of customary land has served to focus the attention of MLHUD on unregistered land. The growing number of interventions focused on customary tenure has resulted in a dramatic increase in the government's appreciation, understanding and interest in securing customary land tenure in Uganda. While the number of personnel within MLHUD who understand customary land tenure can be increased, there is already a critical mass of personnel within government who have a basic understanding and appreciation of customary land tenure. MLHUD is currently working hard to consolidate learnings from the different initiatives discussed above and the work already implemented on customary land tenure as it gears up preparations to deal with customary land tenure and properly integrate it with existing statutory land mechanisms and procedures in preparation for the upcoming national scale World Bank initiative focused on securing customary land tenure security across the country. This was buttressed by The President of Uganda's recent public participation in the issuance of Certificates of Customary Ownership (CCOs). In June 2019, President Museveni handed out 322 CCOs to residents in three sub-counties of Soroti District in Eastern Uganda.<sup>39</sup> This was followed up the following month with a very public event where Vice President Edward Ssekandi represented President Museveni in the company of First Deputy Prime Minister Gen. Moses to hand out 1,000 titles in Adjumani District in north western Uganda.<sup>40</sup> The political will to register customary land utilizing CCOs is evident at all levels of government.

### **PAST AND CURRENT CUSTOMARY LAND INTERVENTIONS**

A number of high profile initiatives to demarcate and register customary land across Uganda are in place. These interventions are being implemented by a variety of different institutions such as FAO, GLTN/UN Habitat, GIZ, ZOA, Uganda Land Alliance, Trócaire, Cadasta Foundation, Civic Response on Environment and Development (CRED), Jane Goodall Institute and EcoTrust. These interventions were implemented with support from a very wide range of different development partners including the Netherlands Embassy in Uganda, Swedish International Development Aid (SIDA), European Union, DFID Global Fund, Democratic Governance Facility (DGF) comprising eight international development partners (Governments of Austria, Denmark, European Union Ireland, the Netherlands, Norway, Sweden, and the UK), American Jewish World-Wide Service, Omidyar Network and Stichting Pharos.



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Between 2004 and 2013, the Kasese District Council embarked on their own initiative to issue approximately 6,000 CCOs guided by their own interpretation of the details set out in Land Act to ameliorate growing tensions associated with land related conflicts. In February 2014, the Northern Uganda Land Platform (NULP) put together a 17 member delegation with support from the Irish Catholic Development non-government organization (NG) Trócaire to visit Kasese District to 1) Examine how land is owned and managed in Kasese, 2) Observe the status and implementation of CCOs in Kasese, and 3) Consider ways these findings might be relevant to the implementation of CCOs in northern Uganda.<sup>41</sup> The NULP delegation comprised civil society representatives and two MLHUD representatives. The CCOs issued did not bear all the names of the people with rights to the plots, were missing CLIN numbers, not compliant with physical planning regulations, and did not bear District Land Board (DLB) Minute Numbers, but represented the first CCOs to be issued in Uganda. They provided very good learnings to all the participants of the team,<sup>42</sup> most especially the MLHUD representatives.

Through 2015-2016, FAO funded by DFID Global Fund provided support under the implementation of the VGGTs to work with MLHUD to support the Kasese District Council and different Sub-County Area Land Committees to re-issue the 6,000 CCOs in full accordance with all statutory requirements using the digital application Open Tenure. The School of Built Environment (SBE) at Makerere University<sup>43</sup> was engaged to provide technical skills and expertise in mobilizing the community and teaching members of the Area Land Committees (ALCs), District Land Offices (DLO) and District Land Boards (DLB) in close cooperation with relevant representatives of the MLHUD. The guidelines and procedures for the issuance of CCOs was established at local and central levels of government through this process and the project was a success.

In 2015, the Dutch non-government organization (NGO) ZOA identified land tenure insecurity as a key challenge to a food security project and agricultural development in Nwoya District in the Acholi Sub-Region of northern Uganda. Picking up on the experience of FAO in Kasese, ZOA implemented an initiative to demarcate land and issue CCOs also using the Open Tenure digital application developed under the Solutions for Open Land Administration (SOLA).<sup>44</sup> The project was funded by Stichting Pharus<sup>45</sup> and implemented in very close cooperation with MLHUD and the Nwoya District Council. ZOA received technical support from FAO, the School of Build Environment (SBE) Makerere University; International Justice Mission; and Acholi Religious Leaders Peace Initiative (ARLPI) to issue 1,250 CCOs to their beneficiaries.<sup>46</sup> The project finished in 2018 and ZOA recently commenced a project to issue an additional 3,000 CCOs in two more sub-counties in Nwoya District.<sup>47</sup>

Over the past four years, the UN Habitat Global Land Tool Network (GLTN) with support from the Netherlands Embassy in Uganda has engaged in programs to issue CCOs in Kisoro and Kabale Districts in south western Uganda; Mbale and Butalega Districts in eastern Uganda; Pader District in the Acholi





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Sub-region in Northern Uganda and Adjumani District in West Nile utilizing Social Tenure Domain Network (STDN).<sup>48</sup> GLTN are looking to expand to several more districts and plan to issue 30,000 CCOs across Uganda in 2020.

Since 2014, GIZ with support of the German Corporation and the European Union (EU) has also engaged in the Responsible Land Policy in Uganda (RELAPU) initiative to issue CCOs in the Soroti and Katakwi Districts in the Teso region in eastern Uganda and a similar facility with Certificates of Tenure on mailo land in Kasanda, Mubende and Mityana Districts in the central region utilizing a digital application developed using open source software.<sup>49</sup> Over 5,000 beneficiaries have thus far received documentation of their plots in Kasanda and Mityana Districts.<sup>50</sup> GIZ are currently looking to expand this project.<sup>51</sup>

A relatively small component of the World Bank CEDP initiative also focused on the registration of Community Land Associations (CLAs). Approximately 600 CLAs have so far been issued.<sup>52</sup> The Washington D.C. based institution Cadasta Foundation has been actively looking for opportunities to engage in Uganda. Initially piloting the implementation of their Cadastra software with the development of a land inventory for the Alur Kingdom in West Nile, in recent months MLHUD has refocused the attention of Cadastra on the Districts of Buliisa, Hoima and Kicuube.<sup>53</sup> Cadasta is also in advanced discussion with MLHUD to fully integrate their mobile data application with the NLIS.

Humanitarian Open Street Maps (HOT) have had a presence in Uganda for the past three years and have implemented a number of digital mapping initiatives with the Office of the Prime Minister (OPM) and United Nations High Commissioner for Refugees (UNHCR) focused on Internally Displaced People (IDPS) and refugees.<sup>54</sup> Another key actor in the formalization of land tenure across the developing work including Africa is USAID. USAID completed the piloting of a digital mapping software Mobile Applications to Secure Tenure (MAST) in neighboring Tanzania and have been considering the implementation of the system in Uganda for the past few years.

To improve coordination among development partners engaged in the land sector, FAO worked with the European Union and MLHUD to establish the Land Sector Development Partners' Group (LSDPG) in January 2016. The goal of the LSDPG is to use the VGGT to identify land related development bottlenecks and create a common vision among development partners on how to effectively contribute to improved land governance in Uganda by supporting the implementation of the National Land Policy.<sup>55</sup> Currently chaired by the World Bank, the LSDPG meets monthly bringing together all of the development partners currently engaged in the land sector. In September 2016, FAO also established the VGGT Secretariat comprising of key MLHUD staff engaged in the issuance of CCOs and focus the Ministry's attention on customary land tenure. The VGGT Secretariat has since been transformed into the Customary Tenure Secretariat and continues to be the primary institution within MLHUD focused on customary tenure.



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In early 2019, the GIZ RELAPU program convened a meeting comprising of all the different institutions working on issues related to the demarcation and registration of customary tenure in Uganda to improve understanding and coordination in an attempt to streamline engagement with MLHUD to find solutions to common challenges. The first meeting comprised of representatives from GIZ RELAPU, GLTN/UN Habitat, FAO, ZOA, and Trócaire. Initially intended as a technical level meeting, the group continues to meet regularly with the heads of the various institutions often participating.

### **LAND AND RESOURCES IN THE ALBERTINE SUB-REGION**

In this section, the report first provides a brief description of the social, political and economic background of the Albertine Sub-Region. It then focuses on these issues in the context of the communities concerned exploring the power dynamics, identifying key stakeholders and decision makers, examining how decisions are made and the challenges they face associated with land tenure security.

The people of Bunyoro in western Uganda are part of the Bantu language group. The Bunyoro Kingdom encompasses the districts of Hoima, Buliisa, Masindi, Kibale, Kiryandongo, Kikuube, Kagadi, Kakumiro stretched out along the eastern slopes of the Rwenzori Mountains. The history of the Kingdom can be traced back to the 13th Century.<sup>56</sup> At different times, the Kingdom enjoyed great prominence, but endured almost constant tension with the Tooro Kingdom to the south and the Buganda Kingdom to the east. In 1894, the Kingdom was declared a British protectorate.<sup>57</sup> King Kabalega, the ruler of Bunyoro at that time was opposed to the colonial invasion and in 1899 he was captured and exiled to Seychelles Islands in the Indian Ocean. The British then allocated portions of the Bunyoro Kingdom to the Buganda Kingdom and Tooro Kingdoms.<sup>58</sup> The Bunyoro Kingdom languished until a brief revival after independence in 1962 before all traditional institutions were banned during the rule of Idi Amin from 1971 to 1979 and continued thereafter through the second rule of Milton Obote. It was only restored in 1993 by the NRM government.<sup>59</sup> While not without reservations associated with environmental degradation and land related conflict, after being sidelined for most of the past century the people of Bunyoro are generally optimistic about the prospects of the oil industry as an opportunity to build up and restore the region.<sup>60</sup>

Since the 1940s, a substantial number of ethnic Bakiga fleeing depleted resources and overpopulation in south western Uganda have settled in the Albertine Sub-Region especially Hoima District. As new settlers, they usually settled in the less favorable areas near swamps, waterways and forests. Other ethnic large groups within Hoima District comprise Baganda, Banyankole, and Lugbara.<sup>61</sup>



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The Bakiga minority are characterized as particularly hard working and industrious. The Bakiga in particular are now perceived to dominate politics and business in the area and are increasingly resented by the Banyoro who claim to be the original inhabitants of the area. These tensions have significantly increased over recent years with the influx of capital associated with the oil industry and have had a clear impact on the politics of the region. The establishment of Kikuube District dominated by ethnic Bakiga split from the western section of Hoima District in June 2018 was opposed by the Bunyoro Kingdom.<sup>62</sup> The establishment of Kikuube District can be considered indicative of the ethnic politics and adds a further complication to land governance in the region.

The majority of people who have settled on or near (state gazetted) waterways, wetlands and forest reserves in the the two linkage areas utilized by chimpanzees in the valleys between the Bugoma-Wambabya Forests and the Budongo-Mukihani forests are of ethnic Bakiga origin. Despite the fact that many Bakiga have now lived in the area for 2-3 generations, they are regularly denied land tenure rights contrary to the laws of Uganda.

The ruling National Resistance Movement (NRM) government has consistently enjoyed support in Bunyoro and Hoima in particular.<sup>63</sup> Poverty in the region is high. While the incidence of monetary poverty in western Uganda is less than half the national average at 8.7 percent, the Bunyoro Sub-Region has western Uganda's highest poverty rate at 10.4 percent.<sup>64</sup> Poverty in Hoima District ranges from 2.5 to 17.5 percent and Buliisa District has the region's highest poverty rates at 14 percent for the total population and 16 percent among children.<sup>65</sup> The Bunyoro Region is primary focused on agriculture. The major crops grown in the region are cassava, maize, sweet potatoes bananas and rice.<sup>66</sup> Other crop comprise sugar, coffee, tea, beans, and oil seed crops such as sesame and pea nuts in addition to cotton, cereals, fresh fruit and vegetables essential oils, poultry and fresh water fish.<sup>67</sup>

The 2006 discovery of commercially viable oil deposits in the Albertine Sub-Region spurred a rush for land in the Albertine area.<sup>68</sup> This obviously had a significant impact on land tenure in the region impacting on land ownership. Speculation has put strong upward pressure on land values increasing land related conflict and causing displacement. There has also been a significant influx in the number of migrants vying for work and business opportunities. The growing migration is likely to trigger further population growth, increased land pressure, and escalate competition among the indigenous people and newcomers.<sup>69</sup> The majority of land in the region remains unregistered. While customary land is statutorily recognized, in the absence of documentation, many land owners have struggled to demonstrate their customary rights to access, use and own land. Reports of land grabbing were rampant.<sup>70</sup> There were several prominent reports of local elites acquiring large tracts of land. In August 2016, the National Forestry Authority (NFA) requested MLHUD cancel a land title belonging to the King of Bunyoro-Kitara Kingdom for 8,000 hectares in the Bugoma Central Forest reserve on the grounds it had been fraudulently acquired. In December 2019, the Court of Appeal ordered the



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reinstatement of a land title to the King who has committed to provide the land to Hoima Sugar Limited that plans to clear the land for sugarcane seriously threatening the chimpanzee population in the area.<sup>71</sup>

The general level of knowledge and awareness of statutory or customary land law, the rules and principles and the mechanisms available to deal with the management of land is very low. This has been well documented across Uganda and is equally applicable in the Bunyoro Sub-Region.<sup>72</sup> Very few local government officials have even a basic grasp of land legislation and customary or clan leaders do not fully comprehend or understand customary land law.<sup>73</sup> As previously mentioned, LC 1 and LC 2s were only recently elected.<sup>74</sup> These individuals are mandated by law as the first court of instance for the resolution of customary related conflicts<sup>75</sup> and require capacity building to perform these tasks effectively.<sup>76</sup>

Alarmed by the spike in land related conflict as a result of the oil, staff members of the Hoima District Land Office participated in a study tour to Kasese District with another Hoima District representative to see the CCO program established there with the support of MLHUD and FAO.<sup>77</sup> They believed CCOs would be a fast and effective ways for people to be able to secure their land tenure in the district. They returned to Hoima and organized to put in place all of the requirements put forward by MLHUD to receive support to implement the issuance of CCOs. They canvassed the District Council Executive to engage a district land officer and secured all of the necessary administrative documentation from MLHUD.<sup>78</sup> In response to the rising number of land related issues in the region, MLHUD prioritized Hoima and Buliisa Districts and dispatched a team to the region 5-12 October 2019.<sup>79</sup> The MLHUD delegation met with a representative of the Hoima District Land Office who presented his personal views as his own explaining that Hoima District was not interested in CCOs and only wanted freehold and leasehold titles. The MLHUD delegation in turn reported this to MLHUD Headquarters in Kampala. The officer in charge of the Hoima District Land Officer was most disappointed to learn of this, most especially after making all necessary efforts to attract CCOs. It was not until December 2019 that the representative of MLHUD returned to Hoima District and met with the Hoima District Chief Administrative Officer (CAO) and representatives of the District Land Office to put the matter straight.<sup>80</sup> The Hoima District Council is now looking for support to move forward with the immediate issuance of CCOs within the district.<sup>81</sup>

The Masindi Ministry Zonal Office (MZO) that covers both Hoima and Buliisa Districts was opened in early 2018 as part of the NLIS to deliver land services in the region. Co-incidentally, the senior officer currently assigned to the Masindi MZO played a significant role in the pilot initiative to issue CCOs in Kasese and is very familiar with customary tenure and efforts to link and integrate CCOs with the NLIS.<sup>82</sup>



## LAND RELATED INTERVENTIONS

While obviously in need of further improvement,<sup>83</sup> the Government of Uganda has embraced the critical benefits of compliance with local, regional and international norms, rules and procedures to attract and facilitate the larger and more prominent investors.<sup>84</sup> Acutely conscious that stability is crucial to attracting investment and integral to development in addition to its commitment to a range of international covenants associated with human rights, poverty and environmental concerns, the Government of Uganda has quickly prioritized the identification of robust solutions to land tenure security challenges in the Albertine Sub-Region. Government earmarked UGX29 billion (US\$7.7 million) to compensate people in the Albertine Sub-Region where the oil pipes are to pass<sup>85</sup> and MLHUD prioritized the Albertine Sub-Region in general and Buliisa and Hoima Districts in particular.<sup>86</sup>

As discussed above, a number of initiatives are currently underway to demarcate and register CCO using mobile digital applications. Only one of these has yet been implemented in the Albertine Sub-Region. The **Cadasta Foundation** commenced the implementation of a pilot project in Kigwera Sub-County, Buliisa District in September 2019.<sup>87</sup> The initiative works in close coordination with MLHUD and the District and Sub-County Governments and employs a fit-for-purpose approach to demarcate boundaries, capture relevant information about owners, and other interests in the customary land. The Cadasta Foundation application uses a Land Administration Domain Model (LADM) structure which is compatible with the NLIS. The Cadasta foundation provides local government agencies with the tools to collect and manage data locally and cost effectively, while replicating key data components to the NLIS. The Cadasta Foundation platform and data collection tools utilize available mobile telecommunications technologies, and a field approach focusing on the capture of general boundaries captured with direct community participation and ensuring trust in the process given the community participation and local access to data.<sup>88</sup>

To mobilize the community and engage local government at the Sub-County level, Cadasta engaged **Civic Response on Environment and Development (CRED)**. CRED has been implementing a project in the Bunyoro Sub-Region to raise awareness and build capacity of local stakeholders in order to safeguard communal land rights with support of the American Jewish World-Wide Service to strengthen structures for communal ownership of land.<sup>89</sup> CRED has been implementing activities in the region for almost a decade. They have a firm understanding of the local politics, social and economic environment, and firm set of connections and the trust of the communities they are working in. These are all very important credentials in the implementation of potentially sensitive issues such as land governance. CRED has been working very closely with MLHUD and most recently working with the Cadasta Foundation to mobilize communities and support the digital demarcation of plots in Kigwera Sub-County in Buliisa District.<sup>90</sup>



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Technical capacity building involving the hands on training of members of the Sub-County Area Land Committee (ALC) on how to operate the tablets or smart phones and the mobile application was provided by **Ujamaa Tribe**,<sup>91</sup> a Kampala based company focused on IT training and capacity building among other things. Cadasta established an MOU with MLHUD which played a key role in overseeing Cadasta Foundations engagement with the community, the procedures and processes involved in collecting data for the CCO and the management and handling of the data collected. The MLHUD also facilitated Cadasta's initial introduction to the Buliisa District Council. A Kampala based consulting firm **WMC Africa**<sup>92</sup> provided technical advisory on overall management, identification of local partners and provided support to enrich engagement and follow-up with local partners including MLHUD.

**EcoTrust** also worked with local government and MLHUD to establish 4 CLAs in Hoima District and 3 CLAs in Masindi District.<sup>93</sup> The applications reached an advanced stage and EcoTrust engaged the Minister for MLHUD and the Commissioner for Land Registration. Several of the applications encountered administrative hitches, the programme stalled and now were issued.<sup>94</sup> Both the Minister and the Commissioner for Land Registration have since been transferred and there is no institutional memory of the initiative within MLHUD. EcoTrust has provided very modest payments to a number of property owners under its carbon credit initiative to preserve forests.<sup>95</sup> Several respondents within the community suggested this had proved extremely effective.<sup>96</sup>

**Jane Goodall Institute (JGI)** has demonstrated a deep understanding of the local dynamics and initiated a range of interventions to improve livelihood options for local communities and sensitize them on the needs of chimpanzees. JGI has previously mobilized community members in Hoima District to submit applications for over 1,100 Certificates of Customary Ownership (CCOs).<sup>97</sup> The development of applications reached an advanced stage, but the initiative stalled over uncertainties on whether the land in question did not encroach on gazetted wetlands. A number of respondents suggested, the technical officer was not properly engaged and facilitated in the initial stages of the process, otherwise such challenges could have been identified and addressed from the start.<sup>98</sup> The technical officer in question has been consulted on this issue and confirmed that the CCOs are pending verification of the precise location of the plots and whether they are in fact situated on gazetted wetlands.<sup>99</sup>

**Land and Equity Movement in Uganda (LEMU)** worked with Bunyoro Kingdom to build capacity on land governance and developed a document titled Principles, Practices, Rights and Responsibilities (PPRR) in Bunyoro that captured the Bunyoro Kingdom's customary laws associated with use, management and ownership.<sup>100</sup>



## COORDINATION CHALLENGES

An overwhelming majority of respondents engaged for this study reported a distinct lack of unity, communication and organization between different stakeholders.<sup>101</sup> Government institutions in Uganda are structured rather vertically.<sup>102</sup> In most instances it is only the senior leadership of government institutions that have an opportunity to engage and interact. Ministries such as MLHUD, Ministry of Water and Environment (MWE), Ministry of Energy and Mineral Development (MEMD), Ministry of Agriculture, Animal Industries and Fisheries (MAAIF), Ministry of Local Government (MLG) and agencies such as Uganda Wildlife Authority (UWA), National Forestry Authority (NFA), National Environmental Management Authority (NEMA), District, Sub-County, Parish and Village Councils have little knowledge of each other. These institutions often times find themselves implementing conflicting programs and duplicating efforts resulting in an unnecessary waste of resources. Even within institutions, there are gaps associated with lack of communication and the same applies to local government offices as glaringly evident in the example of the Hoima District Council and its engagement with MLHUD described above. Communications and coordination is also very poor to non-existent among the different civil society institutions such as the traditional leaders, faith based and development agencies working on land issues in the regions such as the Jane Goodall Institute, EcoTrust, Chimpanzee Sanctuary and Wildlife Conservation Trust, Kyamaleera Chimpanzee Conservation, Land and Equity Movement in Uganda (LEMU), Cadasta, and CRED.

In an attempt to address this, the inaugural meeting of the Albertine Sub-Regional Land Platform was held in Hoima 26 January 2017 with support from Executive Director of the Civic Response on Environment and Development (CRED).<sup>103</sup> The specific objectives of the platform were:

- 1) Identify themes relating to the organisations working on land issues
- 2) Create a forum for regular interaction and share information
- 3) Organize quarterly forums/meetings
- 4) Create training opportunities for members on topical issues like land
- 5) Lobby for support from key players to address land related dilemmas

Unfortunately the platform proved unsustainable and no subsequent meetings were held.



## **STRENGTHENING LAND TENURE REGISTRATION IN THE ALBERTINE SUB-REGION**

Given the burgeoning land market in the region, it is proposed that ownership of land by CLAs is the most effective way forward. Individually held titles are amenable to sale and the investment in resources and agreements established with land owners to preserve forests can easily be lost if and when the land is sold should the new owners not see value in these natural resources. CLAs have the potential to galvanize communities to improve intra-community governance, foster sustainable land and natural resource management and conservation, and hold local leaders accountable.

The surveying of land for a freehold title has cost implications beyond the capacity of many Ugandans, but done at scale the costs can be reduced significantly. The application for a single freehold title by a CLA representing multiple households will bind the community together and present challenges to any individuals who might wish to opt out and cash in their forest. There is no minimum or maximum number of people/households stipulated by law for a CLA, but 6 to 150 or more people/household could be considered a reasonable number. This would be the most effective way forward. It would be both secure and cost effective, and well within reach of even a modest intervention.

If the SLAAC is to be expanded in the second phase of CEDP, efforts could be made to encourage MLHUD to implement the SLAAC and issue freehold titles in the target areas with support of the World Bank. Alternatively or in addition, support could possibly be provided to provide capacity to government and non-government institutions to provide the necessary support to communities to establish Community Land Associations (CLAs) as outlined in Appendix 4 or Land Trust as outlined in Appendix 5 for the land in need of protection. Once the CLA or Land Trust is established and registered, they can be supported by a credible institution to exercise the principle of free prior informed consent in the selection and application for the most appropriate form of tenure: freehold, leasehold or CCO as outlined in Appendix 6.

The Spokesperson for MLHUD who heads up the team focused on customary land governance has given assurances that MLHUD would support the registration of CLAs and the issuance of CCOs or freehold titles within Hoima District.<sup>104</sup> The MLHUD team is very interested to learn more about any previous work done in the Albertine Sub-region on these legal instruments by EcoTrust and the Jane Goodall Institute (JGI) and provided in principle support to any future land tenure interventions associated with the strengthening of land tenure security.<sup>105</sup>





## PROPOSED WAYS FORWARD

Having examined the state of land governance in Uganda with a particular focus on the challenges and opportunities associated with securing customary land tenure in the Albertine Sub-Region, there are some obvious ways forward to address the barriers to protect the environment for indigenous flora and fauna including the habitat of the eastern chimpanzee (*Pan Troglodytes Schweinfurthii*).

The first and perhaps most obvious, if not pressing need is increase awareness among relevant stakeholders of the challenges to tenure security. Once the stakeholders have a better understanding of the challenges and the tools and mechanisms available to address them, solutions will be obvious. The next step will be to strengthen communication and organization between the different stakeholders and build their respective capacities. Identifying and harnessing ongoing initiatives and institutions currently operating or soon to commence in Uganda will provide solid ground for the implementation of initiative to avoid the pitfalls and directly address the challenges associated with land tenure security in the Albertine Sub-Region. This is obviously a significant overlap in the recommendations presented below.

### Increase Awareness

Knowledge is power. Transparency and awareness are imperative in dealing with sensitive issues associated with land tenure to ensure both compliance and ownership. Maximum effort should be made to improve the understanding of the general public and all relevant stakeholders on both statutory and customary norms, rules and procedures. This information should include the roles of the different actors and their mandates under laws of Uganda in order to facilitate free, prior and informed consent.

This is best achieved through the design and implementation of a public information and awareness campaign utilizing all possible means. While the reach of print media and television to the target communities may be restricted in this context and render little impact, FM radio is highly effective. Talk shows with guests discussing relevant issues are particularly effective and on air, DJ mentions and spot messages can also be utilized to disseminate more specific information. The three main FM radio stations in and around Hoima are Liberty FM, Spice FM and Biiso FM.<sup>106</sup> The key languages to focus on in the region are Lunyoro, Luganda and English.<sup>107</sup> Other important languages to consider are Alur, Swahili and in Buliisa District Lugungu.<sup>108</sup> Gatherings and meetings of institutions such as community based networks cultural, social and financial associations including faith based groups, agricultural groups, VSLA groups can also present excellent opportunities to disseminate information and raise awareness.



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A report by Uganda Land Alliance (ULA) called for greater information sharing and transparency,<sup>109</sup> and three points of a 2015 report funded by the American Jewish World-wide Service (AJWS) and the Democratic Governance Facility (DGF) recommended community sensitization and training of local officials on relevant laws, procedures and best practices.<sup>110</sup>

Several sections of the National Land Policy explicitly articulate the need for increasing awareness associated with land governance issues:

*18. (iii) Sensitize and create public awareness on the land use and management for increased productivity.*

*58. (iii) Educate and create public awareness on the benefits of conservation and protected areas for national development;*

*181. (iv) Organising of civic education and public awareness creation for stakeholder participation.*

*191. (iv) Create awareness on policy prescriptions for stakeholders of in respect of issues reviewed.<sup>111</sup>*

## Build Capacity

Building capacity is probably best suited for implementation as a cross cutting intervention with one or more of the other ways such as demarcation and registration. Capacity building encompasses everything from formal instruction to on the job training. Involve the training of individuals within institutions such as the Area Land Committee members, the District Land Office, District Land Board, MLHUD staff, NGO, cultural leaders and other civil society representatives. Capacity building provides a clear and quantifiable contribution to sustainability. The Hoima District Council Land Office representative welcomed support and capacity development.<sup>112</sup>

Once again, the National Land Policy explicitly supports capacity building in several sections:

*127. (ii) Provide capacity, through training, to enable land management agents to function effectively.<sup>113</sup>*

*181. (iii) Capacity building of key personnel in the implementation of this policy;<sup>114</sup>*

*184. (iii) Train and build capacity of local and community leaders' understanding of the policy<sup>115</sup>*

## Strengthen coordination

The majority of respondents welcomed the suggestion of a platform or regular meeting that would bring them together and provide opportunities for an exchange of ideas, identify best practices, avoid duplication of effort and foster cooperation.<sup>116</sup> Such meetings would ideally involve a very broad range of stakeholders and bring together environmental, forest and wildlife conservation, land actors with representatives from the majority of institutions cited in Appendix 2. Regular meetings of this nature



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would improve information exchange and coordination between relevant stakeholders, facilitate opportunities to pool resources, leverage the benefits of each other's interventions and exploit potential synergies.

The simplest way forward would be to pick up on the inaugural meeting of the Albertine Land Platform held in January 2017 described above. The Jane Goodall Institute expressed an interest to assist with the organization of such a platform.<sup>117</sup> There are obvious challenges associated with bringing a disparate group of individuals and institutions together. The Northern Uganda Land Platform (NULP) is an interesting model. The NULP does not provide facilitation, per diems or travel allowance, but grew from around a dozen people to over 120 participating in meetings three times a year to discuss land related issues.<sup>118</sup> The main point is that it is critical to provide participants with value.

Meaningful engagement with relevant Government institutions at all levels is critical to the success and sustainability of all land related interventions. The mandate for cooperation is very clearly laid out in the National Land Policy:

*127. (iv) Set up and operationalize an effective forum for inter-sectoral consultation and co-ordination of land sector activities.*

*186. Government shall involve stakeholders, as partners in implementation of the National Land Policy for continuous legitimacy.*

*186. In order to ensure that stakeholders are fully involved in land policy implementation, Government will put in place measures to ensure:*

*(i) Participation in the preparation and application of the monitoring and evaluation framework;*  
*(ii) Additional contribution of resources from development partners, the private sector, cultural institutions and civil society;*

*(ii) A formalized approach towards co-operation and co-ordination with non-state actors, by signing joint statements of intent, partnership principles, code of conduct, and Memorandum of Understanding;*

*(iv) Alliances and partnerships are built amongst stakeholder groups.<sup>119</sup>*

### **Establish CLAs**

After raising awareness of appropriate stakeholders including the targeted beneficiaries and then facilitating improved communication and organization of the key stakeholders as outlined above, the next step would be to support the establishment of CLAs and the demarcation and registration of plots in the target areas through the implementation of the steps outlined in Appendix 4. The CLA's can also be supported to establish Communal Forest Associations (CFA) and possibly enter into agreements with the National Environmental Management Authority (NEMA), National Forestry Authority (NFA) or



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appropriate authority to make use of wetlands, forest reserves or other gazetted land.<sup>120</sup> Only 10 percent of the National Forest Reserves across Uganda are currently forested.<sup>121</sup> Government is very eager to support the establishment of CFAs to increase forest cover<sup>122</sup> and they could be very useful in view of the fact that many of the forests currently utilized by the chimpanzees are along waterways, forest reserves and wetlands. This land is owned by the state and cannot be privatized, but can be managed by a CLA in cooperation with the relevant government authority.

A quick win could easily be achieved by identifying the existing documentation for the CLAs in Hoima and Masindi District and possibly the CCOs in Hoima District that have already been completed by the ALCs, DLO, DLB and MLHUD with support from EcoTrust and Jane Goodall Institute (JGI) as FAO did in Kasese with CCOs. Once identified, support can be provided to address the outstanding technical and administrative challenges and complete the process.

EcoTrust, Jane Goodall Institute and the other organizations already engaged in land governance interventions in the area such as CRED all expressed in principle interest and would be the most appropriate institutions to engage for this work.<sup>123</sup>

The strengthening of communal land rights is clearly provided for in the National Land Policy:

*97. (iv) Ensure community management structures relating to land under customary tenure are strengthened.*

*109. (v) Recognize and confer official status to community-based boundary marking systems in all tenure systems,<sup>124</sup>*

Another aspect to consider here is providing support and assistance for the development of guidelines and procedures around Community Forest Associations (CFA). While MWE has produced some materials on this topic,<sup>125</sup> a review of this work in cooperation with the MLHUD that takes into account recent developments in the work done on CFAs would strengthen this facility; provide an excellent opportunity to address communication gaps between MLHUD and MWE; and provide the basis for the development of a strong relationship with these government entities. FAO, GIZ, ZOA and Trócaire all supported MLHUD in the development of guidelines and procedure associated with CCOs, but guidelines and procedures associated with environmental is outdated and limited. The National Land Policy clearly provides for such:

*42. To strengthen traditional land management and administration institutions, Government will take measures to:*

*(iv) Develop guidelines and procedures under customary land law for the allocation and distribution of land complying with principles of equity and natural Justice.<sup>126</sup>*



## Registration of Customary Tenure

Once established, the CLAs can then be supported utilizing the principle of free, prior and informed consent to decide on the most appropriate way to secure their land tenure. Supporting the CLAs to apply for freehold titles is one option. The costs associated with the systematic surveying of a finite number of plots would not be unreasonable and certainly within the capacity of a development partner funded intervention. Institutions such as EcoTrust, JGI or CRED could easily implement such a programme in cooperation with the local district council office and MLHUD.

Alternatively, support could be provided for the issuance of CCOs in accordance with the steps outlined in Appendix 5. As already detailed, a number of initiatives to equitably demarcate and register customary land have been piloted in Albertine Sub-Region by JGI, CRED and Cadasta with support from WMC Africa and Ujamaa Tribe. While the technical aspects involved with issuance of CCOs is still possibly beyond JGI, Cadasta which is already active in Buliisa District could be engaged to cover the target areas in cooperation with MLHUD and the relevant district and sub-county offices.

Any efforts to demarcate and register customary land in the Bunyoro Sub-Region supports the implementation of the National Land Policy that states:

*30. To ensure appropriate holding and management of strategic natural resources Government shall:*

*(i) Protect the land rights and land resources of customary owners, individuals and communities owning land in areas where mineral and petroleum deposits exist or are discovered,*

*(ii) Allow to the extent possible, co-existence of customary owners, individuals and communities owning land in areas where petroleum and minerals are discovered,<sup>127</sup>*

Furthermore, such efforts will support:

*39. (a) The State shall establish a land registry system for the registration of land rights under customary tenure.*

*40. To facilitate the evolution and development of customary tenure in relation to social, economic, political and other factors, Government shall take measure to:*

*(i) Design and implement a land registry system to support the registration of land rights under customary tenure,*

*(ii) Issue Certificates of Title of Customary Ownership based on customary land registry that confers rights equivalent to freehold tenure.<sup>128</sup>*



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## Identify potential partners and leverage established initiatives

All of the institutions working to secure customary land tenure are very approachable. The majority are also open and available to collaborate in one form or another ranging from simply sharing ideas, contacts and experiences. Many are well positioned to provide technical and/or advisory support on relative aspects of the partial or full implementation and others are better positioned to provide financial support.

While not compulsory, it would be beneficial to report any intervention on land governance to the Land Sector Development Partners' Group (LDPG) and MLHUD Customary Tenure Secretariat. Any programming on the demarcation and registration of customary land would also provide an opportunity to engage and share experiences with the informal technical working group of similar agencies convened by GIZ RELAPU.

The Ministry of Lands, Housing and Urban Development (MLHUD), District Council and Area Land Councils are all critical partners in any interventions targeting land tenure security in Uganda. MLHUD has sufficient staff to provide sustained and meaningful input and the Hoima District Council has clearly indicated interest in principal and the Area Land Committees (ALC) are interested, but require the necessary resources. As reported, the second phase of the World Bank CEDP is currently in the final stages of planning and expected to commence mid-2020. MLHUD already interested to prioritize the Albertine Sub-Region in general and Hoima and Buliisa Districts in particular. MLHUD could possibly be engaged to focus on the target conservation areas.

EcoTrust, JGI, EcoTrust, Cadasta, CRED, Ujamaa Tribe, WMC Africa, Makerere University and Arcus Foundation are all obvious potential partners with an understanding of the environmental, social political and economic dynamics of the Albertine Sub-Region. Other potential development partners include World Bank and GLTN/UN Habitat. Looking further afield to institutions not currently present in the Albertine Sub-Region: Trócaire and ZOA are restrained to northern Uganda; GIZ is also firmly embedded in the current areas of operation and only looking to expand into adjacent areas. Nonetheless, despite the geographical restrictions they can still share of ideas and experiences. FAO is not currently actively engaged in land tenure programming in Uganda, but remains available for consultation.

## CONCLUSION

The time is currently ripe to implement initiatives to secure customary land across Uganda generally and the Albertine Sub-Region specifically. The necessary laws, policies are all in place and government has demonstrated sufficient political will at all levels.



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There is a sufficient number of initiatives working on the strengthening of customary tenure currently being implemented across Uganda that can provide excellent learnings. There is also a growing number of development partners looking to engage in this area and support such work. Uganda provides an excellent and very accessible model for the rest of the continent. The lull in the oil sector provides an opportunity to reflect, take stock of the situation and develop robust ways forward for equitable solutions to land tenure security.

All the relevant stakeholders from central government through to local government have expressed meaningful interest and support for such initiatives, international and local non-government institutions are poised, and a range of different actors remain interested and ready to assist in interventions to secure customary land tenure in the Albertine Sub-Region.



## APPENDIX 1: Methodology

Following the development and submission of the Inception Report, the work comprised of: 1) further desk-top research to collect, analyse and interpret existing research reports and relevant land laws and issues; 2) qualitative analysis of interviews with key respondents including a broad range of stakeholders and other relevant actors listed below, and 3) identification of the documentation already prepared.

Meetings with relevant actors continued to take place throughout this initiative. The first trip to Hoima for the preliminary investigation was implemented 6-9 August 2018 to identify and meet with key stakeholders to ascertain the situation and gain an understanding of the situation on the ground. The Hoima District Council insisted that the MOU between ILSA and the District Council in be established before any further meetings or work could be done by ILSA in Hoima District on the implementation of this Project. Detecting some concern among local government stakeholders associated with land related interventions and not yet familiar with precise nature of the concerns and the politics behind these, ILSA developed a concept note based on the TOR established with IIED, but less focused on land governance and more focused on reforestation and chimpanzee conservation.

The Concept Note titled *Strengthening Reforestation for Chimpanzee Conservation in Hoima District* was submitted to the Hoima District Chief Administration Officer (CAO) on 8 August 2018. This Concept Note was formally accepted and formed the basis of the MOU with the Hoima District Council to implement the consultancy. During the preliminary investigation, ILSA also met with a considerable number of key stakeholders to assess the situation and developed the ways forward. An additional two trips to Hoima District are envisaged. The second field trip to Hoima District took place 24-26 April 2019 November to deepen our understanding of the situation and share ideas on solutions and practical ways forward. The third field trip was executed 30 September to 1 October 2019 to finalize findings and recommendations for the final report.





## APPENDIX 2: Stakeholders

### Government

- Local Government
  - Sub-county Council and Areas Land Committees
  - Hoima District Land Office: Land officer, surveyor, cartographer, physical planner and valuer
  - Hoima District Land Board: Chair and members
  - Hoima District Natural Resources Office: Forestry Officer and Natural Resources Officer
  - Hoima District Executive Council: LC5, CAO
- Ministry of Lands, Housing and Urban Development (MLHUD)
  - Department of Land Administration
  - Department of Land Registration
  - Department of Physical Planning
  - Department of Surveying and Mapping
  - Office of the information scientist who currently heads up initiatives involving CCOs and CLAs Masindi (MZO)
  - Certificate of Customary Ownership (CCO) Secretariat
- Ministry of Water and Environment (MWE)
  - Forestry Sector Support Department (FSSD)
  - National Forestry Authority (NFA)
  - District Forestry Services (DFS)
- Ministry of Tourism, Wildlife and Antiquities
  - Uganda Wildlife Authority (UWA)

### Civil Society

- 20-30 Community Members time and resources permitting
- 6 Focus Group Discussions (FGD)
- Representatives of the Bunyoro Kingdom and relevant clan leaders
- Religious leaders
- Community Based Organizations (CBOs) and Civil Society Organizations (CSOs)
- Local and international non-government organizations (NGOs): Jane Goodall Institute (JGI), EcoTrust, Care International, Tröcaire
- Total E&P (Uganda) and associated consulting companies in addition to other companies engaged in the oil sector
- Other opinion leaders within the community

### Development Partners

- Land Sector Development Partners Working Group
- European (EU) Delegation
- UN Food and Agricultural Organization (FAO)
- UN Programme on Reducing Emissions from Deforestation and Forest Degradation (REDD+)
- Global Land Tool Network (GLTN)-UN Habitat
- Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)



## **APPENDIX 3: Legislation relevant to land governance in Uganda**

National Environment, 2019.  
Roads Act Cap 358, 2019  
Mortgage Regulations, 2012  
Physical Planning Act, 2010  
Land Act Amendment, 2010  
Domestic Violence Act, 2010  
Equal Opportunities Commission Act No. 2 of 2007  
Mortgage Act, 2009  
Local Council Courts Act 2006  
Land Regulations, 2004  
Land Act Amendment, 2004  
Uganda Petroleum & Production Act, Chapter 150 of the laws of Uganda 2000 [amended from the Mining Act 2003  
Condominium Property Regulations, 2002  
Land Act Amendment, 2001  
Condominium Property Act, 2001  
Registration of Titles Act, Cap 230  
Administrator General's Act Cap 157, 2000  
National Environment (Wetlands, River Banks and Lake Shores Management) Regulations, No. 3/2000  
The Land Act, 1998  
Uganda Wildlife Act, 1996 Cap 200  
The Constitution of the Republic of Uganda, 1995  
National Environment Act cap 153, 1995  
Petroleum (Exploration and Production) Act, 1985  
Customary Marriage (Registration) Act, 1973. Cap 248  
Access to road Act 1969  
Land Acquisition Act 1965, Cap 226  
Survey Act, 1962  
Marriage and Divorce of Mohammedans Act, 1906. Cap 252  
Succession Act, Cap 162, 1906  
Marriage Act, 1904. Cap 251  
Divorce Act, 1904. Cap 249



## APPENDIX 4: Formation of Communal Land Association<sup>129</sup>

The Land Act Section 16 – 18 provides for the procedure for formation of a CLA, electing leadership, preparation of the constitution to govern members and incorporation of the CLA.

### Step 1

A group of persons who wish to form themselves into a Communal Land Association normally people from a clan, sub clan or village shall convene a meeting for such purpose. The minutes of the meeting shall be properly taken and signed by all members present prior to making an application to the District Registrar of Titles (DRT).

### Step 2

Following the group meeting and an agreement to register their land through a CLA by the group, a selected group of persons delegated by the bigger group can pick the application forms for the formation of a CLA in triplicate (3 copies) from the District Registrar of Titles (DRT) office. These forms must be filled by the group and returned to the DRT office.

### Step 3

The DRT on receipt of an application issues a notice to convene a meeting which shall be put in prominent places on the land and other prominent places such as places of worship, schools, market places and administrative offices in the parish where the land is located. The notice shall indicate the place and time of the meeting, being not less than twenty one (21) days from the date of the notice.

### Step 4

The District Registrar of Titles convenes and presides over a meeting of the group of persons to determine whether the group is to incorporate themselves into an association. This determination process can refer to the minutes of the group/ meeting to incorporate a CLA and needs to ensure that not less than 60% of members of the CLA which can comprise of a group from a village, sub clan or clan determine to form themselves into an association, that they elect not more than nine (9) and not less than three (3) persons to be officers of the association, a third (1/3) of whom should be women.

### Step 5

The group will then announce for and convene another meeting to elect officers (leaders who will act on behalf of the group with their consent) of the CLA. In the CLA, democratic processes means that the CLA is organized according to the principle that everyone has a right to be involved in making decisions.

### Step 6

The elected officers prepare the constitution of the association, with the assistance of the DRT who may provide the officers with a model constitution. The constitution should be able to take care of individual members' interests as well as group interests. It should indicate how special interest groups (widows, women and girls, youths, PWDs, elders) will be managed and considered in the constitution since most times these groups are neglected. It should clearly state that individual members will not lose their individual user rights to their



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homestead and farmland unless such places have some resources for the benefit of the group/clan as a whole and such persons will be compensated and or reallocated land on request for the greater good of the group/clan. The constitution should clearly state how the shared/communal land will be managed and how each individual member will benefit from this. It should also indicate the management structure, how leaders are to be elected and how they can be removed in case of mismanagement. Leaders cannot take decisions on behalf of members without 60% of members being in agreement.

## **Step 7**

The officers of the CLA shall submit the prepared constitution to the district registrar of titles for certification so that it complies with the prescribed matters and provides a transparent and democratic process of management of the affairs of the association.

## **Step 8**

Where the DRT is of the opinion that the constitution does not comply with matters as prescribed, he or she shall, within not more than thirty (30) days of receipt of the constitution, return it to the officers of the group with reasons for the rejection. A rejected constitution may be revised and resubmitted for certification. Where a constitution complies with the matters as prescribed, the DRT shall issue a certificate of compliance.

## **Step 9**

A constitution that has been certified by the district register of titles shall be voted on and approved by an absolute majority of all members i.e. 60% of members of that association at a meeting specifically convened for that purpose which approved constitution shall be binding on all members of the association.

## **Step 10**

The officers of the association shall pick forms for incorporation of officers of a CLA, fill the forms which must be confirmed by selected members of the association and submitted to the District Registrar of Titles to incorporate the association into a CLA. (See section below for Application for incorporation of officers)

## **Step 11**

The District Registrar of Titles on receiving an application for incorporation, and being satisfied that the requirements and regulations has been complied with by the group, issues a certificate of incorporation.

## **Step 12**

The persons named in the certificate of incorporation as the officers (elected leaders of the CLA) become a body corporate, with the name of the association specified in the certificate, and shall have perpetual succession and a common seal. Upon incorporation, these officers (elected leaders of the CLA) shall become the managing committee of the association.



## APPENDIX 5: Procedures for Registration and Incorporation of a Land Trust<sup>130</sup>

### Step 1

Individuals or people interested to acquire a Land Trust call for a meeting to agree that as a group, clan, extended family or family they would like to register in the said way. It is recommended that a lawyer is engaged to support the group through the process.

### Step 2

Another meeting is called in the presence of the lawyer to decide the name of the trust, address and objective of the trust and the property/ies of the trust. At this juncture, the group then appoint trustees or forms an association respectively indicating clearly the purpose or the objectives of the trust they intend to form. The lawyer will then clarify the roles of the trustees and guide the group on the type of people they should choose to become trustees. The lawyer will also clarify to the group how the trust operates, rights, powers and roles of each of the members in the different capacity.

### Step 3

The group/clan then develops their own trust deeds, rules of association and constitution to guide the operation of the Trust. The leaders together with their lawyers then collect appropriate form (Application for certificate of registration) from the Minister for Lands, Housing and Urban Development (MLHUD), fill it out and submit the completed form to MLHUD for approval. The application must be in writing signed by the people making it and should contain particulars such as the objective of the body/association of people, the rules and regulations of the body, the location of the land, interests in the particular plot of land, dates of formation and application and the parties to every deed, name, address, residence and additions of the trustees of the body or association, dates of appointment qualifications, tenure and avoidance of office, mode of appointment of new trustees, proposed title of the corporate body with the word "registered trustees," proposed device of common seal, the regulation and custody for the use of common seal.

### Step 4

The trustees then apply for a certificate of incorporation at the MLHUD attaching the trust deed, rules of the association, and copy of the minutes relating to any resolution of the meeting. The application is accompanied with a fee of UGX20,000 (US\$5.50) and UGX10,000 (US\$2.75) for the issuance of a certificate of incorporation. An increase to these fees is anticipated in the near future.

### Step 5

The Minister considering the circumstance of the association will then grant the certificate of association subject to other conditions by inserting the qualification and number of the trustees, their tenure of office, mode of appointing new trustees, custody and use of common seal, amount of land which trustee may hold, and the purpose for which that land may be applied.

### Step 6

After the grant of a certificate of incorporation of the trust by the Minister the trust becomes a body corporate with capacity to sue and be sued in its own names and can hold acquired land for the purpose of the body or association of person.

### Step 7

After registration and incorporation, the land is considered registered as a Land Trust, and thus its operation, utilization and management will be based on the Trust Laws and supported by the rules of association and constitution of the Trust.



## APPENDIX 6: Procedures for acquiring a Certificate of Customary Land Ownership (CCO)<sup>131</sup>

### Step 1

The applicant/s convenes a meeting with the family, clan or community to express his/her/their interest in acquiring a Certificate of Customary Ownership.

### Step 2

The applicant obtains application forms in triplicate from the Area Land Committee (ALC), fills the application forms accurately and correctly, seeks information from Clan leaders in areas where information is scanty and then duly files and submits application forms to the ALC. The applicant ensures payments of all fees and gets a receipt for payment (always make a copy of all documents submitted for future follow-up). Together with the prescribed fee, receipts and application forms, the applicant submits these to the committee of the parish (ALC) in which the land which is the subject of the application is situated. (See application form in section below)

### Step 3

Where an application has been submitted to the Area Land Committee, the committee shall cause a notice to be published and posted in a prominent place within the parish where the land is located; clearly indicating the location and approximate area of land which is subject of the application. The time within which any person who claims interest on that land should appear and attend a meeting convened for that purpose and raise their claims shall be specified in the notice and shall not be less than two weeks from the date on which the notice is published and posted

### Step 4

The notice shall require all persons claiming any interest in the land or in any adjacent land which may be affected by the application, including adjacent land claims as to the boundaries of that land to attend a meeting of the committee at a specified time and place and put forward their claims. In the event that the person laying claim on the land does not appear for the meeting, the officer shall order them to appear before the committee in a later meeting. (See forms on Order to appear in section below).

In the event that the person laying claim does not appear in the subsequent meeting, the committee shall go ahead to make decisions accordingly without them. If the claimant appears before the committee he/she will be required to produce evidence of the said claim on the land. If they mention documents such as land sale, land registration and or land transfer certificates then an order to produce such evidence will be executed by the committee. (See forms on order to produce evidence in sections below)

### Step 5

The ALC then holds meeting with all interested persons. In hearing and determining claims if any, the committee shall use its best endeavor to mediate between and reconcile parties having conflicting claims on the land before the land demarcation process begins. If the dispute is grave and cannot be resolved by the committee at this stage, then the committee shall not proceed with the land demarcation and state reasons in their report to the District Land Board. The withdrawal of the ALC from the process will allow time for the conflicting parties to settle any disputes without the influence of the ALC.

### Step 6

The ALC shall, in the event that all persons are in agreement as to ownership of the land, go ahead to mark the boundaries of the land, rights of way and other forms of easements on the land. During this process, the



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neighbors to the adjacent land, the local council chairperson, clan leaders and any other interested persons are required to be present and assent to the agreed demarcations. A sketch map will then be generated by the ALC and signed by the land owners, the neighbors, the local council 1, the ALC and selected elders in the community some of whom can be elders of customary leaders. This sketch map should be transferred to the land demarcation form which will accompany the application process.

### **Step 7**

After the demarcation, the committee prepares a report on the application, recording all claims to interest and rights in the land or to the occupation and use of the land and its opinion as to whether those claims have been proved to exist, setting out its findings and recommendations. If all parties are in agreement then the report will recommend to the District Land Board to issue a CCO. In the case of a disagreement, the report will recommend for a land conflict resolution meeting to settle the conflict. When the conflict is settled then another report will be presented for the continuation of the process.

### **Step 8**

The applicant shall be given a copy of the ALC report to the recorder and the DLB (always make additional copy and file for future reference) and another copy shall be submitted to the District Land Board. The committee also makes a copy available within the parish for inspection by all parties who submitted claims to or who were heard by the committee.

### **Step 9**

The District Land Board shall upon receipt of the report and recommendations of the committee consider the application in the light of that report and may confirm, differ or reject the report of the Area Land committee. The District Land Board is required to meet for the discharge of its functions at least once in every two months though such meetings usually take longer than the prescribed period mainly due to lack of funds.

### **Step 10**

Where the board rejects or defers a recommendation of the Area Land Committee, it shall give reasons for its decision and propose recommendations; where the decision of the board is to issue a Certificate of Customary Ownership the DLB directs the recorder to issue a Certificate of Customary Ownership to the applicant.

### **Step 11**

Any person aggrieved by the decision of the Board may appeal to the Land Tribunal (Land tribunal exist legally in the land management structure although in practice they are not functional) thus calling for alternative means of conflict resolution, mediation and negotiations. If such efforts fail then the complainant can seek legal redress from the grade I magistrate courts against that decision and the court may confirm, vary, reverse or modify the decision of the Board and make such other order in respect of that decision or as it is empowered by law to make and present it to the parties.



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