



CERTIFICATES OF CUSTOMARY OWNERSHIP

Experiences from the District Livelihood Support Programme in Uganda

SECURING LAND AND PROPERTY RIGHTS FOR ALL

CERTIFICATES OF CUSTOMARY OWNERSHIP: EXPERIENCES FROM THE DISTRICT LIVELIHOOD SUPPORT PROGRAMME IN UGANDA

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UN HABITAT

 **IFAD**
Enabling poor rural people
to overcome poverty

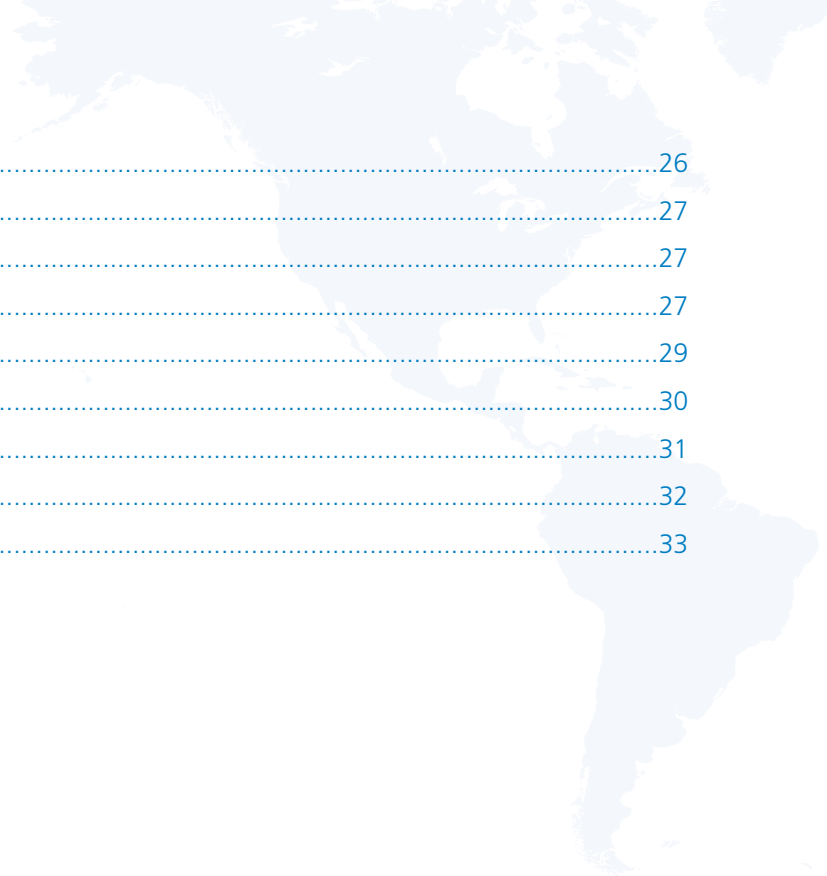


 **GLTN**
GLOBAL LAND TOOL NETWORK



CONTENTS

ABBREVIATIONS AND ACRONYMS.....	v
EXECUTIVE SUMMARY	vii
1.0 INTRODUCTION AND BACKGROUND	1
Research objective	2
Justification and scope.....	2
2.0 UGANDA COUNTRY CONTEXT	3
3.0 UGANDA'S LAND SECTOR	4
Land tenure systems in Uganda.....	4
Freehold tenure	4
Mailo land tenure	4
Leasehold tenure	5
Customary land tenure	5
4.0 LEGAL AND POLICY FRAMEWORK FOR LAND GOVERNANCE	6
The 1995 Constitution and its provisions on land	6
The Land Act, Cap.227, 1998	6
The National Land Policy, 2011	6
5.0 CERTIFICATES OF CUSTOMARY OWNERSHIP	8
Provisions of CCOs under the 1998 Land Act.....	8
Procedure for applying for a CCO	8
Merits and drawbacks to using a CCO	9
6.0 IFAD SUPPORT TO THE UGANDA LAND SECTOR	11
District Livelihood Support Programme.....	12
DLSP target districts in Uganda	13
DLSP land management sub-component.....	13
Land tenure in DLSP target districts	14
7.0 METHODOLOGICAL APPROACH.....	15
Rational for selection of study districts	16
Methods for data collection	16
8.0 DIAGNOSTIC DISCUSSION OF FINDINGS	17
Findings from Masindi district	17
Land tenure in Masindi district	17
Findings from Apac district.....	20
Findings from Oyam district	23



9.0 LESSONS LEARNED FROM DLSP PILOT AREAS	26
10.0 CONCLUSIONS AND RECOMMENDATIONS.....	27
Conclusion	27
Recommendations	27
References	29
Annex I: List of Key informants.....	30
Annex II:Demarcation Form for CCO	31
Annex III:Notification of Survey of Customary Land	32
ACKNOWLEDGEMENT	33

ACRONYMS/ABBREVIATIONS

AISRGD	African Institute for Strategic Research, Governance and Development
ALCs	Area land committees
CCOs	Certificates of Customary Occupancy
CoO	Certificates of Occupancy
CRU	Constitution of the Republic of Uganda
DDSP	District Development Support Programme
DLBs	District Land Boards
DLGs	District Local Governments
DLO	District Land Office
DLSP	District Livelihood Support Programme
ESA	East and Southern Africa
FAO	Food and Agriculture Organization of the United Nations
FGDs	Focus Group Discussions
GDP	Gross Domestic Product
GLNT	Global Land Tool Network
GoU	Government of Uganda
IFAD	International Fund for Agricultural Development
KII	Key informant interviews
LCI	Local Council 1
LRD	Land Reform Decree
MDG	Millennium Development Goal
MoLG	Ministry of Local Government
MLHUD	Ministry of Lands, Housing and Urban Development
NDP	National Development Plan
NGOs	Non-governmental organizations
NLUP	National Land-Use Policy
TSLI-ESA	Tenure Security Learning Initiative for East and Southern Africa
ULC	Uganda Land Commission
VODP	Vegetable Oil Development Project
NPA	Nairobi Plan of Action
NR	Natural resources
PASIDP	Participatory Small-Scale Irrigation Development Programme
PPILDA	Project for the Promotion of Local Initiative for Development
PPRR	Rural Income Promotion Programme



PRODIRPA	Securing Artisanal Fishers' Resource Rights Project
PROMER	Rural Markets Promotion Programme
ProParcerias	Community Investor Partnerships Project
ProPESCA	Artisanal Fisheries Promotion Project
PROSUL	Pro-Poor Value Chain Development in the Maputo and Limpopo Corridors
PTRPC	Transitional Programme of Post-Conflict Reconstruction
RCMRD	Regional Centre for Mapping Resources for Development
RISD	Rwanda Initiative for Sustainable Development
SADC	Southern Africa Development Community
SADP	Smallholder Agricultural Development Project
SANRMP	Sustainable Agriculture and Natural Resource Management Programme
SNCDP	Southern Nyanza Community Development Project
SRMP	Sustainable Rangeland Management Project
SWADE	Swaziland Agriculture and Development Enterprise agency
TSLI-ESA	Tenure Security Learning Initiative for East and Southern Africa Project
UNECA	United Nations Economic Commission for Africa
UN-Habitat	United Nations Human Settlements Programme
UTaNRMP	Upper Tana Catchment Natural Resources Management Project
VGs	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security
VODP	Vegetable Oil Development Project

EXECUTIVE SUMMARY

Land in Uganda is still a focus of debate in the development processes of the country. As stipulated in the 1995 Constitution and the 1998 Land Act, Uganda still has four types of land tenure: customary, freehold, mailo and leasehold. Despite the legal recognition of all land tenure systems in the country, customary tenure continues to be treated as inferior compared to all the other forms of tenure in Uganda. To understand more about issues related to land, particularly the issuance of customary certificates of ownership in Uganda, the African Institute for Strategic Research Governance and Development (AISRGD), with support from UN-Habitat, conducted a study to examine the experience of the District Livelihood Support Programme (DLSP) in the issuance of Certificates of Customary Ownership in selected districts in Uganda. This study was carried out under the framework of the Land and Natural Resources Tenure Security Learning Initiative for East and Southern Africa (TSLI-ESA) Programme.

The overall objective of this research was to document experiences in the issuance of Certificates of Customary Ownership (CCO) piloted under the District Livelihood Support Programme in the Ministry of Local Government in Uganda. The Government of Uganda (GoU) and IFAD selected 13 districts to be

targeted by the DLSP in Uganda. The districts were selected on the basis of:

- Poverty incidences; the extent of roads; water supply and sanitation, coverage for primary health care;
- The newness of the districts and their capacity to implement development support activities; and
- The lack of availability of other donor funding.

Although the DLSP land management sub-component was implemented in 13 districts in Uganda, the issuance of CCOs was not done in all the districts due to the complexity of the different land tenure systems. The study was therefore carried out in three districts: Apac, Oyam and Masindi among the DLSP project areas. Apac and Oyam districts were selected because they are at different stages of implementing CCOs; implementation of CCOs in Apac district started in 2010 while in Oyam district, this started in 2012. Masindi district was selected for comparison purposes due to similar interventions, such as the District Development Support Programme (DDSP) introduced by IFAD through the Ministry of Local Government. While the dominant land tenure system in Apac and Oyam districts is customary tenure, Masindi district has a mixture of land tenure systems, which are discussed in the findings.

The DLSP piloted the issuance of freehold titles in Masindi, while in Apac and Oyam districts, CCOs were implemented. The demand for affordable land registration measures is widespread among unregistered customary landowners and tenants, particularly in DLSP target districts. The study found that in Apac and Oyam, where customary ownership is mainly family-based, CCOs are deemed more appropriate. Masindi has a large number of households that have lived on customary land for a very long time. Most of these families preferred that

The International Fund for Agricultural Development (IFAD) and the United Nations Human Settlements Programme (UN-Habitat), through the Global Land Tool Network (GLTN), entered into a partnership to implement a Land and Natural Resources Tenure Security Learning Initiative for East and Southern Africa (TSLI-ESA).

their land be surveyed and they then acquire freehold titles rather than CCOs. Findings for Masindi district show a positive impact of the project in improving land tenure security. Households that participated in the project have gradually improved their livelihoods. Some families have constructed permanent, iron-roofed houses, planted perennial crops such as coffee, bananas, etc. and they have invested in long-term agronomical practices like tree planting, among others. These are signs of increased tenure security.

Meanwhile, in Apac district, in 2010 the DLSP began targeting the three sub-counties of Abongomolo, Chawente and Inomo, and two other sub-counties in Kole district, which was formally part of Apac district. Although the CCO are not yet equated with freehold titles, the beneficiaries of CCO reported a sense of tenure security. Those with CCO could easily identify their boundaries using indigenous tree species omaramar “that are communally recognized for boundary demarcation”. As with Apac district, Oyam district is a unique case because no certificates have been issued since the inception of the project. However, beneficiaries who were involved in the DLSP have a lot of praise and have high expectations. Respondents are still hopeful that once CCOs are effectively implemented, as stated by DLSP, there will be a major decline in land disputes because boundaries will be clearly demarcated. Despite all the achievements, the implementation of the DLSP still faces a number of challenges.

In Oyam, the mere fact that CCO have not been issued to many respondents whose land was surveyed raises issues, tensions and concerns regarding the government’s intention. Furthermore, in Oyam and Apac there are mixed feelings about the strength of a CCO. In Apac, respondents said that one bank has rejected the certificates on the grounds that they are not authentic enough to act as collateral, while in Oyam, some participants still do not know whether CCO will be accepted by financial institutions as collateral or not. In the two districts, no one could offer a definite position on this. Additionally in Apac, the major challenge was the lack of capacity to manage implementation of CCO, especially in polygamous families. Details about this are well elaborated in the study’s findings. While there is

evidence of improved tenure security as a result of DLSP interventions in Masindi, the sustainability of DLSP interventions is not very clear.

As with most government and donor-funded programmes, there is the possibility these interventions will continue after the closure of DLSP. Although all beneficiaries appreciate the support of DLSP to enable them to acquire freehold land titles instead of CCO, some respondents complained about the land-use restrictions imposed on the titles. Beneficiaries were restricted to using land for residential / farming purposes, and / or to developing the land in accordance with the planning regulations of the area. For instance, if the land was restricted to only residential development, the beneficiaries could not use that title for acquiring agricultural loans.

Despite the challenges, it is worth noting that in the three districts where this study was carried out there are remarkable achievements as well as challenges in the implementation of CCO. The experiences from DLSP offer a good case for government and other stakeholders to make policy decisions on CCO acquisition from informed points of view. Also, the implementation of CCOs should not be entirely left to Area Land Committee members and District Land Boards. There is a need to adequately involve cultural leaders throughout the process. Most cultural leaders hold the land in trust for the community and they can influence attitudes in their community members towards CCO. If the leaders perceive CCO negatively, then it is most likely that the local community will also reject all initiatives, however good they may be.

Land cuts across many sectors; it is at the heart of agricultural policies, rural development, territorial planning and management of natural resources. In Uganda, the Ministry of Lands, Housing and Urban Development (MLHUD) has the legal mandate to spearhead all activities related to land in collaboration with agencies such as the Uganda Land Commission (ULC). However, the complexities and dynamics of land in Uganda have attracted the attention of a number of other non-state actors, including inter-governmental organizations (IGOs) like UN-Habitat (through the Global Land Tool Network (GLTN¹)), the Food and Agriculture Organization of the United Nations (FAO), and the International Fund for Agricultural Development (IFAD) among others.

This study was conducted under the framework of the Land and Natural Resources Tenure Security Learning Initiative for East and Southern Africa (TSLI-ESA) Programme. The International Fund for Agricultural Development (IFAD) and the United Nations Human Settlements Programme (UN-Habitat), through the Global Land Tool Network (GLTN), entered into a partnership to implement a Land and Natural

The overall goal of the TSLI-ESA project is to contribute to the development and integration of pro-poor tools and approaches for securing land and natural resource rights into development programmes in selected countries in Eastern and Southern Africa.



Majority of Uganda's Rural Populations depend directly on land © AISGRD

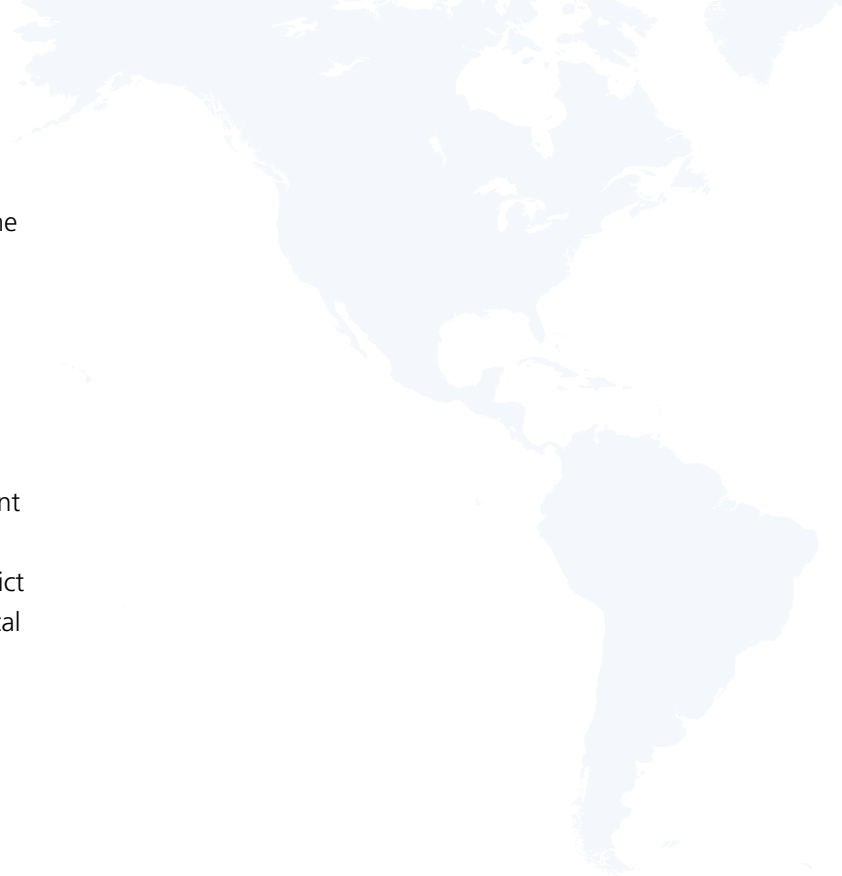
Resources Tenure Security Learning Initiative for East and Southern Africa (TSLI-ESA). The main objective of the TSLI-ESA project is to identify common issues and to enhance lesson sharing and knowledge management on land-related tools and approaches amongst the various projects, country stakeholders and partners in selected East and Southern African (ESA) countries². The TSLI-ESA initiative supports a number of projects in ESA. In Uganda, the Vegetable Oil Development Project (VODP) and the District Livelihood Support Programme (DLSP)³ are among the IFAD-supported projects under the TSLI-ESA country focus.

Through this partnership, UN-Habitat through GLTN has engaged the African Institute for Strategic Research, Governance and Development (AISRGD) to document experiences in the issuance of Certificates of Customary Occupancy (CCO) piloted under the DLSP funded by IFAD. DLSP builds on the achievements of the District Development Support Programme (DDSP) that was completed in 2006, and scales up the decentralized development approach in

¹ GLTN is an alliance of 66 global, regional and national partners contributing to poverty alleviation through land reform, improved land management and security of tenure, particularly through the development and dissemination of pro-poor and gender-sensitive land tools.

² Accessed on GLTN Website. <http://gltln.net>

³ As presented in the UN-Habitat/ GLTN and IFAD Stakeholders workshop in Kampala, 8-9 April 2014



13 districts of Uganda⁴ that encompass a population of almost two million people living in poverty. In some of these districts, the DLSP piloted the use of CCOs as a tool to improve security of tenure, particularly among the poor.

RESEARCH OBJECTIVE

The overall objective of this research was to document experiences in the issuance of Certificates of Customary Ownership (CCO) piloted under the District Livelihood Support Programme in the Ministry of Local Government in Uganda.

JUSTIFICATION AND SCOPE

Due to resource and time limitations, the study focused on three districts, namely Masindi, Apac and Oyam, where the DLSP piloted the issuance of CCOs as a tool to increase women's access to land and improve land tenure security. Field findings were backed up with an in-depth review of literature on Uganda's land sector, land tenure and legal framework. The report presents findings from Masindi, Apac and Oyam districts where focus group discussions and key informant interviews were conducted. The report presents a brief and general outline of the context of Uganda, and an overview of Uganda's land sector, highlighting the key issues and challenges. The report also presents the legal and institutional framework governing land in Uganda, and presents an overview of CCOs and key findings from the three districts where the DLSP supported the issuance of CCOs.

⁴ Yumbe, Apac, Oyam, Kamwenge, Kyenjojo, Masindi, Buliisa, Bundibugyo, Luwero, Nakaseke, Mayuge, Bugiri, & Busia

Uganda has an area of 241,038 square kilometres, of which about a third is covered by fresh water bodies and wetlands. It is mainly a plateau astride the equator and it has a favourable tropical climate and average temperatures ranging from 18 to 28 degrees centigrade. It has numerous natural resources⁵ such as land, fresh water bodies, minerals and recently discovered oil and gas deposits. Uganda's economy has experienced varying growth rates. From independence in 1962 to 1971, the gross domestic product (GDP) grew by an average of 5.2 per cent per annum (GoU, 2010). However, between 1971 and 1979, the GDP declined by 25 per cent due to the unstable political situation and economic mismanagement. In 1987, the Government of Uganda (GoU) introduced an Economic Recovery Programme (ERP) focusing on macroeconomic adjustments and, in 1989, launched a policy agenda for the agricultural sector to reduce poverty by increasing the incomes of poor households and enhancing their quality of life (IFDC, 2003). The policy agenda included trade liberalization and the deregulation of the domestic markets for both inputs and outputs implying a greater scope for competition. Central to these initiatives was a three-pronged approach focusing on developing income-generating activities, providing basic social services, re-establishing peaceful conditions throughout the country, and improving transparency and accountability by strengthening the governance structure (ibid). Between 1997 / 1998 and 2000 / 2001, Uganda registered an impressive growth over the Poverty Eradication Action Plan (PEAP) period, with an average rate of growth in the GDP of 7.2 per cent per annum. A number of economic reforms were introduced to modernize agriculture. Institutions such as the Plan for Modernization of Agriculture (PMA) and National Agricultural Advisory Services (NAADS) were formulated to pursue Uganda's

agricultural development strategy (MAAIF, 2000). It was anticipated that the successful implementation of the economic reforms would lead to increased processing and the efficient marketing of agricultural commodities.

However, in spite of this commendable economic performance, the country still has a number of challenges that have undermined faster economic growth and socio-economic transformation (GoU, 2010). A number of these challenges emanate from the ambiguity of the different systems of land ownership that complicate access to land, especially for those who want to use it as a factor of production. The majority of landowners in rural areas have focused more on land as their main source of livelihood. They have continued to practice traditional methods of production, using very crude hand tools and family labour, with which they only manage to cultivate only small proportions of their land holdings (ibid).

About 95 per cent of landowners do not have land titles to guarantee their tenure security. The problem with accessing land titles is compounded by: bureaucracy, manual operations, corruption, a low-level of funding in the sector, legal and regulatory constraints, attitudes, culture, squatters, historical issues, a shortage of relevant skills such as land surveying, and many other related problems.

⁵ Uganda Vision 2040

Since 2002, the situation in the land sector has been dominated by several factors: the impact of continuing population growth, a high level of public awareness of land sector issues raised during the National Land Policy consultations, and land administration and land information management reforms initiated by LSSP-I to computerize access to land information and transform the systems and processes for delivering land services (MLHUD, 2013). The challenges could worsen without immediate attention, they could ignite conflict if not addressed or at least have the promise of being addressed, and they could constrain much needed investment and development. For example, land disputes and conflicting claims, if not dealt with soon, present a near-term risk of turmoil and unrest. Unless tackled, widespread corruption in the under-resourced land administration agencies could undermine efforts to overhaul the national land registry and confidence in the system.

LAND TENURE SYSTEMS IN UGANDA

Land tenure refers to the manner in which land is owned, occupied, used or disposed of within a community. There are three ways of classifying land tenure regimes. 1) The legal regime governing tenure, for example statutory or customary; 2) the manner in which land is used, for example private, public, or government land; and 3) the land rights held absolutely (infinite) or time-bound with conditions or statutory restrictions. Article 237 (3) of the 1995 Constitution and Section 3 of the Land Act Cap 227 both provide that land in Uganda may be held in terms of four tenure categories, namely freehold, mailo, leasehold and customary (USAID, 2013).

FREEHOLD TENURE

Freehold titles give rights “in perpetuity”; that means the rights do not have a time limit and may be passed

on to future generations. About five per cent of households in Uganda hold land under this tenure. The incidences of freehold tenure, which are standard, include the conferment of full power of disposition and the compulsory registration of title in perpetuity (Obbo et al, 2014).

MAILO LAND TENURE

Mailo land tenure was introduced in Uganda as a result of the 1900 Buganda Agreement, commonly known as the Uganda Agreement with the British. Mailo land tenure is peculiar to the Buganda Kingdom. It used miles as its measuring reference, but a corruption of pronunciation in the native Luganda language resulted in the term “mailo”. Under Article 15 of the 1900 Buganda Agreement, the total land area of Buganda was estimated to be 19,600 square miles (approximately 20 per cent of the total area of Uganda) and was divided between the Kabaka (King) of Buganda and other notables in the Protectorate Government. This land included that of the “lost” counties of Buyaga and Bugangaizi, which had been forcefully removed from the Bunyoro Kingdom with the help of the British colonial administration (Batungi, 2008). Under the Mailo tenure system, land is held in perpetuity and a certificate of



Increasing women access to land is key for transforming Uganda's Agriculture © Samuel Mabikke

title is issued. The main advantage of this system is that it provides security of tenure, thus allowing long-term investments, including those related to conservation. Originally, there were two categories of ownership under this system (Official and Private Mailo). The major challenge of mailo tenure is with the multiple, overlapping and conflicting interests and rights. Mailo is subject to the rights of occupiers, or kibanja holders. Both separate the ownership of land from occupancy or ownership of developments by lawful or bona fide occupants and this is guaranteed by the Land Act 1998. The kibanja holder has an option to purchase and, thus, move up to the mailo title status. The Land Act also guarantees statutory protection to the kibanja holder and his or her successors against any eviction as long as the prescribed nominal ground rent is paid to the landowner (Obbo, et al, 2014).

LEASEHOLD TENURE

A leasehold estate is created in land as the result of a contractual agreement between a lessor (landowner) and a lessee, in which the lessee enjoys exclusive possession of the land of the lessor for a specified period for a cash payment, called rent, from the lessee to the lessor. There are two types of leasehold tenure arrangements, namely, private leases given to individual landlords and official or statutory leases given to individuals and/or corporate groups under public act terms.⁶ Private leases granted by a landowner often require the payment of rent, while statutory leases issued by the Uganda Land Commission (ULC) on public land may be accompanied by conditions of land use. Therefore the lessor still holds the right to revoke ownership when leasehold conditions are abused. Leases are instruments for development for a specific period. They give rights on condition that certain developments will be made, such as the construction of certain structures and the payment of a yearly rent to the lessor. In practice, leases are rarely monitored. Many existing leases have expired, while with others the conditions have not been met.

CUSTOMARY LAND TENURE

It is the most dominant land tenure system and covers 68.6 per cent of the land in Uganda (MLHUD, 2010). Customary tenure is found all over the country, but

C Customary Land tenure is a system whereby the rights to own, use and dispose of land are held in accordance with customary rules and regulations that may vary according to different ethnic groupings and regions.

predominates in the northern and eastern, cereal-cotton-cattle farming system, as well as the West Nile cereal-cassava-tobacco system (Kamanyire and EPRC, 2000). Customary tenure is managed by families and clans. Clan structures for managing customary land tenure vary from family, extended family and clan committees or clan positions, such as that of "Rwot kweri" in Acholi, and "Adwong wang tic" in Lango. Other clan structures, such as in Buganda, Bunyoro and Tooro, are organized under a kingdom. The Land Act defines customary tenure as "a form of tenure applicable to a specific area of land and a specific description or class of persons, subject to section 27, which prohibits discrimination against women, children and people with disabilities (USAID, 2013). The current Land Act (1998) contains provisions that permit public land occupants and holders of customary rights to apply either for leaseholds (public land) or freeholds (public land and customary land). Leaseholds can be obtained from an individual, local authority or the government for a period, usually 49 or 99 years, with agreed terms and conditions. The leasehold transactions, being essentially contractual, allow parties to define the terms and conditions of access in such a manner that suits their reciprocal land-use needs. Most public land in urban areas is converting to state leasehold, enabling local authorities to raise revenues. The major disadvantage of customary tenure is that it tends to emphasize cultural values more than the economic and financial gains from the land. This retards development. Land users are not encouraged to make long-term investments in the land, nor can they take care of the land as they would do if they had clear title to it. Land held under customary land tenure especially for communal use tends to suffer from neglect and consequent degradation (Report of the Uganda Constitutional Commission: Analysis & Recommendations (1993), pp. 62-63).

⁶ Public Land Act 13 of 1969.

Uganda's legal framework for land administration has undergone reforms in the recent past and consists of a number of legal acts. Some of these are outdated and require harmonization after the approval by Cabinet of the National Land Policy in February 2013. Uganda's land administration system is based on a number of laws which include: i) the 1995 Constitution of the Republic of Uganda; ii) Land Act 1998 as amended in 2004 and 2010 (CAP227); iii) the Condominium Property Act 2001; iv) Land Regulations, 2004; v) the Survey Act, Cap. 232, 1970; vi) the Land Acquisition Act, Cap.226, 1962; vii) Registration of Titles Act, Cap.230; and 8) the Mortgage Act, Cap 229 (Obbo et al, 2014).

THE 1995 CONSTITUTION AND ITS PROVISIONS ON LAND

The 1995 Constitution was the first legislation to reform land regulation by reversing the 1975 Land Reform Decree. The decree had nationalized all land by declaring it public land, but did not provide much protection for the user rights of small-scale farmers (Coldham, 2000). Article 237(1) of the 1995 Constitution states that land belongs to the citizens of Uganda, making Uganda the first state in sub-Saharan



Agriculture is the backbone of Uganda's economy© Samuel Mabikke


Africa to vest its "radical title" in its citizens (MLHUD, 2011). The 1995 Constitution of Uganda provides that land shall be vested in the citizens in accordance with the four land tenure systems, namely, freehold, leasehold, mailo and customary. For the first time, customary land tenure was recognized under statutory law.

THE LAND ACT, CAP.227, 1998

The 1998 Land Act provides a legal framework for land tenure, ownership and management of land, as well as the amendment and consolidation of the law relating to tenure and other associated or incidental matters. In line with the 1995 Constitution, the Land Act creates a fiduciary relationship between the state and citizens of Uganda for the efficient use and management of land-based resources (MLHUD, 2011). Although the Land Act recognizes customary rights alongside formal, state-backed property rights (Hundsbaek, et al., 2012), it is not very clear about how customary land should be regulated. Similarly, the 1998 Land Act restores the ownership rights to mailo land-the land tenure system of central and western Uganda with landlords and tenants-but it reduces the landlords' control over the land to a very narrow sense of de jure ownership with barely any de facto rights (ibid). The Act provides for the granting of: freehold titles, leasehold agreements, Certificates of Customary Ownership (CCOs) and Certificates of Occupation (COs). COs are mainly for tenants/squatters on mailo land while CCOs are for customary owners.

THE NATIONAL LAND POLICY, 2011

In 2001, the ministry (MLHUD) instituted a multi-sectoral and multi-disciplinary National Land Policy Working Group (NLPWG) to steer the policy making process and deliver for Uganda a systematic framework for articulating the role of land in national



development, land ownership, distribution, utilization, alienability, management and control. The key policy issues touch on (i) historical injustices and colonial legacies; (ii) contemporary issues arising from such legacies; and (iii) land use and land management issues. The vision of the policy is “to promote sustainable and optimal use of land and land-based resources for transformation of Ugandan society and the economy”. The goal of the policy is “to ensure efficient, equitable and sustainable utilization and management of Uganda’s land and land-based resources for poverty reduction, wealth creation and overall socio-economic development (MLHUD, 2011)”.

The Uganda National Land Policy was finally approved by Cabinet in February 2013 as the instrument designed to tackle current and future challenges regarding the role of land as the primary foundation for socio-economic development and socio-economic transformation.⁷ The adoption of the policy marked the end of a comprehensive process of national consultations and debates on the appropriate courses of action needed to address the historical challenges of sustainable use of land and land governance in Uganda.

A Certificate of Customary Ownership is an official state document indicating the owner of the land because customary law has recognized that particular person as the rightful owner. It can be used as proof of legal ownership if you want to sell the land or if you have any land dispute (LEMU, 2008).

PROVISIONS OF CCOS UNDER THE 1998 LAND ACT

The Land Act of 1998 Cap 227 Section 4 provides that any person, family or community that holds land under customary tenure on former public land may acquire a Certificate of Customary Ownership (CCO) in respect of that land. Under Section 8 of the Land Act, a CCO is considered to be confirmation and conclusive evidence of the customary rights and

interests specified in it, that the land to which the certificate refers continues to be occupied, used and regulated, and that any transactions in respect of the land undertaken and any third party rights over the land are exercised in accordance with customary law. A CCO confers on the holder the right to undertake any transaction, subject to the conditions, restrictions and limitations contained in the certificate. The Land Act recognizes that occupancy of customary land conveys legal rights without documentary evidence. The CCO can be registered with the state and may also be converted to freehold land. Unregistered customary land is vulnerable to expropriation by the government and “grabbing” by political and economic elites. Registration provides an added measure of protection for customary land rights.

PROCEDURE FOR APPLYING FOR A CCO

A CCO is acquired through a public process in which an applicant’s neighbours are invited to witness the marking out or demarcation of land boundaries and a map is drawn showing the area in question. The application for a CCO is with a prescribed form acquired from the Area Land Committee (ALC), a body whose establishment,⁸ composition, functions and procedures⁹ are set out in some detail in the Act.¹⁰ The recommendations of the ALC are forwarded to the District Land Board (DLB), which has broad powers to confirm, reject or vary it.¹¹ The committee is required to record third party rights not amounting to ownership¹² and specifically to “safeguard the interests and rights in the land of women, absent persons, minors, and persons with disability”.¹³ Where

An example of a Certificate of Customary Ownership in Apac District © AISGRD

⁸ Article 64

⁹ Articles 5 and 6

¹⁰ Note that, as in Kenya, the determination and recording of customary land rights, including the settlement of any disputes, is entrusted largely to administrative bodies rather than to the courts.

¹¹ Article 7

¹² Article 5(1)(e)

¹³ Article 5 (1) (g)

the committee records a third party right, the certificate must carry a note of it.¹⁴

The holder of the certificate of customary ownership who undertakes any transaction in respect of the land to which the certificate relates provides the recorder with a copy or other accurate record of the transaction and the recorder shall keep all such records in the prescribed manner. No transaction of leasing the land or part of it, mortgaging or pledging the land or a part of it where a CCO does not restrict it or selling the land or a part of it, shall have the effect of passing any interest in land to which the transaction relates unless it is registered by the recorder.

To avoid doubt, where a mortgage on land to which a CCO applies has been made under the Mortgage Act, the mortgagee has the power to sell and execute a transfer of that land to a purchaser in case of default by the mortgagor. Under CCO ownership, “usufructuary right” means the right to use and derive profit from property belonging to another while the property itself remains undiminished and uninjured in any way. A CCO is recognized by financial institutions, bodies and authorities as a valid certificate for purposes of evidence of title. While the Land Act recognizes that in some areas it may be more appropriate for land to be held communally, it is the long-term aim that most land should be held on individual freehold title. The Act conceptualizes CCOs as an intermediary step between unregistered customary rights and those underpinned by the formal registration of freehold tenure: the “certification of customary ownership is meant to serve the purposes of a transition to freehold titling, to facilitate a land market (by providing security) and to serve as a collateral for loans for investment in agriculture” (Adoko & Levine, 2005). The holder of a certificate is given broad powers to deal with the land (including leasing, mortgaging, selling, subdividing and leaving by will), but these powers are subject to any restrictions noted on the certificate.

MERITS AND DRAWBACKS TO USING A CCO

The rising global demand for land for large-scale

BOX 1: APPLICATION PROCEDURE FOR A CERTIFICATE OF CUSTOMARY OWNERSHIP

1. Fill Form 1 of the Land Regulations 2004, Regulation 3 submit it to the Area Land Committee (ALC) with Uganda Shs. 5000/= . The form can be acquired from the ALC.
2. ALC will put a notice in a known place in the area and on the land being applied for.
3. ALC confirms the existence and ownership of the land and marks the correct boundaries.
4. ALC demarcates rights of way and other easements over the land and makes a decision depending on customary law.
5. ALC makes a report and submits it to the District Land Board (DLB), copied to the applicant and any other people who submitted complaints.
6. ALC produces three (3) copies of the sketch map in respect of the land, one for the DLB, applicant and one remains with the ALC.
7. DLB considers the report and the recommendations of the ALC and may confirm or reject the application.
8. If DLB agrees, it communicates its decision to the Recorder who is the Sub-county Chief.
9. Where an application for a Certificate of Customary Ownership (CCO) is approved, the DLB makes copies of the sketch, retains one copy for its records, and sends the original and a copy to the Recorder.
10. The Recorder then issues a CCO to the applicant in the terms and decisions of the DLB.
11. Any person who is aggrieved with the DLB's decision may appeal to the courts of law.

commercial agriculture and biofuels has increased pressure, particularly on customary lands across Uganda. Customary areas, particularly in northern Uganda, are prone to land grabbing from domestic and foreign actors. Customary land rights of the poor, especially women, children and disabled people, are under threat. The use of CCOs is an opportunity to protect the customary rights of poor men and women, but CCOs create numerous challenges. The table below summarizes some of the opportunities and challenges associated with CCOs in Uganda.

¹⁴ Article 7(3)

	STRENGTHS ASSOCIATED WITH CCOs	WEAKNESSES ASSOCIATED WITH CCOs
1	Official document recognized by all courts in the country as proof of legal ownership of customary land	CCOs are not as "strong" in some ways as a title. The law may regard someone with a title on the same land as having a stronger claim on the land
2	CCOs have a map attached to it to prove land boundaries	CCOs 'maps' are not formally surveyed hence the possibility for boundary disputes to arise
3	Land registered under CCOs can be transferable, mortgaged, subdivided, etc. and passed on to spouse, children, etc. upon death.	Most financial institutions prefer titles to CCOs due to perceptions that land is communal and boundaries are inaccurate
4	CCOs are much cheaper to acquire than a freehold title	A certificate is not free, though it is cheaper than a title. You need to "keep it alive", by registering and paying a fee of UGX 5,000 each time land is inherited, or UGX 10,000 if it is sold or given as a gift
5	Easy procedure to obtain and amend than a freehold title	The process is currently very difficult, because a claim to the land has to be verified by an Area Land Committee and then registered by the sub-county recorder (who is also the sub-county chief). However, in most places, Area Land Committees have never been set up by the district, and sub-county chiefs are not working as recorders
6	According to the law, the land should remain as customary land, which means that customary law should still apply on the land.	The rights that different people have over the land will not change - e.g. if members of a family or a community had claims to use the land in some way, perhaps to graze animals or to fetch water, they should keep these rights. This limits CCOs holders when transferring land use without the approval of community
7	CCOs can later be turned into a freehold titles	The fact that the Land Act encourages CCOs to be converted into freehold titles means they are not intermediate tools and they do not provide full security of tenure Most CCOs are issued in the name of the family head (mostly men), rather than the family. Very few women own CCOs Individualization of customary land is prone to land grabbing and elite capture

Source: Adopted from Literature from Land and Equity Movement of Uganda (2008)

Since 1981, the International Fund for Agricultural Development (IFAD)¹⁵ has partnered with the Government of Uganda to enable rural people to overcome poverty. IFAD has funded over 14 programmes and projects benefiting more than four million households with a total investment in excess of USD 296 million (IFAD, 2011). To ensure consistency and national ownership, the government takes the lead in development initiatives, while IFAD and other development partners provide technical and financial support. IFAD provides financing and technical assistance for:

- Improving agricultural technologies to help farmers move from subsistence to market-oriented production;
- Promoting decentralization and improving rural infrastructure; and
- Supporting rural financial services

IFAD works in partnership with the Ministry of Agriculture, Animal Industry and Fisheries (MAAIF), the Ministry of Local Government (MoLG), and the Ministry of Finance, Planning and Economic Development (MFPED). Examples of such projects / programmes include the Vegetable Oil Development Project under MAAIF, which has a strong component

Although most of the projects/ programmes supported by IFAD focus on agriculture, land tenure security has been identified as a common issue across most IFAD-supported projects in Uganda.

¹⁵ IFAD is an international financial institution and a specialized United Nations agency dedicated to eradicating poverty and hunger in rural areas of developing countries.

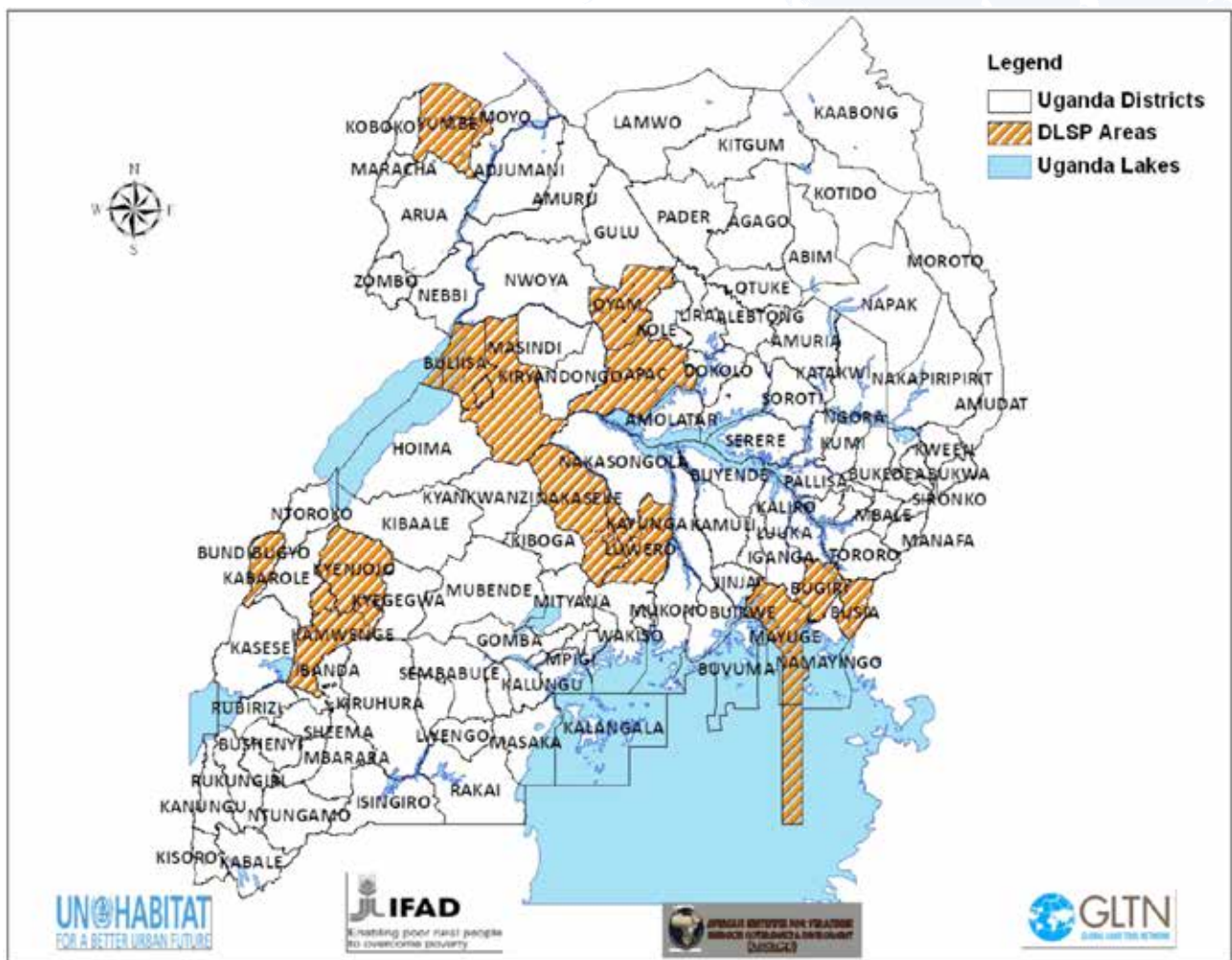


Supporting Rural Farmers to overcome poverty is central to IFAD's work © Samuel Mabikke

of improving tenure relations and farm productivity in Kalangala, and the District Livelihood Support Programme (DLSP) under the MoLG, which has piloted the issuance of CCOs as a tool to improve land tenure security, particularly for women and vulnerable groups in customary lands areas of Uganda.

The IFAD country programme in Uganda has had impressive results and it about 4.3 million households have benefited from the different activities supported. Since 2001, approximately 15 per cent of farming households in the country (about 1.5 million households representing about 7.5 million people) have received training in agricultural production technologies based on farmer demand under NAADS, resulting in an increase in per capita agricultural income of between 42 and 52 per cent.¹⁶ About 2,000 kms of district feeder roads and about 10,000 kms of community access roads have been built in more than one third of the districts in Uganda. These have increased accessibility and minimized road closures during the rainy season, and this had a significant impact on

¹⁶ Impact evaluation of NAADS in Uganda, IFPRI, Kampala 2008



Location of DLSP projects in Uganda

household incomes.¹⁷ Access to rural financial services has been provided to about one million households through about 700 Savings and Credit Cooperative Associations (SACCOs), of which about three quarters are sustainable. Between 2008 and 2012, the average shareholding capital per person increased four-fold and average savings almost doubled. To address the country's dependency on imported vegetable oils, farmers' production of sunflower has increased, and palm oil has been introduced to the country under the largest public-private partnership in IFAD's portfolio. The domestic supply of vegetable oils has increased substantially over the past 10 years, and the country is close to reaching the minimum FAO annual requirement of 7 kg/person consumption of fats and oils in the diet, compared to 2.3 kg/person in 1998 (IFAD, 2012).

DISTRICT LIVELIHOOD SUPPORT PROGRAMME

In 2007, the District Livelihood Support Programme (DLSP) began to build on the achievements of the District Development Support Programme (DDSP) completed in 2006. DLSP supports the government's decentralization efforts and is scaling up the decentralized development approach in 13 districts that encompass a population of almost two million living in poverty. DLSP targets poor households, landless people, smallholder farmers and fishers, and, in particular, women and youth. It was designed to fit within the framework of several key government policies and specifically supports the objectives of the Local Government Sector Investment Plan (LGSIP). To accelerate decentralization, DLSP supports local economic development and strengthens the capacity of district governments to foster community development. Activities focus on community

¹⁷ Supervision, monitoring and completion reports from the Area-based Agricultural Modernization Project, District Livelihoods Support Programme and Community Agricultural Infrastructure Improvement Programme, March 2011.

TARGET DISTRICT		LOCATION
1	Yumbe	Northern Region
2	Apac	
3	Oyam	
4	Bundibugyo	Western Region
5	Buliisa	
6	Masindi	
7	Kyenjojo	
8	Kamwenge	
9	Luwero	Central Region
10	Nakaseke	Eastern Region
11	Busia	
12	Bugiri	
13	Mayuge	

mobilization, agriculture and land management, and the development of access roads and water infrastructure (IFAD, 2013). DLSP encourages joint ownership of land between husbands and wives.

DLSP TARGET DISTRICTS IN UGANDA

The GoU and IFAD selected 13 districts to be covered by the DLSP in Uganda. The districts were selected on the basis of: the incidence of poverty, the extent of roads, water supply and sanitation and primary health care coverage, the newness of the districts and their capacity to implement development support activities, and the lack of availability of other donor funding. Of the 13 districts, three of the western ones, Masindi, Kyenjojo and Kamwenge, already participated in the DDSF.

Due to Uganda's historical conditions, almost the entire DLSP target area has been affected by civil war. In the north, communities were displaced in the late 1970s and many families were forced to find refuge in Southern Sudan. Many families (e.g. in Apac) were living in Internally Displaced Peoples (IDP) camps and have only recently started returning to their homes. Nakaseke and Luwero were the epicentre of the "Luwero Triango" war, which also affected Masindi and the present Kabarole, Kamwenge and Kyenjojo districts. Bugiri and Mayuge districts in the east were affected by sleeping sickness, leading to relocation of communities to other area.

DLSP LAND MANAGEMENT SUB-COMPONENT

The objective of the land management sub-component of the DLSP was to pilot the implementation of the 1998 Land Act in selected sub-counties, taking into account different tenure situations. Thus far the project has focused on: i) sensitization and awareness-raising among beneficiary groups on their land rights; ii) capacitating District Lands Offices Boards and Tribunals and Sub-County Area Land Committees; and iii) piloting tenure security options in at least one sub-county per district, in 13 districts. Different tenure security options have been tested in different contexts, with the focus on Certificates of Occupation for mailo land, customary ownership (group and familial) in the north, customary and freehold ownership in the east and west. Among the challenges have been: securing and expanding women's land rights, limited district capacity, the cost and time required for registering land, the reluctance of mailo landowners to issue COs, and developing systems for group ownership. According to the project implementers, the land tenure sub-component is considered to be one of the successful aspects of the project.



Only about 7 per cent of women are registered land owners in Uganda© AISGRD

LAND TENURE IN DLSP TARGET DISTRICTS

Most land in the DLSP target districts is under unregistered customary ownership, although in certain districts a large proportion of land is under mailo ownership. It is estimated that between 80 and 85 per cent of all land is either under unregistered customary ownership or under tenant occupancy on mailo land. There is some diversity in customary tenure regimes, ranging from individualized, family-based ownership to tenure systems that combine family ownership with common use rights (usually over pastures, wetlands and forests), to communal systems of pastoralists. Family-based ownership sometimes combined with limited common use rights is prevalent in Bundibugyo, Masindi, Kamwenge, Kyenjojo. Mailo and leasehold land are prevalent in Luwero, Nakaseke, Busia, Bugiri and Mayuge. Communal based systems are more prevalent in Buliisa, Apac, Oyam and Yumbe. In certain parts of Bundibugyo, Kamwenge and Kyenjojo, land is registered as native freehold and held in trust by the Toro king. There is a high level of land fragmentation in certain districts and boundary disputes appear to be widespread in all the target districts. The 2005 Uganda Poverty Status Report estimates that close to 40 per cent of households own less than 0.5 hectares of land, landlessness is increasing and there is a direct correlation between the amount of land households have access to and poverty. However, the average

land size varies between agro-ecological zones. Only around 7 per cent of women are registered owners of land, although the percentage of women who access unregistered land through customary systems is probably significantly greater. Land under leasehold or freehold is limited in most districts.¹⁸

¹⁸ DLSP Working Paper IV-Land Tenure and Land Management

The study was undertaken primarily through consultative and participatory approaches involving a range of stakeholders involved in customary tenure. Key stakeholders were selected from the government—particularly the Ministry of Lands, Housing and Urban Development (MLHUD) and the Ministry of Local Government (MoLG), development partners e.g. IFAD’s country office, civil society organizations such as the Uganda Land Alliance (ULA) and the Land Equity Movement of Uganda (LEMU), and district local governments, among others. In all districts, the DLSP set guidelines for the implementation of the land management sub-component to ensure effective implementation. Like other DLSP benefiting districts, in Masindi, Apac and Oyam districts, the identification of the project beneficiaries took several steps, including; mobilization, identification and sensitization of beneficiaries, a survey of pieces of land and verification of the information provided by individuals and households that resulted from filling in application forms.

RATIONAL FOR SELECTION OF STUDY DISTRICTS

For instance, in Luwero and Nakaseke districts in the central region, the DLSP instead piloted the issuance of CoOs on mailo land tenure where many tenants and landlords are engulfed in strained relationships over land. In such districts, the DLSP success was limited due to the fact that most mailo land is owned

Although DLSP land management sub-component was implemented in 13 districts in Uganda, the issuance of CCOs was not done in all the 13 districts due to the complexity of the different land tenure systems.



Focus Group Discussion in Inomo sub-county in Apac District © AISGRD

by absentee landlords. Priority was also given to districts where other organizations, such as the Uganda Land Alliance (ULA) and the Land Equity Movement (LEMU), have had some similar initiatives on CoOs, for example in Apac district. Respondents in such districts have been widely sensitized about CoOs. Another criteria considered in the selection of research areas was whether districts had participated in previous IFAD-supported projects, such as the District Development Support Programme (DDSP). The last criteria for selection of research districts was dictated by the limited time and budget allocated for the entire research project.

The study was carried out in the three districts of Apac, Oyam and Masindi among the DLSP project areas. Apac and Oyam districts were specifically selected because they are at different stages of implementing CCOs; implementation of CCOs in Apac district started in 2010 while in Oyam district, DLSP started the implementation of CCOs around 2012. Masindi district was selected for comparison purposes due to similar interventions like the District Development Support Programme (DDSP) that was

introduced by IFAD through the Ministry of Local Government. While the dominant land tenure system in Apac and Oyam districts is customary tenure, Masindi district presents a mixture of land tenure systems as discussed in the findings. DDSP piloted the issuance of freehold titles in Masindi, while in Apac and Oyam districts, CCOs were implemented.

METHODS FOR DATA COLLECTION

Both primary and secondary data were collected for this study. The study started with an in-depth review of secondary data sources from existing literature. Secondary data included literature on CCOs, legal and policy frameworks for land tenure systems, and background on IFAD-supported projects, among others. Data sources included the MLHUD Strategic Plan 2014, the 1995 Constitution, the 1998 Land Act, the Uganda National Land Policy, reports from the Uganda Bureau of Statistics (UBOS), and the National Development Plan (NDP) among others. The study was enriched by a review of the numerous ongoing and past interventions on CCOs done by the MLHUD, Uganda Land Alliance, Land Equity Movement Uganda, and some platforms like the Northern Uganda Land Platform (NULP) among other key stakeholders.

The analysis highlights CCO implementation procedures, key land tenure issues, and the relevance of CCOs in the transformation of livelihoods and improvement of tenure security-particularly for poor

women and men in the selected districts. Secondary data was enriched and validated by the field findings. Primary data from the study districts was collected through a structured interview guide and focus group discussions (FGDs). In total, eight FGDs were carried out in three districts. Although there were always more men than women attending the discussion, in districts like Apac where extensive community sensitization has been done by several government and civil society groups, the number of women actively attending land debates is increasing. Participants in FGDs comprised of CCOs' beneficiaries, community leaders and Area Land Committee members among other interest groups.

Introspective techniques like participant observation, particularly for land-use practices, were constantly used to understand the relationship between land tenure (in)security and land-use practices. Key informant Interviews were carried out with most key informants being purposefully selected on the basis of their knowledge and experience on land and their ability to influence power relations. Some key informants were from MLHUD, District Local Council, e.g. District Chairpersons, District Surveyors, members of the District Land Boards and Area Land Committees and some civil society organizations, like ULA.



Focus Group Discussion in Inomo sub- county in Apac District © AISGRD

The demand for affordable land registration measures is widespread among unregistered customary landowners and tenants, particularly in DLSP target districts. In situations where customary ownership is mainly family-based, CCOs are considered to be more appropriate.¹⁹ In general, it appears that the surveying costs associated with freehold titles are considered to be prohibitive by the DLSP target group, although the demand for registration under freehold is steadily increasing, mainly from better-off commercial farmers.

The following section presents and discusses key findings and perceptions of beneficiaries on the issuance of CCOs in three main districts (Masindi, Apac and Oyam) of DLSP focus. The presentation of findings starts with an overview of the land tenure systems in the study area and how CCOs have been implemented. The discussion also highlights insights into the achievements and tracks some evident signs of improvement in tenure security and challenges, and gaps in DLSP interventions in the selected district. The findings also present the perceptions of beneficiaries in the DLSP project and track some evident signs of improvement in tenure security.

FINDINGS FROM MASINDI DISTRICT

Masindi district is located in the mid-west part of Uganda, 130 miles from Kampala, and it borders Buliisa district in the north, Nakasongola district in the east, Hoima and Kiboga districts in the south and the south-east, and the Democratic Republic of the Congo in the west. The district comprises of a total area of about 5,000 km², of which about 4,000 km² is made up of land, about 1,000 km² is wetlands and rivers, 2,843 km² is wildlife protected area, and 1,031 km² is under forest reserve. In 2006, Masindi was split into two districts, Masindi and Buliisa. The latter took up

the area bordering Lake Albert, the main freshwater system in the area. Most of the river flow stayed in Masindi district. The wetlands were shared more evenly between the two districts (MDLG, 2009).

LAND TENURE IN MASINDI DISTRICT

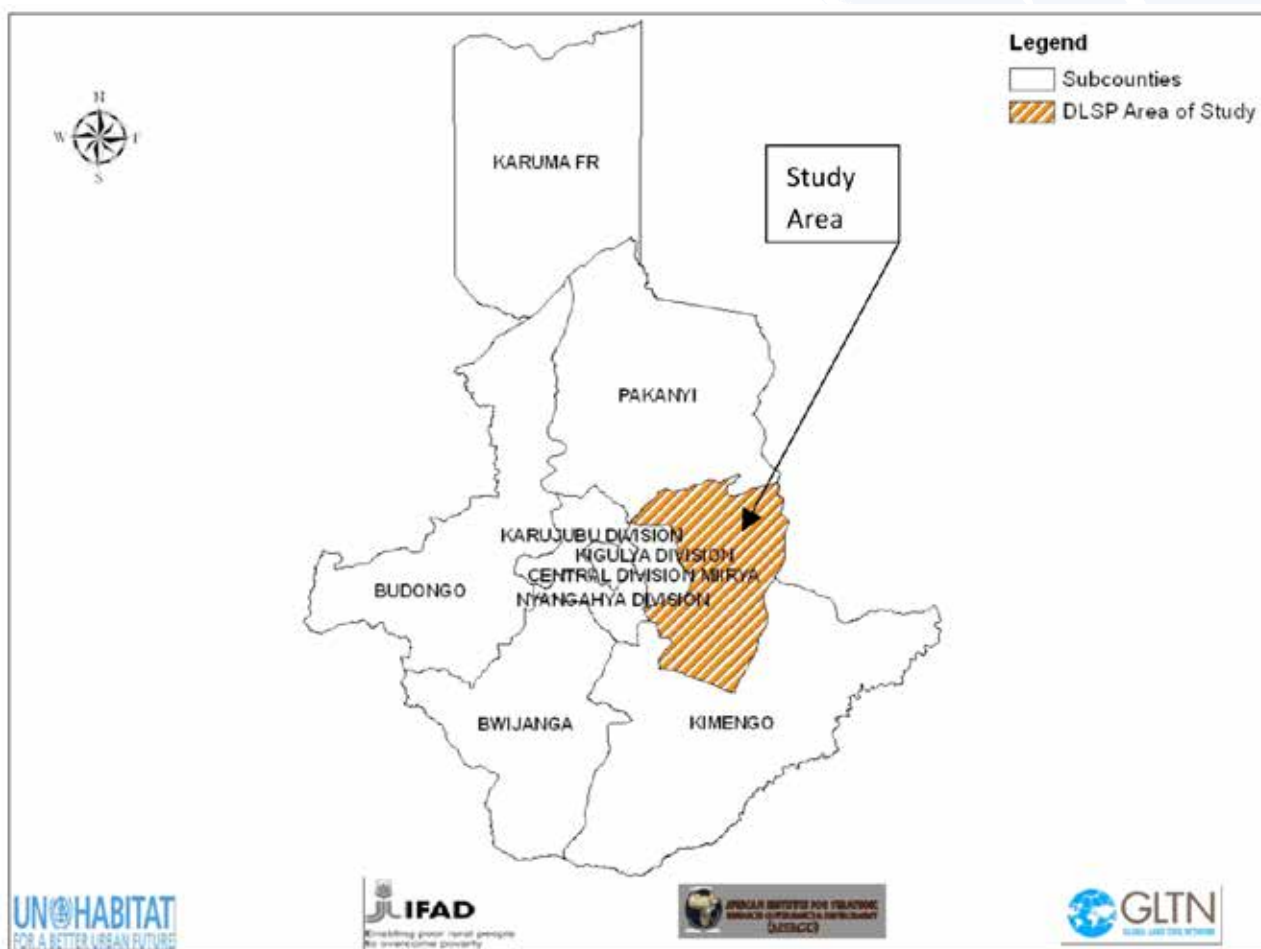
Land tenure security is central to rural poverty eradication and, in particular, agricultural development and sustainable land management. The lack of tenure security serves to de-motivate owners, tenants or squatters from investing in land-improvement practices and technologies, and from adopting sound farming systems. Masindi district has three land tenure systems: customary, freehold and leasehold.

Customary tenure is sub-categorized into Lubinja - a customary tenure characterized by bona fide occupancy and customary tenure characterized by customary



Focus group discussion with CCO beneficiaries in Miirya Village, Masindi district © AISRGD

¹⁹ DLSP Working Paper IV-Land Tenure and Land Management



Map of Masindi district showing the study area

ownership. Leasehold tenure is earmarked for commercial interests such as Uganda Livestock Industries, Bunyoro Growers' Co-operative Union and Kinyara Sugar Works Ltd (Masindi DC, 2007). The customary land tenure and bona fide occupancy under customary tenure are inter-related, although, several problems still exist in the functioning of the customary tenure system. Kibanja owners (land occupants) were issued Certificates of Customary Ownership until the 1950s when the process was stopped because the scheme of issuing certificates was abused and only prominent people got certificates and many poor people did not (Masindi District Council, 2003). On the other hand, customary landlords were given official land holding rights, i.e. obengenze similar to mailo in the Buganda Kingdom. The officials (chiefs) of the Bunyoro Kingdom got their remuneration in the form of commissions. There is a strong preference for freehold land tenure among the indigenous communities and this has been included in the district's long-term plan (Masindi DC, 2007).

Implementation of CCOs in Masindi district

The DLSP started implementing land management interventions in Masindi district around 2007 after a political decision was made to split Masindi into two districts (Buliisa and Masindi). The discovery of commercially viable oil and gas deposits in the region increased tenure insecurity because land-particularly customary land-was susceptible to foreign and domestic land grabbing. Implementing the use of CCOs by DLSP was seen as one of the means to secure customary land.

DLSP interventions also aimed to increase farm productivity and household incomes through improving security of tenure and empowering poor households, particularly for women and youth, to invest in productive land activities.

The DLSP also focused on building the capacity of District Land Boards (DLB) and Areas Land Committees (ALC) through training and supply of office equipment. Local communities were sensitized about the need to secure their lands through registration and on ways to resolve land-related disputes. Through sensitization, it was observed that most land was owned by men. By 2011, DLSP had registered 47 land parcels covering 94 acres and noticed that most women lacked the financial capacity to purchase land. As a way of increasing women's access to land, DLSP provided some grants, particularly to those women who were living in absolute poverty.

Masindi has a large number of households that have stayed on customary lands for a very long time. Most of these families preferred their land to be surveyed and then to acquire freehold titles rather than CCOs. The DLSP subsidized the costs of surveying and facilitated those families with issuance of freehold titles instead of CCOs. Although the procedure for surveying is heavily subsidized by the DLSP, not all families could afford cost sharing; only the few families that could afford it have been issued with freehold titles. In Miirya sub-county, about 30 parcels were surveyed and freehold titles issued to the landowners and, of these, seven were issued to women. There are 48 applications for CCOs that have been submitted to the District Land Board for approval after inspection by the Area Land Committee. The issuance of CCOs has, however, been halted by the government until the Ministry of Lands, Housing and Urban Development (MLHUD) standardizes all CCOs



Some of the Beneficiaries with their Certificate of Titles in Miirya Sub-county © AISRGD

Although the number of women who own certificates is still low, there is increased acceptance among most male respondents that women's names (and sometimes children's) can appear on the same certificate.

with unique serial numbers and other paper security features.

Achievements of DLSP interventions in Masindi district

The findings in Masindi district show that the project has had a positive impact on land tenure security. Households that participated in the project have also gradually improved their livelihoods. Some families have constructed permanent, iron-roofed houses, planted perennial crops like coffee and bananas, and have invested in long-term agronomical practices like tree planting. These are signs of increased tenure security.

Boundary demarcation using locally available resources like the omuramura shrub has helped to reduce land disputes. This kind of shrub is widely used in Masindi district as mark stones because "beacons" are sometime moved by some people with the intention of increasing the size of their land parcel. Planting of boundary markers and clear marking of rights of way and easements was done by ALCs during land inspections. Beneficiaries were required to provide boundary markers omuramura to enable ALC to demarcate the boundary in the presence of all parties, including clans and family members, local councils, and neighbours and witnesses to avoid future emergence of boundary conflicts. Even with boundary markers in place, measurements were indicated on the sketch maps.

Challenges and gaps in DLSP interventions in Masindi District

Although there is much evidence of improved tenure security as a result of the DLSP interventions in Masindi, the sustainability aspects of the programme's



Omuramura shrub (in foreground) used for boundary demarcation © Samuel Mabikke

interventions are not clear. As with most government- and donor-funded programmes, there is no possible continuation of these interventions after the closure of the DLSP.

It is evident that the district leadership has no financial capital or the required human resources to upscale DLSP interventions throughout the district. Beneficiaries often praised IFAD's support, but there is no clarity on whether such support will continue after the end of programme. Based on responses from the beneficiaries and District Local Government, there is a high preference of freehold titles over CCOs. This indirectly means that poor households feel more secure in investing in freehold titles compared with CCOs. The government should devise means of improving the acceptance of CCOs as a tool that would offer equal security of tenure as freehold.

Although all beneficiaries appreciate the support of the DLSP to acquire freehold land titles instead of CCOs, some respondents complained about the land-use restrictions imposed on the titles. Beneficiaries were restricted to using land for residential / farming and or developing the land in accordance with the planning regulations of the area. For instance, if the land was restricted for only residential development,

the beneficiaries could not use the title to acquire agricultural loans.

FINDINGS FROM APAC DISTRICT

Apac district is approximately 300 kms from Kampala and lies between longitudes 32oE and 34oE and latitudes 2oN and 3oN. It is bordered by the districts of Oyam in the north, Lira in the east, Masindi in the west and Amolatar in the south-east. The southern boundaries of the district are also along Lake Kwana and the River Nile. The district covers a total area of 3,908 km², of which 9 per cent is covered by open swamps and water, while 15 per cent is covered by forests, leaving 2,970 kms² for human settlement. Arable land covers 2,524 kms² (UBOS, 2009). Apac was one of the districts affected by the long-term armed conflict between the Government of Uganda (GoU) and the Lord's Resistance Army (LRA), which resulted in death, loss of property and displacement of people. The district is almost completely un-industrialized, with few urban centres of any size. The population is rural and people depend almost entirely on agriculture for their livelihoods. Mechanization is rare, so the only productive assets which most households own are land, a few hand tools and (though not for all) livestock (Adoko, 2005).

Land tenure in Apac district

Land tenure in Apac can be categorized into three types, namely customary, freehold and leasehold. Most of the land is held under customary tenure. Land is one of the most contentious issues in every village, as well as at district and national levels. Land rights are fought over within households, within the extended family, between families within the clan, and between clans and "outsiders" (Adoko, 2005).

I *I am worried in future I may not be able to develop my land according to the planning regulations stated in my title. If this area will require only storied buildings, we the poor people won't be able to put up such structures*

Implementation of CCOs in Apac district

The DLSP in Apac district began in 2010 targeting three sub-counties of Abongomola, Chawente and Inomo, and two other sub-counties in Kole district, which was formally part of Apac district. The implementation of CCOs was specifically piloted in Inomo sub-county. By then, the sub-county registered the highest number of land disputes, high numbers of elderly people, child-headed families and widows in the district. Specifically widows, child-headed families and the elderly were targeted as the first beneficiaries of the CCO implementation project.

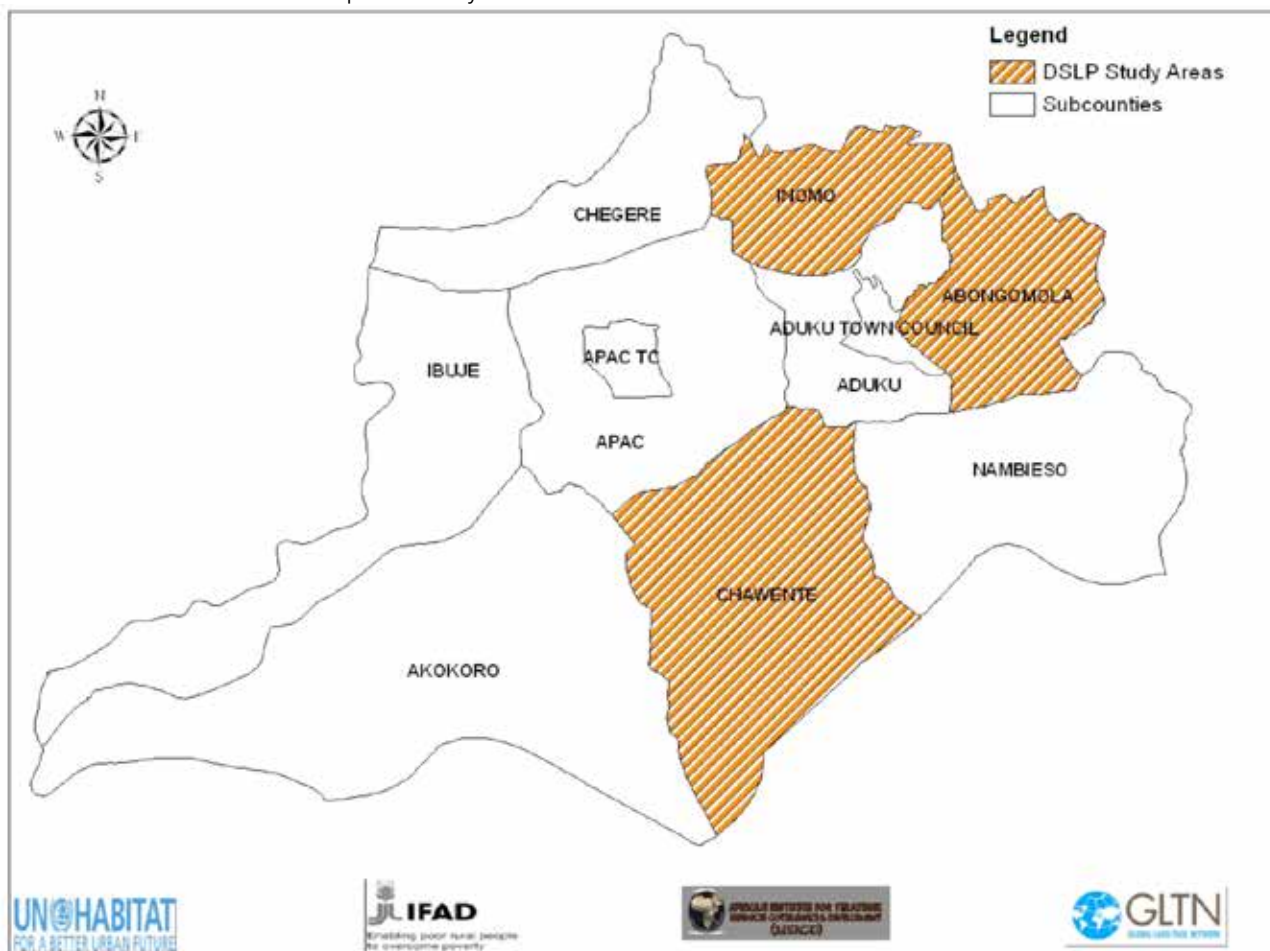
Beneficiaries were selected with the support of the Local Council 1 (LC1) and parish chiefs at community level, while at the district level, the environment officer supported the implementation of the programme. The procedure included mobilization, identification, sensitization and surveying of land parcels, as well as verification of the information provided by individuals

Like any other component of the DLSP, the land management component aimed at improving the standards and sustaining the livelihoods of poor rural households in Apac district.

and households.

Achievements of DLSP interventions in Apac district

According to Apac district speaker, piloting the implementation of CCOs in Apac has reduced land disputes. The speaker cited Inomo sub-county having the least number of land conflicts ever since the implementation of CCOs begun. Over 100 CCOs have been issued to beneficiaries since the inception of the programme in 2010. Although the CCOs are not equated with freehold titles yet, the beneficiaries of CCOs report a sense of tenure security. Those people



Map of Apac district showing the study area

with CCOs could easily identify their boundaries using indigenous tree species omaramar that are communally recognized for boundary demarcation. The pilot project for implementation of CCOs in Apac has generated a high demand for upscaling the project throughout the district. The issuance of CCOs has been perceived by many as a positive step towards reducing land-related conflicts, protecting land, and providing evidence in court in cases of any land disputes. In particular, the Chief Administrative Officer (CAO) of Apac district pointed out that with the district having been adversely affected by the LRA rebellion, it is important to upscale all possible pro-poor approaches that can improve land tenure security, particularly for poor people who are returning to their ancestral lands after a decade of living in Internally Displaced People (IDP) camps.

Although most CCOs were issued in the individual names of male household heads, even though the majority of the male applicants were married and had children, the DLSP supported the issuance of jointly owned CCOs that included the names of both husband and wife. This initiative was not very successful because most men had polygamous marriages making it difficult to decide which wife/wives should appear on the CCO. The findings show that some CCOs were in fact issued in the names of women. Most of these were women headed households. The programme tried to challenge the traditional assumption that land belongs to men under customary tenure.



Some of the beneficiaries with their CCOs in Apac district
© AISRGD

Challenges and gaps in DLSP interventions in Apac district

Although over 100 CCOs have been issued in Inomo sub-county, there is a plan to recall all CCOs already issued to upgrade them with improved paper security features and serial numbers. The process of serializing CCOs has been initiated by the Ministry of Lands, Housing and Urban Development (MLHUD), but has not been fully implemented. As a result, District Land Boards are no longer issuing CCOs until further notice from the MLHUD. To some respondents, delayed issuance of CCOs threatens their tenure security.

The findings show that despite several attempts to improve women's access to land, many women, particularly those who are elderly, disabled or infected with HIV, are extremely vulnerable to land grabbing and family/clan-induced evictions. This issue was raised in one of the community meetings held with CCO beneficiaries, in which Mrs Modelana Opio described threats over her land that was grabbed by relatives after she was infected with HIV.

Although the implementation of CCOs by the DLSP in Apac district has provided a good foundation for reducing land conflicts, there is still a negative attitude, particularly in financial institutions, regarding accepting CCOs as collateral. Most respondents who had tried using CCOs to acquire bank loans were not successful. A few micro-finance institutions would accept CCOs together with other sureties for loans. Despite the recognition of CCOs by the 1998 Land Act, the findings show that financial institutions, particularly commercial banks, still consider CCOs to be inferior to freehold titles in terms of providing security of tenure and proof of land ownership. Changing this perception in order to make the security of tenure attached to CCOs the same as it is with other tenure instruments, such freehold and leasehold titles, will require a policy directive.

Another challenge in Apac is the lack of capacity within ALC members to efficiently handle CCOs. According to the 1998 Land Act, the procedure for acquiring a CCO starts with the ALC but in many sub-counties ALCs have never been established. Where ALCs do exist, they are not financed well enough to



Farmer points at omaramar tree used for boundary demarcation in Oyam and Apac districts © AISRGD

carry out the activities as provided for in the 1998 Land Act. The findings show that the ALC in Inomo sub-county lacks technical expertise on land; for instance, most of them do not know what information to look for during a land inspection. This affects their capacity to make a comprehensive inspection report that would guide the District Land Board in deciding whether to approve or reject the application for a CCO. In some cases, ALC members have been accused of corruption and nepotism in the allocation of CCOs to friends and relatives. A case was reported in Agwiciri Parish, Aoli village 1 in Inomo sub-county, in which a female member of the ALC was accused of siding with and approving the processing of a CCO for a son whose father is the rightful owner of the land, but who had no knowledge of the CCO application.

Other challenges reported in Apac were related to the transfer of CCOs where there was a polygamous marriage. When the CCO is only registered in the name of a husband and he subsequently dies, it is not clear to which of the many widows the CCO would be transferred. Attempts to include all names of family members (husband, wives, and children) have not been generally embraced because most men fail to disclose the number of wives and children they have in their application for a CCO.

Joan, I would like to inquire from our visitors who have come, am Hon Madolena Opio, my name has been entered among the names of people whose land was supposed to be inspected by the area land committee members, because of the problem that I have; am suffering from HIV/AIDS and my husband has for a long time abandoned me for the last 15 years. He is no longer home, what can I do to survey my land because some years I won't be in my land.

FINDINGS FROM OYAM DISTRICT

Oyam district is located in Northern Uganda and is bordered by Gulu district to the north, Amuru district in the north-west, Pader district to the north-east, Kole district to the east, Apac district to the south, Kiryandongo district to the south-west and Nwoya district to the west. Physically, the district lies between latitudes 2°0'N, 2°7"N and longitudes 32°2"E, 32°10"E. The district covers a total area of 2,207 kms², of which 2 per cent is covered by open swamps and water, while 1 per cent is covered by forests. This leaves 2,140.4 kms² for human settlements (97 per cent) and agricultural land (UBOS, 2013). Oyam district was established by the Ugandan Parliament in 2006 and prior to that it was part of Apac district. Together with Lira district, Amolatar district, Apac district and Dokolo district, Oyam district is part of the larger Langi sub-region, and home to an estimated 2.7 million Langi. The district is predominantly rural.

Land tenure in Oyam district

As with the Apac district, there are three tenure systems in Oyam district, namely: customary, freehold and leasehold. Customary tenure is the most dominant form. Common grazing lands are central to village life; while grazing lands are nominally used for livestock, communities also depend on them for basic household necessities such as fuel, water, food, building materials for their homes, and traditional medicines (Knight, et al 2012).

Implementation of CCOs in Oyam district

The DLSP began implementing the land management project in Oyam around 2012 and focused on Otwal, Aleka and Ngai sub-counties. In Aleka sub county, the DLSP purposefully selected Namokaca village in Agur parish and Barolimo village as the project areas because these villages had the highest poverty levels and many vulnerable groups, like the elderly, had been adversely affected by the Lord's Resistance Army (LRA) war.

The DLSP carried out community sensitization on land rights and trained district officials. Together with the district council and Local Council 1 (LC1) leaders, beneficiaries were identified, and priority was given to child-headed households, elderly people, widows and those mostly affected by the war. Land was inspected, surveyed and boundaries were opened and demarcated using omaramar trees. Unfortunately, due to various obstacles-the most significant being the lack of a District Registrar for Oyam District and the delayed response from the Ministry of Lands (MLHUD) to provide serialized CCOs - none of the targeted communities have yet received a freehold title or CCO for their customary lands.

Achievements of DLSP interventions in Oyam district

Oyam district presents a unique case because no certificates have been issued since the inception of the project. However, people involved in the DLSP have a lot to praise. Respondents are still hopeful that once CCOs are effectively implemented as is intended by the DLSP, there will be a drastic decline in land disputes because boundaries will be clearly demarcated. The community hopes that in the event of the compulsory acquisition of land by the government for investment, CCOs would provide a basis for arguing for fair compensation. The issuance of CCOs would also protect landowners from potential land grabbing. CCOs would prove that, although the land in the district is bare, idle or not under specific use, it belongs to a group of individuals to whom the CCOs were issued.

I tried to access a loan from Centenary Bank but the bank officials said that the certificate is not valid to work as collateral for a loan.

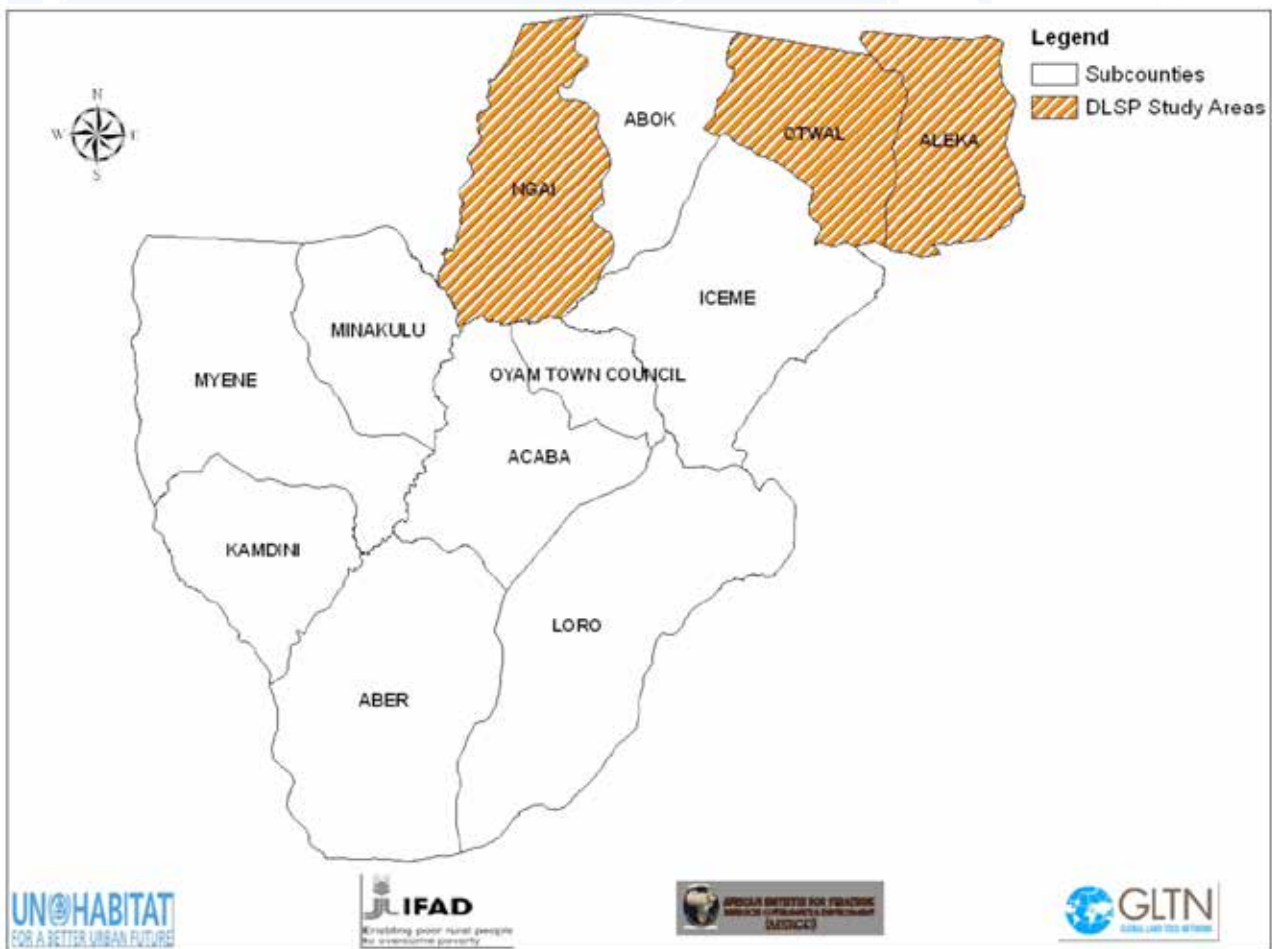
Okori Robert Ommo - Inomo sub-county, Aluka parish

Challenges and Gaps in DLSP Interventions in Oyam district

There are a number of challenges facing Oyam district. The mere fact that CCOs have not been issued to many respondents whose land was surveyed raises issues and concerns regarding the government's intention. The Ministry of Lands has not widely sensitized communities on the reasons behind the delayed issuance of CCOs. Most respondents had been told by the District Land Board that the Ministry of Lands suspended the issuance of CCOs. This continues to cause concern and increases the susceptibility of customary lands to land grabbing. Some respondents whose land was surveyed are worried that this is a government plot to grab their land.

There are also mixed feelings about the strength of a CCO. Some participants still question whether CCOs will be accepted by financial institutions as collateral or not. No one in the district, including the District Land Board, can answer this question satisfactorily given that no CCOs have been issued so far. Respondents have a high preference for freehold titles.

Although the DLSP tried to train some members of the District Land Board (DLB), the capacity of the DLB and Area Land Committee (ALC) to manage the issuance of CCOs in a transparent and efficient manner is still low. Some respondents have strong reservations that ALC members have been behind the unlawful allocation of customary land to the wrong people. Local communities complained that the process of acquiring a CCO was cumbersome; however the ALC members said that most delays arise



Map of Oyam district showing the study area

due to lack of facilitation for the ALC, and most ALC members lacked even the basic equipment such as gumboots, gloves, pangas, etc. to carry out boundary demarcation.



Meeting with village elders in Oyam district © AISGRD

Although the Ministry of Lands (MLHUD) suspended the issuance of CCOs, particularly in northern Uganda, there is a wide consensus among the district local governments in the three districts (Masindi, Apac and Oyam) that CCOs are good and could provide security of tenure, especially for vulnerable groups that cannot afford the expense involved in conventional land administration. Although each region (eastern and northern Uganda) has unique characteristics in terms of population distribution, post-conflict circumstances, the role of customary clan justice system, and levels of poverty among other things, rather than suspending the issuance of CCOs, the MLHUD should roll out the implementation of CCOs in a phased manner. For example, in northern Uganda, most communities are pastoralists and the return from war may require a different approach than in the Masindi district where communities are relatively settled and focused on developing land for commercial agriculture.

Much as the DLSP encouraged women's participation in the project, the rights of women, particularly vulnerable groups such as the aged and sick, were not adequately covered by the CCOs. Women are strongly subject to a clan justice system that is often male dominated. The DLSP should target this group of people while scaling up the implementation of CCOs in the next phase.

The findings from the field show that CCOs provide perceived tenure security. Those holding CCOs have a feeling of tenure security, although the preference is for freehold titles. The fact that the 1998 Land Act provides for conversion of a CCO to a freehold title explains why the acceptance of CCOs by banks is still relatively low in Uganda.

In districts like Apac, where a high level of public sensitization and mobilization on the implementation of CCOs were carried out by the DLSP, there is

Many women- and child-headed households in post-conflict areas like northern Uganda are extremely vulnerable to land grabbing.

less suspicion among the public. This was vital for the success of the programme. However in Oyam district, where there has been insufficient public sensitization, some respondents expressed fears that the government's motives and aspirations to acquire land in northern Uganda through the use of CCOs are not honest.

Most families own a number of land parcels scattered in different locations of the village. It was not clear how many CCOs could be issued to a single family. The Area Land Committees could not ascertain the maximum number of CCOs a family can own especially in cases where a CCO is to be issued for each parcel. Given that most families are illiterate and do not know the procedure required for application of CCOs, there is a risk that a particular family that is familiar with the process could obtain several CCOs in different locations. At the same time, if all the parcels are included on one CCO per family, there is a risk with such a CCO being used as collateral for loan.

CONCLUSION

The majority of Ugandans hold their land under customary tenure. This tenure is often associated with three major problems: (a) it does not provide security of tenure for landowners; (b) it impedes development because it does not allow the advancement of land markets through which those who need land for development can acquire it; (c) it discriminates against women and does not accord them land rights. Customary tenure is often assessed as being lesser than other tenures that have titles to prove ownership in courts of law and it is disparaged and sabotaged in preference to other forms of registered tenures. This denies it the opportunity to evolve progressively.

The government took steps to delineate the process for ensuring customary rights as provided for in the 1995 Constitution and subsequent laws. Through the District Land Board, a certificate for customary ownership (CCO) in a prescribed form can be issued to any person, family or community holding land under customary tenure. With support from IFAD, the District Livelihood Support Programme (DLSP)

“The 1995 Constitution and 1998 Land Act attempted to formalize customary tenure and provided Ugandan citizens with the right to own land under customary land tenure. Despite these attempts, in practice, customary tenure continues to be regarded and treated as inferior to other forms of registered property rights, denying this form of tenure the opportunity for greater and deeper transformation.”

under the Ministry of Local Government embarked on a pilot project to implement the 1998 Land Act in selected sub-counties, taking into account different tenure situations with the aim of providing tenure security options in at least one sub-county per district, in 13 districts. In the three districts where this study was carried out, there are remarkable achievements as well as challenges in the implementation of CCOs. The experiences from the DLSP offer a good case for government and other stakeholders to make policy decisions on CCO acquisition from informed points of view.

RECOMMENDATIONS

Based on the field findings from the DLSP project areas, the following recommendations are proposed in view of improving land tenure security in customary areas.

Before implementing any CCO intervention in a particular area, document customary land tenure rules applicable to specific communities at the district or sub-county levels. It is important to make an inventory of common property resources owned by communities and vest these resources in the communities to be managed under customary law. This would reduce the risk of recurrent land conflicts over communal areas like grazing lands. Due to the lack of a clear inventory, common property resources are highly susceptible to mismanagement and being grabbed by powerful groups of individuals.

The process of issuing CCOs needs to be thoroughly reviewed through wide consultation with cultural leaders who are seen to be the custodians of customary lands. A number of elders are still sceptical about the process of issuing CCOs and the manner in which it is managed. There are perceptions that the young generation, which is not keen on the

restoration and preservation of cultural values, may use CCOs to mortgage and / or sell land to investors without considering cultural values. This contradicts the customary principles and practices in which land ownership is attributed to the entire community, including the ancestors, those who are currently living on the land, and future generations.

Most Area Land Committees and District Land Boards are ill equipped and lack the capacity to implement CCOs effectively. The Ministry of Lands, together with development partners, should prioritize capacity development as a key intervention for the successful implementation of CCOs. It is also important to build the capacity of grassroots people through sensitization of local communities on customary rights, so that they are able to make informed decisions.

Many rural communities are illiterate and do not understand the procedures to apply for CCOs. These procedures should be translated into the languages best understood by people. The Ministry of Lands should also provide simplified guidelines for land inspections, which can easily be understood by the ALC and communities. The MLHUD should also review

and simplify the CCO application form to ensure better understanding and protection of customary land rights.

Protection of the family and the rights of family members should be at the core of the criteria used for the approval of CCOs. Given the nature of land holding in northern Uganda (chunks), ALCs should ensure that all rights are captured during an inspection and the DLB should ensure that all CCOs issued on family land for dwelling is registered in the names of the wife / husband and children to safeguard it.

Implementation of CCOs should not be entirely left to Area Land Committee members and District Land Boards. There is a need to adequately involve cultural leaders throughout the process. Most cultural leaders hold the land in trust for the community and they can influence the attitudes of their community members towards CCOs. If the leaders perceive CCOs negatively, then it is likely that the community will also reject all initiatives, however good they may be.

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ANNEX I: LIST OF KEY INFORMANTS

	NAME	ORGANIZATION	DESIGNATION	SUB-COUNTY / DISTRICT
1	Kizito Mukasa Fred	Apac District Local Government	District Chief Administrative Office	Apac Municipality
2	Hon Bob Okae	Apac District Local Government	Apac District Chairperson	Apac District
3	Richard Obedi	Populace Foundation International	Apac District	Apac District
4	Felix Ambrose Yine	Apac District Local Government	District Speaker	Apac District
5	Joan Nighty Olum	Apac District Local Government	Councilor	Inomo
6	Hon Oyine Tom	Apac District Local Government	Councillor	Inomo
7	Roselyn Kaliisa	Masindi District Local Government	Community Development Officer	Masindi District
8	Mugoya James	Masindi District Local Government	Senior Land Management	Masindi District
9	Nsimire William	Masindi District Local Government	Senior Environment Officer	Masindi District
10	Lisakye Ruth	Masindi District Local Government	Secretary Land Board	Masindi District
11	James Babige	Masindi District Local Government	District Surveyor	Masindi District
12	Mugimba Wilson	Masindi District Local Government	District Chairperson	Masindi District
13	Businge Ronald	Masindi District Local Government	District Speaker	Masindi District
14	Kiganda Abdular Musobya	Masindi District Local Government	District Cao	Masindi District
15	Magezi Godfrey Abwooli	Masindi District Local Government	District Planner in charge of DLSP	Masindi District
16	Allen Prossy Lake	Oyam District Local Government	District Secretary Land Board	Oyam District
17	Okello Francis	Oyam District Local Government	District Planner	Oyam District
18	Dila Benson	Oyam District Local Government	District Speaker	Oyam District
19	Okello Charles Macobeongo	Oyam District Local Government	District Chairperson	Oyam District
20	Ouma Stephen	Oyam District Local Government	District Chief Administrative Office	Oyam District
21	Line Kaspersen	IFAD Country Office Uganda		Kampala

ANNEX II: DEMARCATION FORM FOR CCOs



The Republic of Uganda

Regulation 28

THE LAND ACT, CAP 227

THE LAND REGULATIONS, 2004

Form 23

DEMARCATION FORM FOR CERTIFICATE OF CUSTOMARY OWNERSHIP (to be filled in triplicate)

PIN

District	County/Municipal	Sub-county/ Division	Parish/ Ward	Village/ Zone	Parcel No.

Owner(s)

.....
.....
.....

Sketch (not drawn to scale)

Description of rights of way or other easements (if any):-

.....
.....
.....

ANNEX III:NOTIFICATION OF SURVEY OF CUSTOMARY LAND



The Republic of Uganda

Regulation 36

THE LAND ACT, CAP 227

THE LAND REGULATIONS, 2004

Form 25

NOTIFICATION OF SURVEY OF CUSTOMARY LAND

To: The Recorder.....Sub-County/Town Council/Division.....

PIN

District	County/Municipal	Sub-county/ Town /Division	Parish/ Ward	Village/ Zone	Parcel No

1. Owner(s)

- (i)
- (ii)
- (iii)

I, the undersigned certify that the boundaries demarcated and shown on the attached deed plan are correct to the best of my knowledge.

I certify that the land mentioned above has been surveyed.

.....
 Name and signature

.....
 district surveyor

OFFICIAL STAMP

Date

ACKNOWLEDGEMENT

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UNITED NATIONS HUMAN SETTLEMENTS PROGRAMME (UN-HABITAT)

UN-Habitat helps the urban poor by transforming cities into safer, healthier, greener places with better opportunities where everyone can live in dignity. UN-Habitat works with organizations at every level, including all spheres of government, civil society and the private sector to help build, manage, plan and finance sustainable urban development. Our vision is cities without slums that are livable places for all, which do not pollute the environment or deplete natural resources.

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT (IFAD)


IFAD is an international financial institution and a specialized United Nations agency dedicated to eradicating poverty and hunger in rural areas of developing countries. Working with poor rural people, governments, donors, non-governmental organizations and many other partners, IFAD focuses on country-specific solutions, which can involve increasing poor rural peoples' access to financial services, markets, technology, land and other natural resources.

AFRICAN INSTITUTE FOR STRATEGIC RESEARCH GOVERNANCE AND DEVELOPMENT (AISRGD)

AISRGD is an independent research and capacity development institute based in Uganda. The institute is a center of excellence for strategic policy development, capacity building and training in the Great Lakes Region. AISRGD has built a strong working relation with a number of partners including government, civil society, academia, bilateral and multilateral agencies and private sector in areas of defense and security, governance and democracy, peace building and human security, policy and development, social protection and citizen's empowerment, gender and health information

THE GLOBAL LAND TOOL NETWORK (GLTN)

GLTN aims to contribute to poverty alleviation and the Millennium Development Goals through land reform, improved land management and security of tenure. The Network has developed a global land partnership. Its members include international civil society organizations, international finance institutions, international research and training institutions, donors and professional bodies. It aims to take a more holistic approach to land issues and improve global land coordination in various ways.



ABOUT THIS PUBLICATION

Customary tenure, including communal tenure, has been widely described and documented within the literature of land professionals, geographers, planners, anthropologists, and sociologists among others. In Uganda, a number of approaches have been implemented by the Government of Uganda to improve customary tenure security.

This report presents the findings of a study conducted by the African Institute for Strategic Research Governance and Development (AISRGD) to document the experiences in the issuance of Certificates of Customary Ownership (CCO) piloted under the District Livelihood Support Programme (DLSP) in the Ministry of Local Government in Uganda. This study was supported by the International Fund for Agricultural Development (IFAD) and UN-Habitat through the Global Land Tool Network (GLTN) under the framework of the Land and Natural Resources Tenure Security Learning Initiative for East and Southern Africa (TSLI-ESA) Programme.

The findings are drawn from three districts of Apac, Oyam and Masindi where DLSP piloted the issuance of CCO. Despite the challenges, it is worth noting that in the three districts where this study was carried out there are remarkable achievements as well as challenges in the implementation of CCO. The experiences from DLSP offer a good case for government and other stakeholders to make policy decisions on CCO acquisition from informed points of view.

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