

# Training Handbook for LAND GOVERNANCE PRACTITIONERS on *Private Mailo land*



Published by



**Disclaimer:**

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# PREFACE

The handbook is to be used as a quick reference for trainers during community level training of community members, landlords, tenants and other land actors involved in the adjudication and demarcation of private Mailo land.

The handbook is one of the reference texts used in the sensitization of the communities, a key action area of the ‘Improvement of Land Governance in Uganda (ILGU)’ project to increase productivity of small-scale farmers on private Mailo land. The project is implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH in collaboration with the Ministry of Lands, Housing and Urban Development (MLHUD) in the districts of Mityana, Mubende and Kassanda. ILGU is jointly funded by the European Union and the German Government and is part of the project “Responsible Land Policy in Uganda” (RELAPU), which is part of the Special Initiative “One World, No Hunger” of the German Federal Ministry for Economic Cooperation and Development (BMZ).

The handbook is divided into four modules which are organized in different sessions. For each session the objectives, the content and the key learning points are outlined to help the trainer during the training. For a more detailed discussion of the topics covered in this handbook, the trainer is encouraged to consult the ‘Land Capacity Development Guide’, the relevant laws and the ‘Guide to Peaceful Co-Existence on Private Mailo Land’.

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# LIST OF ABBREVIATIONS

<b>ADR</b>	Alternative Dispute Resolution
<b>ALC</b>	Area Land Committee
<b>BLB</b>	Buganda Land Board
<b>BMZ</b>	<i>Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung</i> German Federal Ministry of Economic Cooperation and Development
<b>CSO</b>	Civil Society Organization
<b>CDO</b>	Community Development Officer
<b>CoO</b>	Certificate of Occupancy
<b>DLB</b>	District Land Board
<b>EU</b>	European Union
<b>FAO</b>	Food and Agricultural Organization
<b>GIZ</b>	<i>Deutsche Gesellschaft für Internationale Zusammenarbeit</i> German International Cooperation
<b>GoU</b>	Government of Uganda
<b>ILGU</b>	Improvement of Land Governance on private Mailo land
<b>LC</b>	Local Council
<b>LIP</b>	Land Inventory Protocol
<b>MLHUD</b>	Ministry of Lands, Housing and Urban Development
<b>RELAPU</b>	Responsible Land Policy in Uganda
<b>RTA</b>	Registration of Titles Act
<b>SAS</b>	Senior Assistant Secretary
<b>ULC</b>	Uganda Land Commission

# INTRODUCTION

The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH in collaboration with the Ministry of Lands, Housing and Urban Development (MLHUD) is implementing the “Improvement of Land Governance in Uganda” project (ILGU) to increase productivity of small-scale farmers on private Mailo land. The project is jointly funded by the European Union and the German Government and is part of the project “Responsible Land Policy in Uganda” (RELAPU), which is part of the Special Initiative “One World, No Hunger” of the German Federal Ministry for Economic Cooperation and Development (BMZ). The overall objective of the project is to: “Contribute to improved food security, improved livelihoods and poverty alleviation for small-scale farmers and other users of natural resources, in particular for women and marginalized groups in Central Uganda.”

## Objectives of the Handbook

The overall aim of the handbook is to be used as a quick reference for trainers during community awareness raising or sensitization meetings with landlords, tenants, community members and other land actors involved in the adjudication and demarcation of private Mailo.

## Structure of the Handbook

The handbook is organised into modules which are comprised of different sessions. These awareness raising sessions take three to four hours inclusive of short Q&A sessions.

## Target Group

The training shall include grass root local leaders, community members and opinion leaders to mention just a few.

## Training Methodology

The training shall include the sharing of knowledge, life experiences and brain storming, small group discussions, open discussions, questions and answers as key methods. The language used must be simple for the participants to comprehend. The use of local illustrations and institutions shall be maintained throughout the awareness raising.

Important points for the trainer to note are outlined in Table 1 below.

**Table 1:**

Issues	Remarks
Time Allocation	Keeping time in the awareness raising session
Take-aways	<ul style="list-style-type: none"> <li>• Outline - why the awareness raising is taking place and what is it designed to achieve</li> <li>• Brochures – printouts for the session</li> </ul>
Activities	Keep participants active. It's about engaging the community members, allowing them to participate and ensuring that they take ownership of the awareness raising
	Some of the responsibilities such as time keeping, recording of the proceeding, officiating the workshop, evaluation of sessions and arranging the venue should be done by the community members

## Training materials

The training materials to be used include (but not limited) the following: flipcharts, markers, masking tape, pictorial illustrations among others.





**MODULE 1: MAILO  
TENURE IN UGANDA**

# MODULE 1: MAILO TENURE IN UGANDA

This module introduces the participants to the general definition of land and land rights. In addition, the module gives a historical and legal background of land tenure in Uganda focusing on the evolution of Mailo land tenure in Buganda.

## Session 1: What is land?

### Objectives:

Participants will be able to:

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

**Content:** Common law definition of land, land as defined in the RTA and the National Land Policy, proprietary rights and the distinction between an estate and an interest in land

### Learning points

- The Common Law definition of land holds that a landowner owns the land, the air space above it and everything below it
- Section 2 of the RTA (Cap. 205): Land is defined as including ‘messuages, resources, tenements and hereditaments corporeal and incorporeal’

## Learning points

- The National Land Policy looks at a broad meaning of land as the basic resource
- Proprietary rights are rights that become part of the land and are not personal to the parties that created them

## **Session 2:** Introduction to responsible Governance of Tenure

### Objectives:

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

1. Explain what the term 'tenure' means
2. Appreciate why governance of tenure is important
3. Understand the Voluntary Guidelines on Responsible Governance of Tenure
4. Appreciate the importance of the Sustainable Development Goals (SDGs) and their link to the ILGU project

**Content:** What is tenure, rights and duties, legitimate tenure rights, the importance of the governance of tenure, the Voluntary Guidelines on the Governance of Tenure, principles of responsible governance of tenure

## Learning points

- Tenure are the rights and the duties that someone has in relation to a natural resource such as land, fisheries and forests
- These rights and duties can be created under legal systems or arise from customs
- Legitimate tenure rights mean that the person's or group's tenure rights give rise to real activities, are based upon strong claims, are generally known to others and are generally accepted and acknowledged
- The governance of tenure is the way in which access to and control over natural resources is managed in society
- The governance of tenure is a crucial element in determining if and how people, communities and others can acquire rights, associated duties and use and control natural resources
- The Voluntary Guidelines of Tenure serve as a reference and provide guidance to improve the governance of tenure of land, fisheries and forests. The overarching goal is food security for all
- The Sustainable Development Goals are the blueprint to achieve a better and more sustainable future for all. They address the global challenges we face, including poverty, inequality, climate change, environmental degradation, peace and justice. The 17 goals are interconnected and to leave no one behind, it is important that we achieve them all by 2030
- The ILGU project is focused on documenting land use rights for the rural small-hold farmer households, commonly referred to as 'bibanja' holders or tenants

## **Session 3: Historical background of land management in Uganda**

### **Objectives:**

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

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

**Content:** Evolution of landholding in Buganda, landholding in Buganda during the pre-colonial period, evolution of landholding during the colonial period, landlord-tenant relationship as a result of the 1900 Buganda Agreement and the impact of the 1975 Land Reform Decree on land rights in Buganda

## Learning points

- Before the 1900 Buganda Agreement, the Kabaka had paramount control over all land in Buganda
- For the rest of present-day Uganda, land was held according to customary norms of the people
- Under the 1900 Buganda Agreement large extensions of land, called Mailo estates, were conferred to the Kabaka, Chiefs, Regents and Namasole among others
- The Mailo land system of landholding is a quasi-freehold tenure system unique to Buganda
- The Busuulu and Envujjo Law (1928) was enacted to regulate the rights and obligations of bibanja holders and Mailo holders
- The bibanja holders have inheritable permanent right of occupancy subject to a payment of a fixed annual rent and tribute. They have a right to sell, mortgage, and to transmit. The only requirement is to introduce the new tenant to the Mailo owner
- At the time of independence, the 1962 Constitution set-up the Buganda Land Board to manage the former Crown land
- The 1975 Land Reform Decree declared all land in Uganda to be public land vested in ULC

## Session 4: Present Land Tenure systems in Uganda: Policy and Legal frameworks

### Objectives:

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

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


**Content:** Salient features of the 1995 Constitution on land, salient features of the Land Act on the four Land Tenure systems, policy statements and strategies in the National Land Policy (2013) for each of the tenure systems

### Learning points

- The 1995 Constitution made radical changes and vested all land in Uganda to the citizens of Uganda. Based on the Constitution women have the same rights to land as men
- Article 237 (3) recognises four land tenure systems: Freehold, Mailo, Customary and Leasehold
- The Land Act (1998) operationalises the 1995 Constitution
- The National Land Policy (2013) guides and makes proposals that are specific to each land tenure system





A photograph of a rural landscape. In the foreground, there is a field of green, leafy plants, possibly a vegetable garden or a young crop field. In the middle ground, there are several trees, including a prominent one with a black plastic bag hanging from its branch. The background is a misty, hazy view of rolling hills or mountains, suggesting a rural or agricultural setting. A red rectangular box is overlaid on the lower right portion of the image, containing white text.

## **MODULE 2: LAND MANAGEMENT INSTITUTIONS AND THEIR ROLES**

# MODULE 2: LAND MANAGEMENT INSTITUTIONS AND THEIR ROLES

In this module, participants will be introduced to the roles of the Ministry of Lands, Housing and Urban Development, Uganda Land Commission, Ministry Zonal Offices, District Land Boards, District Land Offices and Area Land Committees.

## **Session 1:** National Land Management Institutions

### **Objectives:**

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

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

**Content:** Ministry of Lands, Housing and Urban Development, Uganda Land Commission, National Environment Management Authority, National Physical Planning Board

## Learning points

- The Ministry of Lands, Housing and Urban Development is responsible for providing policy directions, national standards and coordination of all matters concerning land, housing and urban development
- The Directorate of Land Management has four departments: Surveys & Mapping, Land Registration, Valuation and Land Administration
- The Directorate of Physical Planning and Urban Development has three departments: Physical Planning, Urban Development, Land Use Regulation and Compliance
- Land management services have been decentralised from the Ministry's headquarter in Kampala to zonal offices. A zonal office serves a number of districts as a one stop centre for land administration, valuation, physical planning, surveying and registration. For the districts of Mityana, Kassanda and Mubende, the zonal office is located in Mityana
- ULC was established by Article 238 of the Constitution to hold and manage any land in Uganda vested in or acquired by the Government of Uganda in accordance with the provisions of the Constitution and other functions as prescribed by the Parliament
- The National Environment Management Authority (NEMA) is a semi-autonomous institution, established in May 1995, under the National Environment Act, Cap. 153. NEMA is the principal agency in Uganda charged with the responsibility of coordinating, monitoring, regulating and supervising environmental management in the country
- The National Physical Planning Board was established by the Physical Planning Act, 2010 to advise the government on all matters relating to physical planning

## Session 2: District Land Management Institutions

### Objectives:

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

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

**Content:** District Land Board, District Physical Planning Committee, District Land Office, sub-county Area Land Committee

### Learning points

- Article 240 of the Constitution established District Land Boards to hold and allocate land in the districts which is not owned by any person or authority and to carry out other functions as prescribed by the Land Act
- Technical staff in the District Land Office include: Land Officer, Staff Surveyor, Physical Planner and Secretary District Land Board
- The District Physical Planning Committee was established by the Physical Planning Act, 2010 to advise the district on all matters in relation to physical planning
- The Land Act provides for the appointment of the Area Land Committee consisting of a chairperson and four other members who shall serve on a part time basis. At least one must be a woman

## Learning points

- The committee advises the District Land Board on matters related to land, including: sensitizing and advising the public on procedures of obtaining Land Titles/Certificates and the inspection of land
- A recorder was established by the Land Act for each sub-county, each gazette area and each division in the case of a city with the responsibility to keep records
- Sub-county Physical Planning Committees were established by the Physical Planning Act, 2010 to initiate the preparation of local physical development plans. They are responsible for checking that given titles do not collide with restrictions from physical planning

## Session 3: Documentation of Rights on Mailo land

### Objectives:

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

1. Understand the forms used in the documentation of land rights
2. Know and appreciate the effect of the Certificate of Occupancy

**Content:** Certificate of Occupancy, Land Forms

## Learning points

- A Certificate of Occupancy is issued to lawful and bonafide occupants upon the consent of the registered owner
- **Forms involved in applying for a Certificate of Occupancy:**
  - a) Application for CO/grant of consent - Form 2
  - b) Notice of application for CO - Form 22
  - c) Order to attend hearing by ALC - Form 11
  - d) Order to produce documents - Form 12
  - e) Summons to attend hearing by ALC - Form 13
  - f) Demarcation form for CO - Form 24
  - g) Certificate of Occupancy - Form 32
  - h) Form of sub-division of land held under CO - Form 28



**MODULE 3: FAMILY,  
GENDER AND LAND  
RIGHTS**

# MODULE 3: FAMILY, GENDER AND LAND RIGHTS

This module addresses land rights in marriage, separation, divorce and death as stipulated in formal laws. It also focuses on gender and land rights, in particular the protection of women's land rights.

## Session 1: Marriage

### Objectives:

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

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

**Content:** Definition of marriage, types, characteristics and requirements for a legal marriage, laws and rules governing land rights in marriage, implications of cohabitation for land rights



## Learning points

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

## Session 2: Separation and Divorce

### Objectives:

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

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

**Content:** Definition of separation and divorce, types of separation, reasons for separation and divorce, land rights in case of separation and divorce, formal legislation and customary rules

governing separation and divorce and the distinction between separation and divorce processes under the respective marriage form, and the implications of Constitutional Petitions on divorce laws in Uganda.

### Learning points

- Separation and divorce are not the same, separation is temporal, divorce is permanent
- Land rights in case of separation still exist
- A divorce should be determined by court which will evaluate and resolve the matters of property and children
- Land rights do not exist in the marital home once a divorce is concluded, pending issues have to be resolved by court
- Divorce is handled differently under respective forms of marriage
- Divorce under customary marriage is conducted in accordance with the customs of the people. However, the customs that have been outlawed cannot be carried out
- Refund of bride price was declared unconstitutional in Uganda

## Session 3: Succession

### Objectives:

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

1. Know how land and property rights are conveyed in a testate and intestate succession

2. Appreciate the processes involved in will-making
3. Understand the role of the Administrator General in succession
4. Appreciate the processes of obtaining a Grant of Probate and Letters of Administration
5. Understand the role of the clan in matters of a deceased person under intestate succession

**Content:** Define testate and intestate succession, content and custody of a will, what invalidates a will and the rights, responsibilities and obligations of the beneficiaries, and processes of applying for a Grant of Probate and Letters of Administration.

### Learning points

There are two types of succession: **testate and intestate**

**Testate succession** occurs when the person who died had written a will describing how to divide her or his property

- A will is a **WRITTEN** document made while a person is alive. The will gives instructions how to take care of his or her property after death
- **Rules for making a valid will:**
  1. A will must be in writing and signed or marked by the person whose will it is (testator)
  2. The testator **MUST** sign or mark his or her will in the presence of two or more witnesses
  3. Both witnesses must be adults of sound mind
  4. The witnesses should not be beneficiaries of the will

## Learning points

5. The two witnesses must both be present when the testator signs the will
  6. The two witnesses must see the testator signing the will
  7. If the will is more than one page, the testator should sign each page to guard against forgery
  8. The will must be dated to ensure its validity
- The family home cannot be passed on in a will unless to the surviving spouse and children
  - One cannot pass on in a will what he or she does not own
  - A will can secure land and property rights of persons in cohabitation
  - Interfering with a will is criminal
  - A valid will must name the **Executor**: the person who will carry out the will
  - The procedure for obtaining a Grant of Probate:
    1. The Executor must obtain a death certificate from the National Identification and Registration Authority (NIRA)
    2. The Executor then applies to the Administrator General for a Certificate of No Objection
    3. The Executor takes the Certificate of No Objection to a court to apply for permission to carry out the will
    4. The Executor then places an advertisement in the newspaper that she or he has applied to court for a Grant of Probate (permission to carry out the will)

## Learning points

5. If no complaint is filed, the court grants the Executor a Grant of Probate
- If a will is invalid, the estate is treated as if there is no will
  - An invalid will void and renders the **estate intestate**
  - **Intestate succession** is when someone dies without making a will or where a court has declared the will invalid
  - Formal legislation provides for distribution of an intestate succession
  - Sections of formal law are unconstitutional pending amendment of the law
  - Procedure for Getting Letters of Administration:
    1. A close adult relative should obtain a death certificate from NIRA
    2. The relative should use the death certificate to report the death to the Administrator General
    3. The Administrator General checks to confirm that the close adult relative is the proper person to have Letters of Administration and that there are no other persons with a claim to the deceased's property
    4. Once satisfied, the Administrator General grants the relative a Certificate of No Objection
    5. The relative takes the Certificate of No Objection to a court to apply for Letters of Administration to manage the deceased's property
    6. The relative then places an advertisement in the newspaper that she or he has applied to court for Letters of Administration

## Learning points

7. If no complaint is filed, the court grants the relative the Letters of Administration
- A grant of Letters of Administration does not entitle the administrator to own the estate
  - Cohabitation does not entitle to the benefits of a widow or widower
  - Customary rules give guidance on management of a deceased person's estate but should be done in accordance with formal legislation

## Session 4: Gender and Land Rights

### Objectives:

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

1. Appreciate the gender roles and differences in their community
2. Be aware and sensitive to the gender concerns and discriminations
3. Have increased knowledge on the benefits of participation of both women and men in decision-making
4. Understand the legal protections provided to women by the various laws

## Learning points

- Gender is not about women: It is about the relationship between women, men, girls and boys. Gender is about social perception and construction of roles and responsibilities of men and women
- Gender contributes to land rights if discriminatory tendencies are addressed
- Involvement of men and women in decision-making over land rights
- Benefits of women and men in accessing land rights
- The Constitution affirms equality of all people in Uganda in all spheres of political, economic, social and cultural life and in every other aspect and shall enjoy equal protection of the law
- The Constitution entitles women and men to equal rights during and after marriage
- The Constitution provides for affirmative action in favour of marginalized groups based on gender or any other reason created by history, tradition or custom
- The Land Act outlaws discrimination against women and children in respect of ownership, occupation and use of land
- The Land Act requires mandatory consent by spouses to transactions involving matrimonial land (where the family ordinarily resides) and land from which the family derives sustenance
- The Land Act provides for mandatory representation of women on land tenure governance institutions







**MODULE 4:  
LAND DISPUTE  
RESOLUTION**

# MODULE 4: LAND DISPUTE RESOLUTION

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

## **Session 1: Causes of Land Disputes**

### **Objectives:**

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

1. Identify the major causes of land disputes and conflicts in their sub-county
2. Identify the most appropriate approach for resolving the land disputes identified in (1) above

**Content:** In a brainstorming session the participants identify the major causes of land disputes in their sub-county or community. Using a question and answer format, the participants identify the appropriate approach for addressing the causes the land disputes identified above

## Session 2: Administration of Justice and Alternative Dispute Resolution (ADR)

### Objectives:

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

1. Understand the principles that governs justice including the principles of natural justice that need to be applied in resolving land disputes
2. Appreciate other mechanisms of dispute resolution other than litigation
3. Know principles governing Alternative Dispute Resolution
4. Appreciate the importance of using ADR

**Content:** Introducing the concept and principles of administration of justice and natural justice, defining ADR, forms of ADR and its advantages

### Learning points

- Administration of justice is an obligation of the state
- The state passes laws and establishes institutions to dispense justice in accordance with the norms, values and aspirations of the people as enshrined in the laws
- Natural justice is about principles governing the delivery of justice

## Learning points

- Upholding the principles of natural justice can lead to the protection of land rights
- ADR is a peaceful way of resolving disputes out of court
- There are several forms of ADR including arbitration, negotiation, mediation, conciliation
- ADR can be used by both formal courts and customary or clan courts

## Session 3: Court Systems in Uganda

### Objectives:

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

1. Appreciate the system of administration of justice responsible for land disputes
2. Understand the court systems where land matters can be adjudicated
3. Know the hierarchy of courts of law with respect to land matters

**Content:** Court system in Uganda, jurisdictions for land matters, principles and processes governing courts of law

## Learning points

- Both formal and informal courts are recognised in adjudication of land matters
- The Land Act provided for the establishment of specialised courts for land matters known as District Land Tribunals although they were not operationalised
- The Local Council (LC) II court is the court of first instance for land matters in Uganda
- Courts dispense justice on behalf of the citizens of Uganda
- Courts follow a hierarchal system







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