

LAND MANAGEMENT HANDBOOK

POPULAR VERSION



MAKERERE UNIVERSITY

**FRIEDRICH
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LAND MANAGEMENT HANDBOOK

POPULAR VERSION

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INTRODUCTION

This handbook has been developed by Friedrich-Ebert-Stiftung (FES) to provide a simplified tool with easily readable information on land management issues for political leaders, technical executives and ordinary citizens in the Greater Kampala Metropolitan Area (GKMA).

The handbook aims to equip with knowledge of various critical land management issues ranging from land evictions, land registration and land acquisition processes among others.

We hope that this handbook will inspire all stakeholders involved in land management to provide and seek land services in the most efficient and effective ways in their constituencies.



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This handbook would not have been possible without the team from Makerere University College of Engineering, Design, Art and Technology, led by Dr. Tamale Kiggundu Amin. They developed an academic land management manual to be used for academic reference and teaching tool at the University, and it is that manual from which this handbook was derived.

Special thanks to Mr. Nkuubi James Luyombya, for expertly simplifying and compressing the academic land management manual into this easy-to-read land management handbook.

SUMMARY OF THIS HANDBOOK

This Land Management Handbook is an important tool for technical executives, political leaders and ordinary citizens in the Greater Kampala Metropolitan Area (GKMA). Urbanisation and industrial development are fast occurring in the city, and leaving in their wake a chain of land disputes, including forced evictions, which have diverse ramifications for the communities they affect. The handbook's development was largely triggered by a perceived need to equip new political office holders with land management and administration knowledge, which is required for better service delivery in the land-related aspects of their respective constituencies.

The handbook provides its readers with an insight into the various working terminologies used in the five most common spheres of land management. It discusses:

- Land ownership, describing who can own land
- Rights and interests in land
- Land transactions including compulsory land acquisition and the attendant requirements of valuation
- Family land-related aspects
- Protection of one's land

These terms are defined and described as required by the law, and their legal meanings explained.

Part I of this document details the Land Laws and Policies in Uganda, introducing the readers to the main framework of the laws that provide direction and guidance in governing, administering and resolving land disputes. It provides both a historical and a contemporary understanding of the legal framework, focusing largely on the 1995 Constitution and the various laws and policies that have been crafted after 1995 that affect the management and administration of land, such as the National Physical Planning Act 2010 and the Uganda Succession Act Cap 162.

Part II provides a comprehensive examination of the tenure systems in Uganda, including how they are owned and administered. It also discusses key programmes implemented by the government to improve land administration including decentralisation of land registration services, modernisation of the land registry, issuance of certificates of customary ownership and occupancy, and the strengthening of surveying and mapping. Also explained under this are the key institutions involved in land administration right from the sub-county level, with the Area Land Committees, to the local government level and institutions such as the district land boards, and up to the national level, with the general land registry.

Parts III and IV provide an insight into how land rights are affected by family relations, and in particular the rights and obligations of spouses in relation to matrimonial/family land, especially during transactions. Section III also offers a general definition of what family land is, what kinds of transactions can happen on it and how they can be made. Part IV includes a description of the various processes that define land transactions and the attendant rights and obligations of the various parties taking part in such relations, such as landowners and tenants. Additionally, it also provides an overview of the documentation used during land transactions, and key requirements that one must fulfil in order for a legal transaction to be completed while avoiding fraud or breach of the law.

Under Part V, the handbook delves into the basic structures governing land acquisition. These include compulsory land acquisition, which has various requirements that one must know, including the unique requirements surrounding compensation under such circumstances. Additionally, this section also addresses various forms of private acquisition which among others includes inheritance and purchase.

Part VI discusses the most common land disputes in the GKMA, and how they typically manifest in reality. The part also describes land dispute resolution mechanisms, both informal and formal, that can be used to solve land-related misunderstandings. Finally, Part VII discusses issues concerning land evictions, the principles governing lawful and humane evictions which must be followed by the government when evicting people from land, and the categories of people who are not protected by eviction laws



LAND LAWS AND POLICIES IN UGANDA

Finding technical solutions for land ownership is not enough for securing land rights. Regulations and policies are important in improving the rules and norms relating to access, use, and control of land in ways that work for both men and women in Uganda. The regulation and protection of land rights is therefore essential for addressing inequalities, protecting the environment, sustaining peace and the prosperity of Uganda.

There are various laws in Uganda that are relied on to administer, manage and settle disputes that arise on land. These laws focus on various important aspects such as registration of land, women and children's rights in regard to land tenure, the rights of *bibanja*¹ holders, and other key elements of land ownership and transfer. For the purposes of clarity, in this handbook these laws have been classified as follows:

- 1. MAIN LAWS**
- 2. OTHER LAWS AND POLICIES**

1.1 MAIN LAWS

A. THE 1995 CONSTITUTION OF UGANDA:

The supreme law of the nation, which protects the right of individuals or groups of individuals to own property/land either as individuals or in association with others such as Savings and Credit Cooperative Society (SACCO) groups.

B. THE LAND (AMENDMENT) ACT 2010:

The main law that provides for the procedures of land management and administration in Uganda. This law is managed, owned, administered and also protects the rights of persons without land titles such as *bibanja* holders, and governs the relationship of tenants to their landlords.

1 See page 10 for a definition of *bibanja/kibanja*, a Luganda word for customary or informal land tenure, including squatters' claims

C. UGANDA REGISTRATION OF TITLES ACT (RTA) CAP 230:

This act provides guidance for the legal and proper registration of titles in Uganda, including when to register, who can register, what land can be registered and the category of Certificate of Title to be given.

D. THE LAND ACQUISITION ACT CAP 227:

This act directs the Government of Uganda on how it may acquire land from private citizens, and in what circumstances and for what reasons it may do this. It also provides for the compensation of any citizen whose land the Government takes compulsorily.

1.2 OTHER LAWS AND POLICIES USED IN LAND ADMINISTRATION IN UGANDA

A. THE UGANDA NATIONAL LAND POLICY 2013:

This is the main document providing for how land should be governed in Uganda. This policy informs the making of different land laws to implement aspirations in the policy as communicated by the government.

B. NATIONAL PHYSICAL PLANNING ACT 2010:

This act regulates physical planning in Uganda, including detailing how this is supposed to be executed. This also affects land management and administration in various ways.

C. LOCAL GOVERNMENT ACT CAP 243:

This law provides for land governance, and management, as well as codifying administrative bodies such as the District Land Boards, Area Land Committees, etc. at district level within the local government.

D. UGANDA SUCCESSION ACT CAP 162:

This provides for management of land/property inheritance at the family level in the event of a property owner's death.

E. NEMA ACT CAP 153:

This law guides owners of land situated near or around environmentally-protected areas such as swamps, wetlands and other sensitive environments on the do's and don'ts of managing and exploiting such land without harming the environment.

F. KAMPALA CAPITAL CITY ACT 2010:

This law in part provides for the governance of land within the city.





LAND OWNERSHIP IN UGANDA

Under this section you will find answers to the following questions:

- Who is a landowner or holder in Uganda?
- Can groups or collectives own land?
- What are the various systems through which one can hold/own land in Uganda?
- Can a foreign company or non-citizen own land in Uganda? If so, under what system of land ownership?
- What evidence exists in the different systems of land ownership/holding to show that one holds/owns a particular piece of land?
- What is the meaning of a tenant by occupancy, lessor, lessee, kibanja holder?

According to Article 237(1) of the 1995 Constitution of Uganda, all land within the nation's borders belongs to the citizens of Uganda who have a right to own land permanently without government interference. Land can also be owned by an individual or communally by a collective group such as a company, an investment SACCO or a community such as a clan.

SYSTEMS OF LAND OWNERSHIP



It is this constitutional provision, that makes Uganda's land ownership system different from other countries such as Ethiopia, Mozambique or Tanzania, where the state owns the Land.

LANDOWNER

This is used to refer or describe any Ugandan citizen owning or holding land under any of the four (4) tenure forms or systems of land ownership or holding described below.

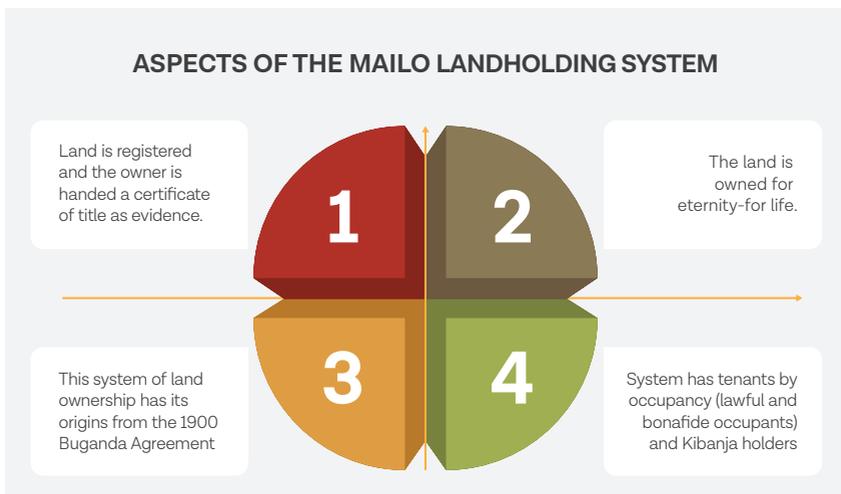
2.1 SYSTEMS OF LAND OWNERSHIP/HOLDING

The Constitution provides for four ways through which the citizens of Uganda can hold land either individually or collectively, known as tenures. A law called the Uganda Registration of Titles Act (Cap 230) governs the practical operations of these different forms of tenure, as explained below. They are the 'vehicles' through which one can own land. A person may own multiple pieces of land through more than one of the systems or tenures described below.

2.1.1 MAILO LAND TENURE

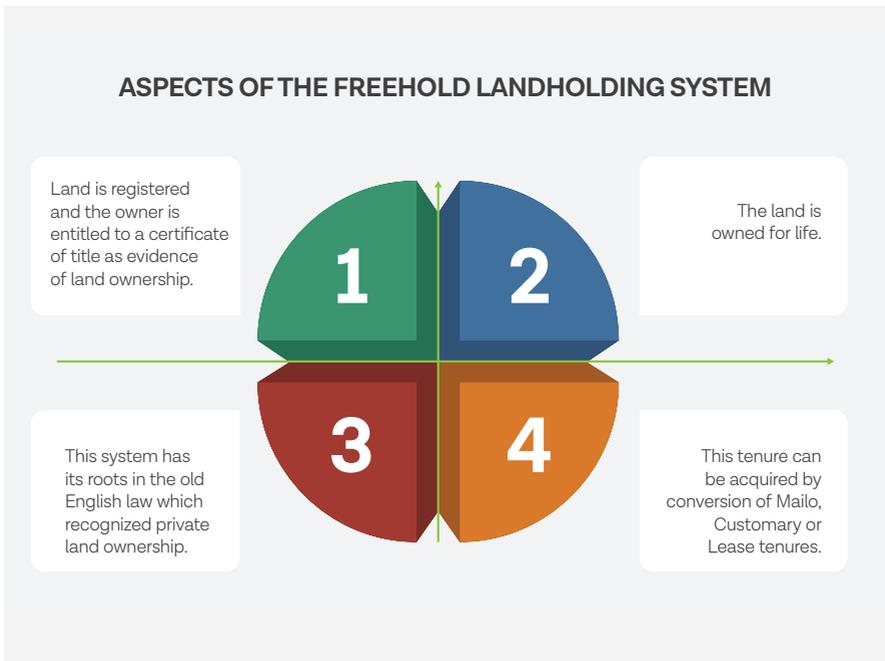
Mailo land tenure is the most familiar form of land ownership for residents of the GKMA. It is characterised by six key aspects:

1. Land is registered and the holder/owner is handed a certificate of title as evidence that he/she owns the described land
2. The land is owned in perpetuity or forever.
3. This system of land ownership has its origins in the 1900 Buganda Agreement when land was allotted to different sections of the Buganda Kingdom's ruling class such as the Kabaka, Namasole (mother of the Kabaka), the Princes and the Abataka (Kabaka's appointees)
4. It is mainly found in the Buganda region of central Uganda, as well as in some limited parts of Bunyoro, in Western Uganda
5. This system of land ownership also permits tenants by occupancy (lawful and bona fide occupants) and Kibanja holders to all hold interests in and occupy the same piece of land.
6. Mailo landowners are obliged by law to respect and protect the rights of bibanja owners and more generally of tenants by occupancy.



2.1.2 FREEHOLD LAND TENURE:

1. Similar to Mailo tenure, this form of land ownership grants the owner tenure freely and in perpetuity
2. Similar to Mailo, the owner of freehold land is entitled to a certificate of title issued by the registrar of lands. This signifies conclusive evidence of their ownership of the land it describes
3. This tenure can be acquired by conversion of Mailo, customary or lease tenures of land ownership to a freehold land title
4. It has its roots in an old English law which recognises private land ownership
5. Tenants by occupancy and Kibanja holders are not permitted to make claims to land registered in this manner



2.1.3 LEASEHOLD TENURE:

1. Under this tenure a landowner permits another person to take possession of and utilise a particular piece of land for a given period without interference from the landowner in exchange for rent
2. The above understanding can be regulated through a legal document called a lease, or by a contract between the parties, or by law
3. While shorter leases may be offered, particularly for businesses, leases on land are commonly forty-nine (49) or ninety-nine (99) year contracts with opportunities for renewal.
4. A lease must be registered in accordance with the law that governs the procedures of registering leasehold. This law is called the Registration of Titles Act of 1924 Cap 227. It is important to record the lease for better protection.



5. In this system of landholding, the person granted a lease - called a lessee - must use the land leased only for the specific purpose agreed with the landowner, who is called the lessor.
6. This system of landholding is the only way through which a foreign company or individual (non-citizen) can own land in Uganda. A non-citizen person or company cannot legally own Mailo, Freehold or Customary land.

KEYWORDS: LEASE, LESSOR, LESSEE

LEASE: A legally-binding agreement between a piece of land's owner and another person, in which the lessor (the land's owner) grants a person (the lessee) the right to use their land without interference. This has to be for a set period of time of three years or more, for a specific agreed purpose and within a set of terms agreed between the parties.

LESSOR: A landowner who permits another person (a lessee) to use a piece of land without interference for a set period of time, for a specific agreed purpose and within a set of terms (a lease) agreed between the two parties.

LESSEE: A person who is given permission to use a piece of land belonging to another person (a lessor) without interference for a set period of time, for a specific agreed purpose and within a set of terms (a lease) agreed between the parties.

ASPECTS OF THE LEASEHOLD LANDHOLDING SYSTEM

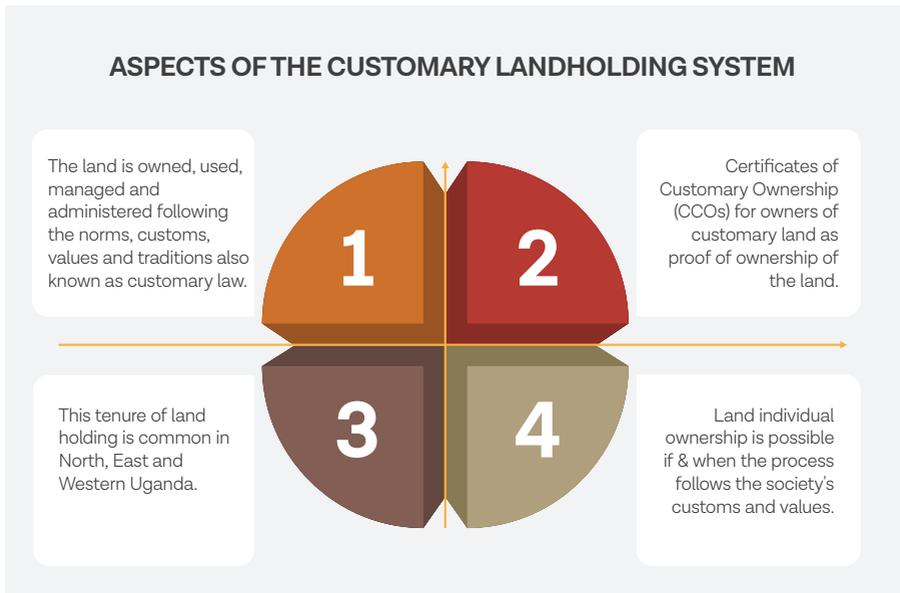
In this system, the person granted a lease-(called a lessee) must use the land leased only for the specific purpose as agreed with the land owner (also called the lessor).



This system of land holding is the only way through which a non-citizen can own land in Uganda. A non-citizen person or company cannot own Mailo, Freehold or Customary land.

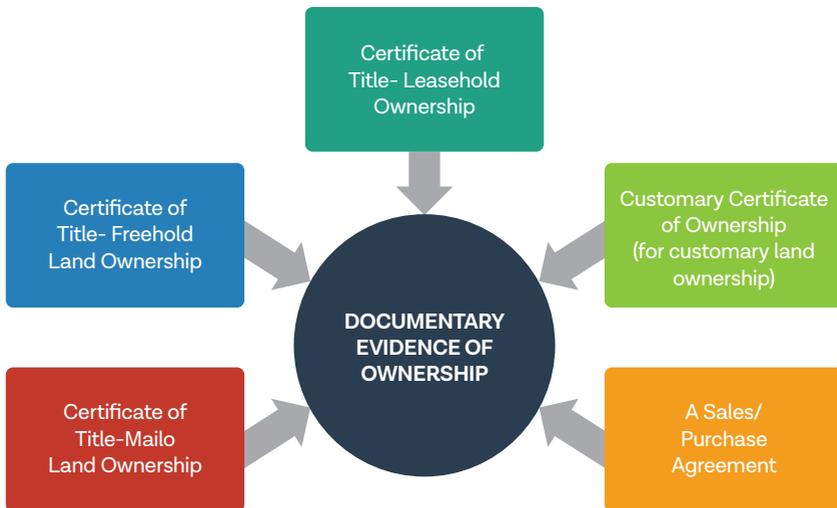
2.1.4 CUSTOMARY LANDHOLDING:

1. Under this system, land is owned, used, managed and administered following the norms, customs, values and traditions (also known as customary law) of a given society or community such as a clan or tribe.
2. It is possible under this system for there to be individual ownership of land as long as the process follows and observes the society's customs and values.
3. This tenure of landholding is common in the Acholi sub-region of northern Uganda, in Teso sub-region in the East, and in various parts of Western Uganda.
4. The Government introduced Certificates of Customary Ownership (CCOs) for owners of customary land as a means for them to hold proof of their ownership of the land.
5. In instances in which there is no CCO, boundaries are often drawn using geographical features known to the community of an area, such as ridges, trenches, trees and provisional marker stones.



2.2 EVIDENCE OF LAND OWNERSHIP DOCUMENTS

Under each of the four systems of landholding listed above, every owner is given some form of documentary evidence to prove ownership. Such documents describe the land, its dimensions, and where its located. The names of the owner are also written in the document. Having such a document guarantees the owner secure ownership over their land. These documents are each issued by the relevant authorities, which is typically the registrar of titles in the Ministry of Lands, Housing and Urban Development. Below is a summary of these documents in the four tenures of ownership.



2.3 KEY INSTITUTIONS INVOLVED IN LAND ADMINISTRATION

Uganda has a framework with various institutions playing roles in administering, managing and solving disputes that may arise on land. Some operate at the national level and others at local government level, while others are established as administrative units by the President. Below we look at some of them.

2.3.1 LOCAL GOVERNMENT LEVEL

A. AREA LAND COMMITTEES

These are found at each sub-county or division level. These committees assist their respective District Land Boards on matters related to local land in the areas for which they are responsible, including determining rights in land by arbitrating disputes over and demarcating land. They also assist communities to acquire Certificates of Customary Ownership.

B. DISTRICT LAND BOARDS (DLBS)

These are established in each district to administer and manage land at district level, particularly public land. The board must have a minimum of five members, with at least one representative from each county. One third of its members must be women. The board is responsible for holding and allocating any land in the district that does not belong to any person or authority. They also help in overseeing the registration and transfer of interests in land at the district level.

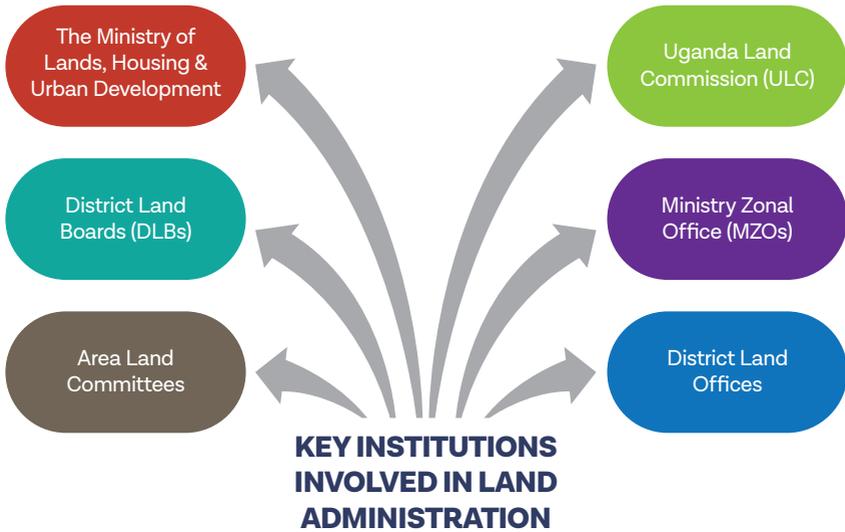
C. DISTRICT LAND OFFICES

The District Land Office provides each district with accessible technical services such as land surveying and registration, as well as ensuring that the district's administration and the District Land Board have access to relevant land information. The office is comprised of a Land Officer, a Physical Planner and a District Staff Surveyor. They are normally found at the district headquarters.

D. MINISTRY ZONAL OFFICE (MZOS)

There are currently 21 functional Zonal Land Offices in selected cadastral zones, in Kampala, Wakiso, Mukono, Masaka, Mpigi, Jinja, Mbarara, Lira, Mbale, Gulu, Arua, Masindi, Kibaale, Kabarole, Tororo, Soroti Moroto, Kabale, Luwero, Rukungiri, and Mityana districts. The MZOs serve the districts within their assigned area of operation. A district which is not able to recruit the relevant staff for its Land Office can therefore access similar services from the closest MZO. MZOs provide or facilitate services such as conducting searches and verifying property on behalf of purchasers wishing to buy land, and assisting with land transfers and registration of land titles.

Below is a summary of the key institutions involved in land governance, management and administration in Uganda, both at the national and local government levels.



2.3.2 NATIONAL INSTITUTIONS

These are institutions that work at the national level, with their headquarters often located in Kampala.

A. UGANDA LAND COMMISSION (ULC)

The Uganda Land Commission (ULC) was established by Uganda's 1995 Constitution. The Commission has the power to sell, lease, or otherwise manage the land held by it. The ULC is responsible for keeping and managing any land in Uganda that belongs to the Government of Uganda as laid out in the Constitution. The ULC also manages the Land Fund and is also supposed to pursue and secure certificates of title for any land owned by the Government.

B. THE MINISTRY OF LANDS, HOUSING & URBAN DEVELOPMENT

This ministry is responsible for coordinating all actors related to land ownership and exchange, and for providing oversight, advice, proposals for policy improvements,

and the proposal of laws and national standards concerning land, housing and urban development. It is also supposed to ensure that there is orderly and planned urban and rural development and the provision of decent housing for all citizens of Uganda. In cases of land grabbing or eviction, the Minister of Lands is often the state official called upon to intervene.

2.3.3 OTHER CULTURAL AND ADMINISTRATIVE ENTITIES

In addition to those institutions at the national and local government level, others have been established over time which also play roles related to land disputes, administration and management, and some of which were formed following Presidential directives. They are summarised below;

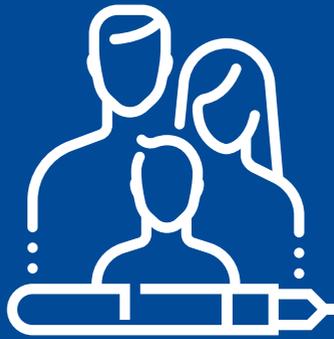
STATE HOUSE ADMINISTRATION– LAND UNIT

The Land Unit of State House was established by President Museveni and it operates under the oversight of State House. It is mandated to deal with all matters involving land brought to the attention of the President by members of the population, as well as those which the President takes a personal interest, and those reported to his Principal Private Secretary. The Unit works closely with the Attorney General. They typically focus on disputes in which disadvantaged citizens require protection.

THE BUGANDA LAND BOARD (BLB)

This was set up by His Majesty the Kabaka of Buganda Kingdom. Its mandate is to manage the land that was returned by the Central government to the Kabakaship in 1993. This includes assets of the Kingdom such as the Lubiri at Mengo, the Kabaka's lake, the Kabaka's official 350 square miles as specified in the Buganda Agreement of 1900, the Kabaka Tombs, The Bulange and other properties. This includes land occupied by tenants in urban centres or towns, ownership of various markets across Kampala, and more besides. This includes land that hosts county and sub-county offices, and all official land for the offices of the Katikkiro, Ssaabalamuzi, Namasole (Kabaka's mother) and Omuwanika.

Through the official government entity, the BLB issues lease titles for tenants on the Kabaka's Land, colloquially known as Kyaapa Mu Ngalo. These leasehold titles have an automatic renewal clause, and normally range from 49 to 99 years.



FAMILY RELATIONSHIPS AND LAND RIGHTS

The laws governing land management and transaction at the family level prioritise certain individuals, and offer them greater protection because they are vulnerable and it is important that they are able to have an equal say in any matter concerning family land. The law also treats family land differently. This is again to offer more protection to its users, who are often predominantly women and children. Under this Section, you should be able to have answers to the following questions that are frequently asked by communities.

- What is family land? Or when is land said to be family land?
- Who is defined as a spouse and what are the rights of spouses and children on family land?
- Can family land be transacted?
- What measures must be undertaken ensure a transaction on family land is within the law?

3.1 DEFINITION OF A SPOUSE

Spouse:

A spouse means a wife or husband existing within a legally constituted marriage. Therefore, for a person to benefit from this protection of the law, she or he must be married. The forms of marriage recognised in Uganda are:

- Christian (undertaken before a designated Church official such as a Priest or Pastor- a marriage certificate is issued);
- Civil (undertaken before a designated government official in the office of the Registrar- a marriage certificate is issued);
- Customary (carried out according to the local traditions, customs and values acceptable in a particular clan or tribe- the father of the bride issues a letter of consent to the marriage);
- Islamic or Hindu marriage (carried out in a mosque or temple before a designated cleric- a marriage certificate is issued).

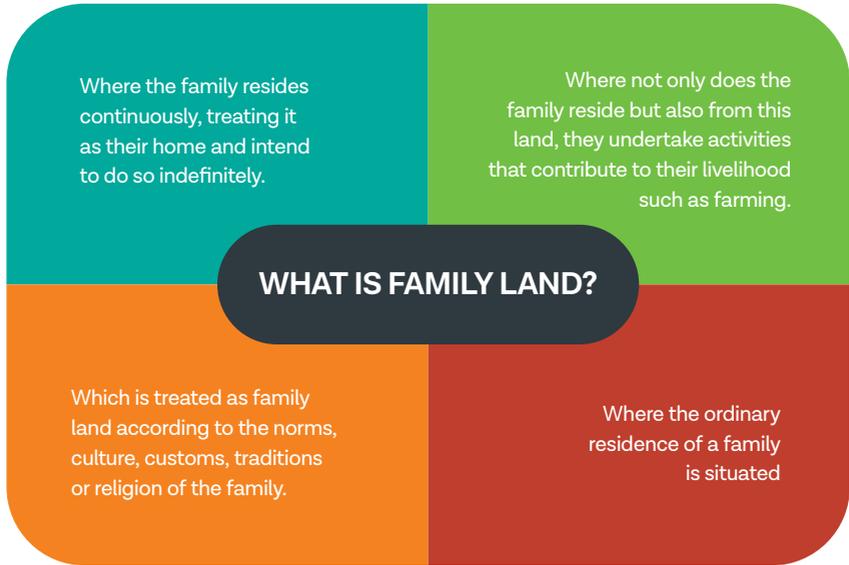
The law does not recognise persons who are merely cohabiting (living together as a couple) even if they live in this manner for a very long time or even if they have children- in the eyes of the law, a partnership must be recognised legally in order to be valid. When a marriage ends legally, for example through divorce, the family land protection aspects also cease to apply.

3.2 UNDERSTANDING WHAT FAMILY LAND IS

Family Land is defined under Section 38 of the Land (amendment) Act 2004. It stipulates that it is land that is or may be any (or several) of the following:

- a. Where the ordinary residence of a family is situated, i.e. where the family resides continuously, treating it as their home and intending to do so forever;
- b. Where the ordinary residence of the family is situated and from which the family derives sustenance, i.e., not only do they reside there as their home but also from this land, they undertake activities that contribute to their livelihood such as farming;
- c. Which is treated as family land according to the norms, culture, customs, traditions or religion of the family.

Below is a graphical representation of the summary of what family land is. It is also important for any person intending to transact in family land as a buyer to understand what it means and the way the law protects it in case of any sale happening on it.



3.3 TRANSACTIONS ON FAMILY LAND

There is a popular myth that no transactions may be made on family land. This is incorrect, however. Family land can be sold or exchanged for other land or its equivalent in other property. It can be transferred from one person to another and can even be pledged as security for another transaction, mortgaged in the bank, or given away.

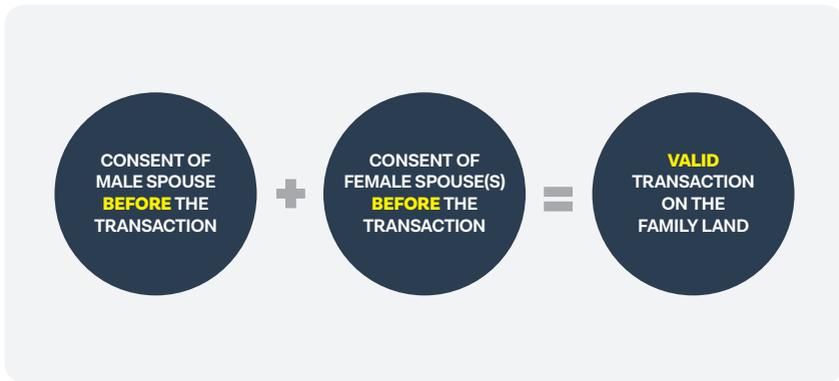
Prior Consent

The fundamental principle here is that for all of the above transactions to be legally valid, there must be prior consent of both spouses. This consent or agreement to such transactions must be gotten **before** the transaction and **not after**, and must be written where possible. It cannot just be assumed that a Spouse **maybe** accepted.

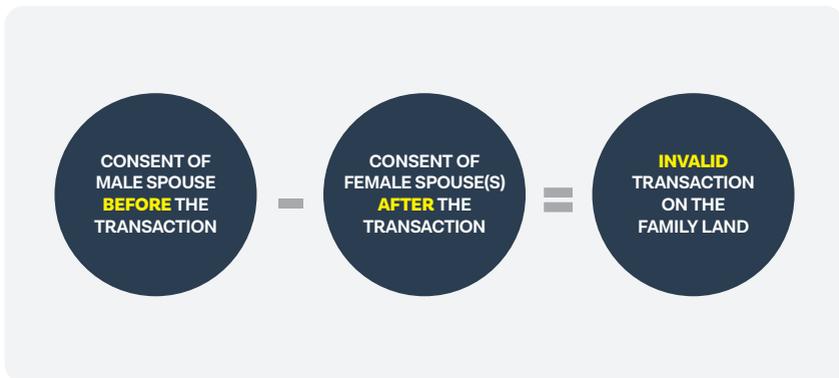
Effect of No Consent

Any transaction entered into without the consent of both spouses is null and void, and is deemed to be illegal and unlawful. This means that the law will not recognise it and the spouse who did not consent may go to court to stop or revise the transaction or its terms. The buyer has the right to demand a refund of any money paid. The illustration below lays out examples of this principle.

- a. The following illustration amounts to a valid transaction on family land because both spouses have given their consent before the transaction.



- b. The following illustration amounts to an invalid transaction on family land because there was no valid consent since it came after the transaction.



3.4 RIGHTS OF SPOUSES IN RELATION TO FAMILY LAND

- a. Spouses are entitled to occupy family land and use it for any activity;
- b. They have the right to access and live on family land;
- c. They have a right to place caveats on family land; for example, a spouse who believes that their partner plans to sell the family land without their express consent can register a caveat at the Registry of Lands. This type of caveat is called a spousal caveat and does not expire.

KEYWORD: CAVEAT

CAVEAT: A caveat is a legal document registered at the Registry of Lands by any person who claims to have or who has an interest in a particular piece of registered land, as a measure of preventing any transactions from being executed on that land and protecting their interest. Most lawyers can help draft a caveat- it is not a complicated document.



TRANSACTIONS ON LAND AND DOCUMENTATION

This section addresses the topic of documentation of land ownership and transfer, and offers answers to some of the more common questions:

4.1 DOCUMENTATION OF LAND TRANSACTIONS

The term 'land transactions' refers to any agreement relating to an area of land. This might include its sale, leasing, mortgaging or pledging, subdivision, creation of rights and interests for other people, or the creation of a trust of the land in order to hire it out for seasonal farming to farmers. It is important to have evidence of any form of land transaction, which means there is a need to create appropriate documentation of these transactions. Below are some of the important categories of documents related to land transactions.

- What are land transactions and what are some examples?
- What counts as documentation of land transactions and why is it important?
- What categories of documents involved in land transactions should people know about?
- What practical aspects should one look out for during a land transaction to avoid fraud?
- What are the contents of a land transaction agreement that you should be careful about?
- Who should be involved in land transactions?

4.2 CATEGORIES OF DOCUMENTS USED IN LAND TRANSACTIONS

LAND TITLE/CERTIFICATE OF TITLE

This is a document issued by the government of Uganda, through the Registrar of Lands, as evidence of a party's ownership of a particular piece of land. It is issued for property held under all the four modes of tenure of land ownership in Uganda.

TRANSFER FORM

This form facilitates the transfer of ownership of land from a seller to a purchaser. It must be signed by both vendor and purchaser, and is typically one of the last documents to be signed because it also concludes the transaction. It provides for the details of the seller and their family background, tracing their identity. It's the basis of registration for a land title.

MUTATION FORM

This is a technical form used by the registrar of lands to make divisions on land. It is normally used when, for example, a person buys only a part of a larger area of land. To make a certificate of title for the part of the land while not transferring the entire area to the buyer, a mutation form is used to divide the land and isolate the area belonging to the new owner.

PURCHASE OR SALE AGREEMENT

This is a document specifying the terms of sale for a particular piece of land. It is evidence of the sale of the land to the buyer by the seller.

CAVEAT

This is a document which a person may register at the Registry of Lands in order to prevent any transactions from being carried out in respect to any piece of land in which they hold an interest. Caveats may be spousal or beneficiary (i.e. they can be registered by a partner or by anybody with a claim to the land).

4.3 KEY ASPECTS TO OBSERVE DURING A LAND TRANSACTION

A. LAND SEARCH

For registered land (land which has a title) a search can ascertain the land's real owners or any interest-holders. This search can be undertaken at the office of the Registrar of Lands. They will check the plot number and block number of the land (both visible on the title), to find out if there have been any previous transactions related to the land in question.

This search can also be completed online using an online portal recently launched by the Ministry of Lands, Housing and Urban Development. The portal helps citizens to quickly access information concerning any particular piece of land. A user should simply enter some necessary information into the portal system (this includes the block number and plot number). This search allows any person to know the status of any particular piece of land, including additional information such as the land's registered owner, whether there is a caveat, whether any transaction or transfer has taken place on that land, and more.

B. WRITTEN AGREEMENT

Any transaction relating to land should be documented with a written agreement. This helps in spelling out the terms and conditions of these transactions, which can be useful in preventing fraud.

C. AGREEMENT SIGNED ON EACH PAGE:

Any agreement relating to land must be signed by adults holding a legitimate legal interest in that land. All parties (buyers and sellers) must sign on all pages of any agreement. The same should be done by the witnesses to the sale on both parties. Signing every page helps to ensure that pages of a contract do not get replaced or modified afterwards.

D. DUPLICATE COPIES OF AGREEMENT:

Ensure that all parties retain copies of the original agreement in duplicate.

E. IN CASES WHEN ADMINISTRATORS ARE TRANSACTING ON BEHALF OF AN OWNER

When transacting on land belonging to a deceased person, there should be an administrator(s) with valid letters of administration, authorised to deal in the land and, where there is more than one, all of them must sign on the final transaction agreement.

F. GETTING A LETTER OF ADMINISTRATION

Upon the death of the landowner, their family must pursue a death certificate as confirmation of the death of the person. Next, a family meeting of all the persons affected by the death should be called, and if possible it should be presided over by the family's leaders such as clan heads. If the deceased party left no will then this meeting should also be used to choose an administrator for their estate. Thirdly, the family must get a letter of no objection to their appointed administrator from the office of the Administrator General located in Amamu House, George Street, Kampala. A notice must also be placed in a national newspaper with wide daily circulation to serve to notify the public of the intended appointment of the new administrator of the estate of the dead. With these documents and processes all completed and documented, the family can then proceed to court to apply for Letters of Administration.

G. WHAT IF ONE OF THE PARTIES IS ILLITERATE?

In the event that either party in a land transaction is illiterate, the person writing the agreement for or on behalf of the illiterate party must indicate his or her full name and address as the writer of that document. Otherwise he or she commits an offence according to Sections 3 and 4 of the Illiterates Protection Act Cap 78.

KEY WORD: ADMINISTRATOR

ADMINISTRATOR: This is a person authorised by court to administer or manage the properties of a deceased person.

CONTENTS OF A GOOD LAND TRANSACTIONS AGREEMENT (A)

Address/location

of both the buyer and the Seller

Local Council Leaders

Stamp and signature of the local council authorities if needed as witnesses.

Witnesses

Full names, occupation, address & contact of witnesses for both the buyer and the seller.

Ownership Documents

Attached copies of legal ownership documents



CONTENTS OF A GOOD LAND TRANSACTIONS AGREEMENT (B)

Graphic Description of the Land

Indicate the land's location, the village, parish, division sub-county, county, and district where applicable.

Land Size

This must be indicated in both words and figures and described in relation to adjacent pieces of land.

Clan Leaders Authorisation

Stamp and signature of the clan leader if required (typically in the case of customary land-related transactions)

Dates

Date of the agreement and date of the effective date of sale.



CONTENTS OF A GOOD LAND TRANSACTIONS AGREEMENT (C)

1

Describe What is on the land

This might include houses, trees, crops etc., and states whether they form part of the land being sold

2

Nature of Land

A statement of the nature or system under which the land is held-is it customary, freehold, or Mailo tenure?

3

Describe Boundaries

Boundaries and neighbors to the land being sold.

4

Monetary Value

A statement of the monetary value of the sale in figures and words or any other means under which the land is being transacted.

5

Gifted Land

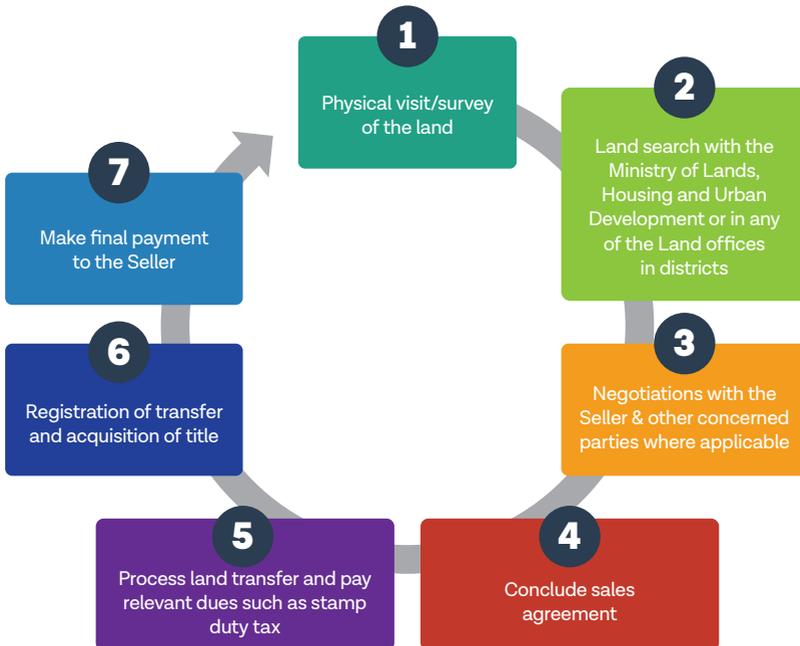
If the land is a gift, indicate it clearly



4.4 WHO SHOULD YOU INVOLVE IN LAND TRANSACTIONS?

To protect both buyers and sellers, every land transaction must have witnesses. The people chosen as witnesses depends on the type of tenure under which the transaction is being undertaken. For example, if the land being transacted is customary land, it is important for the parties to ensure the presence of the traditional or clan leaders and elders who must oversee the management of such land. In the case of other forms of tenure, where possible the presence of local council leaders, neighbours, family members and of course the spouse (where applicable) as witnesses is very helpful to ensuring the transaction is completed smoothly. This is important because normally these local witnesses have a clear historical grasp of the land under transaction and can provide warning signs in case the transaction is fraudulent. If one has means, he /she can hire a lawyer to oversee the transaction and offer advice on due diligence related to legal requirements.

SUMMARY OF THE PROCESS OF ACQUIRING LAND



4.5 RIGHTS AND OBLIGATIONS OF LANDOWNERS

Landowners have rights that must be protected and obligations that must be observed. These include those summarised below;

RIGHTS	OBLIGATIONS
<p>1. Right to Own the land Eternally: A Landowner under the three systems of customary, Mailo owns land in perpetuity</p>	<p>1. Obligation to recognize, respect and protect the rights of bibanja holders; (lawful and bona fide occupants) on their land and their developments on the land.</p>
<p>2. Right of leasehold owner to use land without interference: A leasehold's proprietor owns land for a given period of time under the terms and conditions described in the lease agreement.</p>	<p>2. Obligation to recognize other interests under the lease. These are the rights of successors of the lawful and bona fide occupants and their development on the land.</p>
<p>3. Right to transact on the land. This may be through sublease, use of land as collateral security to access loans, or to pledge or sell the land.</p>	<p>3. Obligation to follow all laws: Must use land in accordance with other policies and laws governing land use in the country.</p>
<p>4. Right to subdivide the land for the purpose of sale or any other lawful purpose including gifting it.</p>	<p>4. Obligation to provide the tenant with a legal document showing that they also have an interest in land as a tenant.</p>
<p>5. Right to will the land on their death to a beneficiary of their choice.</p>	<p>5. Obligation to give tenants first option to buy the land they occupy should the Landlord wish to sell.</p>
<p>6. Is entitled to be given the first option to buy out the interest from tenants by occupancy who may be occupying that land and willing to sell.</p>	

4.6 RIGHTS AND OBLIGATIONS OF TENANTS

Tenants such as bibanja holders also have rights that must be protected and obligations that must be observed. Obeying these rights and obligations is an important part of avoiding potential conflicts on land.

RIGHTS	OBLIGATIONS
1. Enjoys the security of occupancy on the land they occupy	1. Obligation to pay annual nominal ground rent to the landowner/ landlord
2. May acquire certificate of occupancy by applying through the landowner	2. Obligation to transfer of legal ownership of the land into own name in case of freehold land
3. With the permission of the landowner, a tenant may sublet and/or subdivide their kibanja	3. Obligation to invest in and develop the land
4. May assign, pledge or create third party rights in the land with the consent of the landowner	4. To meet all the financial obligations like payment of the ground rent
5. May end occupancy of a piece of land or return the kibanja to the landowner	5. Obligation to give the land's owner first option where they wish to sell their interest and vice versa where a landowner wants to sell land. This must be on a willing buyer and seller basis.

RIGHTS	OBLIGATIONS
<p>6. Transfer of legal ownership of the land in their names in case of freehold land</p>	<p>6. Tenants by occupancy and kibanja holders can also register a caveat at the Registry of Lands where they have reasons to suspect that the registered landowner intends to enter a land transaction which will affect their rights and interest</p>
<p>7. To sell their interest in the land if so desired</p>	<p>7. Where the tenant by occupancy or kibanja holders sells their interest without giving the landowner first option, he or she commits an offence and loses the rights to occupy the land (Land Act Amendment 2010)</p>
<p>8. They must be given the right of first option to buy the land if the landowner wants to sell the land</p>	<p>8. In cases of non-payment of the annual nominal ground rent, tenants may not be evicted without a court order of eviction (Section 35 of the Land Act Amendment 2010)</p>
<p>9. They have the right to hire out the land</p>	<p>9. A person who sells or buys registered land which has tenants by occupancy must respect and observe their rights</p>



HOW PRIVATE CITIZENS AND GOVERNMENT ACQUIRE LAND

Land in Uganda can be acquired privately either by individuals or by groups of individuals through purchase or exchange. But there are other ways of taking ownership of land.

5.1 GOVERNMENT ACQUISITION OF LAND

The Government can acquire land from its citizens through purchase and also through what is called 'compulsory acquisition.' For the government to take land through the compulsory acquisition model, it must observe the following aspects:

- The land needed must be in the public interest. Examples might be a road to public cars, or in the interest of defence with the construction of an army barracks, or to improve public health such as with the construction of a hospital;
- There must be prompt payment of fair and adequate compensation to the owner of the land the government is taking;
- The government can only take possession and use the land or property after paying the above compensation;
- Any person who is not satisfied with the compensation money paid by the government can go to Court for dispute resolution.

Land acquisition is only deemed to be in the public interest if it is in the general interest of the community, not the particular interest of individuals.

LAND COMPENSATION

As earlier noted, before the government may take possession of any private land it must pay timely, fair and adequate compensation to all persons with an interest in the land in question.

HOW IS THIS COMPENSATION ASSESSED?

The compensation must be assessed as the actual market value of the land at the time of acquiring it. The market value of the land means the price which a willing seller might be expected to obtain from a willing buyer at that time.

INSTITUTIONAL FRAMEWORK FOR COMPENSATION

In the chain of compensation various government offices all fulfil critical functions. Some of these include:

A. ASSESSMENT OFFICER

This officer is appointed by the Minister of Lands and plays a role in assessing and compiling a valuation report covering the land for which the government must compensate.

B. THE CHIEF GOVERNMENT VALUER

The office of the Chief Government Valuer is found in the MoLHUD with the mandate of providing timely and reliable property valuation information to government. The office also advises government on determining rates for properties.

5.2 PRIVATE LAND ACQUISITION

Individuals acting alone or collectively as a group can acquire land through various ways including the following:

A. INHERITANCE

When a landowner dies, their children or relatives may inherit their land as directed in the deceased's will. The land can then be transferred into the new owner's name through a legal process.

B. PURCHASE

Purchase of land by an individual, company, organisation or government.

C. LEASE

Given by a landowner to another person, this allows the lessee temporary ownership, allowing them to use the land for a specific period of time without interference.

D. DONATION

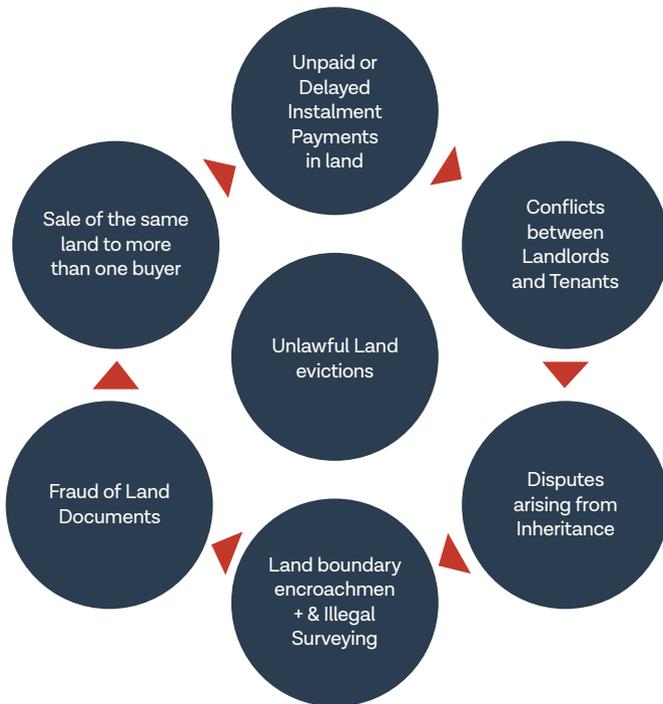
Land can be acquired through donation by individuals or communities to other individuals or communities, or to government. This is frequently seen in shared community projects, such as religious, educational or health projects where land is needed for the construction of a facility.



RESOLVING LAND-RELATED DISPUTES

A. Land is one of the most valuable natural resources, but there is only a fixed amount of it available which often results in disputes and disagreements. In this part of the handbook we will try to understand the most common land disputes amongst communities and how they play out in reality.

6.1 COMMON LAND DISPUTES



FAMILY INHERITANCE DISPUTES

This typically happens on Mailo landholdings when the owner of the land dies without leaving behind a will. Disagreements arising between family members about how to divide and manage the properties of the deceased and who to administer it.

CONFLICTS BETWEEN LANDLORDS AND TENANTS

Such conflicts characterise the Mailo tenure system. They normally arise when a landlord seeks to sell land without notifying their bibanja holders/tenants, thus depriving them of the opportunity to become landowners, or when tenants transfer their lease without first offering it to their landlord for purchase. Also, in situations when tenants need to see the land title in order to have their land claim processed into a title. Landlords sometimes stall this process by refusing to hand over their title to facilitate the land transfer.

FRAUD OF LAND-RELATED DOCUMENTS

There is increasing fraud around land ownership documents. Land grabbers and family members forge wills, letters administering the estates of those who die without a will, land titles, land transfers and other relevant documents that are needed to complete a land transaction and make it appear legal.

LAND BOUNDARY ENCROACHMENT & ILLEGAL SURVEYING

Many disputes surround the issues of land boundary encroachment between neighbours as individuals or sometimes as communities. Additionally, some surveys undertaken are illegal, and are often done in the absence of the concerned landowners, sometimes under the cover of darkness or using the police and military. Traditionally objects like trees, elephant grass and sisal plants are used as markers, but such things can easily be uprooted. Encroachment can either be intentional or due to unclear boundaries or overlaps, and can lead to charges of criminal trespass.

UNPAID OR DELAYED INSTALMENT PAYMENTS IN LAND TRANSACTIONS

Failure by the buyer to pay pending instalments to the seller within the agreed period has often led to disputes. This can then be made worse if the seller then re-sells the land to another buyer, essentially selling it twice while not refunding the monies of the first buyer.

SALE OF THE SAME LAND TO MORE THAN ONE BUYER

Some landlords fraudulently sell the same piece of land to more than one buyer, opening up a storm of conflicts as each buyer tries to claim the land as theirs. This is very common on lands that are titled.

UNLAWFUL LAND EVICTIONS

This is the commonest dispute emerging on all the four tenures of land across the country. Evictees are often poor people who have been defeated because they lack money to prove their interest in the land. These evictions also occur where monied people buy lands hosting bibanja holders and evict them without compensation.

TRANSACTION ON LEGALLY RESTRICTED AREAS

These conflicts arise between government and people who fraudulently acquire land titles from restricted areas. These include swamps, government and public lands, forestry land, forest reserves, and road reserves amongst others.

OVERLAPS AND CONTRADICTIONS OF LAND MEASUREMENTS

This is a common disagreement in which measurements on paper do not match what is taken on the ground, and boundaries overlap with neighbouring land. This is frequently due to the use of unqualified surveyors.

PROCESSING AND PROVISION OF INCORRECT TITLES ON LAND TENURES

An example of this is the processing and provision of a freehold title on leasehold land or on Mailo tenure land. This is caused by misunderstandings or ignorance on the part of applicants, administrators or regulators.

LAND COURT ATTACHMENTS

In a situation where one party wins a court case with costs applied to the losing party, the losing party may appear unable to pay the costs. To ensure the costs are paid, the court may end up attaching or confiscating land which does not belong to the losing party, such as customary land, leased land or government land, in error.

CONFLICTS RELATING TO COMPENSATION FOR COMPULSORILY ACQUIRED LAND

In cases of lawful eviction (due to compulsory land acquisition by the government) different beneficiaries often emerge to claim for compensation. These conflicts are often seen in Mailo land tenure where a landlord also demands for compensation alongside their tenant. This is due to the dual ownership of the tenure.

RECLAMATION OF LAND DONATED BY DECEASED RELATIVES

While donations are frequently made and are an important mechanism of land transfers, donors sometimes fail to adequately document these donations. Descendants may then dispute the donation, demanding proof that the process was properly completed and demanding that the land be returned if the proof is not sufficient. This is common in relation to church lands donated by prominent families.

INTERMEDDLING AND FRAUDULENT DISPOSAL OF TRUST PROPERTY

This is particularly common in the estates of deceased persons. Relatives or administrators conspire, collude or contrive to mismanage and dispose of inherited land, depriving beneficiaries of their interests.

6.2 LAND DISPUTE RESOLUTION MECHANISMS

There are various ways through which disputes relating to land can be prevented before they happen, and also ways through which they can be solved in cases when they do happen. Here are some of those mechanisms.

A. PREVENTIVE MEASURES

Publishing of Notices about transactions on particular land

Adequate notice is an important step in preventing land disputes. This involves telling the whole world through newspapers (as required by the law) about a particular process that is going to happen on a particular piece of land. Notice is required for various processes such as application for letters of administration, application to lodge a caveat on registered land, or eviction notices, and is a preventive mechanism for avoiding land disputes. When a person is made aware of a notice and has a land-related grievance, they can act in time to prevent such transactions taking place on that land.

Community Dialogues

This mechanism is important because community involvement in dispute resolution and prevention helps in reconciliation and harmonisation. Local communities

are often best equipped to come up with permanent resolutions and own them, since they often know their land boundaries and are familiar with the individuals involved in disputes, having a rich historical context for the matter. This is common on customary land.

Community outreach and awareness creation on land matters

Targeted community awareness meetings carried out by local leaders can help in passing on knowledge to community members about how they can administer and protect their lands. Such awareness platforms might cover important topics such as current laws and policies, dispute mechanisms, land management procedures including surveying, physical planning, land registration, lawful eviction and compensation, different land tenure systems and their management mechanism and other aspects, and referral pathways in land management. A knowledgeable community is important in preventing land disputes.

B. RESOLUTION MEASURES

In situations where an actual dispute is not prevented and instead arises, there are also many mechanisms that can be used to resolve the dispute. These measures can be adopted depending on the nature of the dispute.

Resolution through the court system

In a situation where amicable dispute settlement and prevention of the dispute fails, the dispute can be taken to court. This court system begins at the village level of Local Council I and goes up to the highest court, the Supreme Court, if the issue is not settled in the lower courts. Courts can give various solutions along the way including granting injunctions which stop any use of the disputed land until a clear court ruling can be reached.

Readjustment of Physical Plans

In situations where the measurements on a survey document contradict with the physical boundaries of somebody else's land, the best solution is often to re-adjust the physical plan, or to negotiate with the owner of the boundary to codify the overstepped boundary, sometimes in return for a potential payment.

Opening of Boundaries

In situations in which the actual boundary separating two or more pieces of land owned by different people is contested, this matter can be settled through the opening of boundaries. In the same way, in cases of restricted areas like road reserves, wetlands, public spaces and forests that are frequently encroached upon, the government may undertake clearing or surveying operations to make people aware of boundaries.

Subdivision of Customary Land

In cases of internal family or community disputes over customary land, clan leaders may sometimes be called upon to subdivide the land into smaller units which can then be allocated to family heads, who can in turn subdivide it further between their children.

Refund of money to a disputing buyer

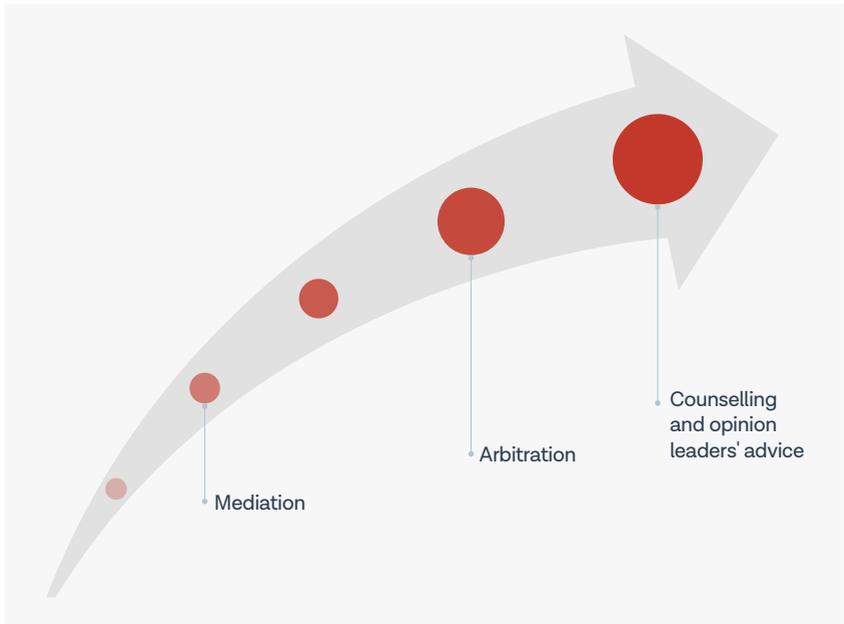
This dispute resolution mechanism is employed in cases where land has been sold to more than one buyer. The only remedy here is for the defrauded buyer to demand a refund of the amount paid, which is usually ordered to be paid with interest.

C. ALTERNATIVE LAND DISPUTE RESOLUTION (ADR) MECHANISMS

In land disputes, the conflicted parties are encouraged to attempt various measures of resolving the dispute rather than going to Court. These are called Alternative Dispute Resolution (ADR) measures. Such measures are an 'alternative' for going to Court and encourage negotiation, mediation and reconciliation between the disputing parties.

These ADR measures come with many advantages. They are cost-effective, they save time, processes are more user friendly and parties have a choice on how to settle the dispute, Such processes foster reconciliation, peace and harmony.

Some of the forms of ADR that can be used include the following:



I. Mediation

Mediation is a structured negotiation, introducing a third party who can assist the two sides to settle their dispute. Under mediation, the parties decide to seek the assistance of a neutral third party.

II. Negotiations

This refers to the process of working out an agreement by direct communication between the parties (usually landowners and tenants). These negotiations aim at fairness and at reaching a gentleman's agreement that can be honoured by both parties. It is normally done at the Local Council offices.

III. Reconciliation

An independent party assists the parties, for example a landlord and tenant disputing, to settle their differences. Otherwise the parties themselves take the initiative to apologise and create peace between or amongst themselves after realising their mistakes.

IV. Arbitration

This is often demanded by court. One or more arbitrators hears presentations by each side in a dispute, then issues a decision based on the facts and the laws governing land rights. Such decisions may be binding or non-binding depending on the agreements the parties make when entering into arbitration.

V. Counselling and opinion leaders' advice

This involves identifying an opinion leader such as a cleric or local politician with repute who is not in any way party to the dispute but who one of the parties to the dispute or both have regard for and can listen to. The essence is to have this person engage with one of the parties, convince them through adopting potential alternatives of settling the issues at hand.







EVICCTIONS

Eviction means the removal of an individual, household, family or community from a particular property they occupy. The eviction process normally involves the removal of all their property, mostly movable, both living and non-living. Evictions can take three forms:

- 1. Lawful eviction** is characterised by observance of due process of the law without occasioning any human rights violations. Normally, these categories of evictions are ordered by Courts requiring the removal of an individual or community from a particular piece of land or house or any other property.
- 2. Unlawful eviction** is characterised by the prevention of or removal of a person/community and their belongings from their particular dwelling such as a rented home or property such as land. This is further characterised by force or intimidation and/or harassment.
- 3. Forced eviction:** is characterised by the permanent or temporary removal of individuals and/or communities from their homes and/or land which they occupy, without the provision of and access to, appropriate forms of legal or other protection.

7.1 WHAT CAUSES EVICCTIONS?

There are various causes of evictions, including the following:

- Compulsory land acquisition by government for development involves removal of communities from the acquired land
- Disputes between landlords and tenants that are not amicably resolved;
- The need to protect natural resources such as forests and game parks that may be occupied illegally by people
- Upon the death of a bread winner, inheritance disagreements within families can lead to eviction of some members

- Fraud in land transactions, for example when land is sold more than once. Each party tries to take possession of their new land, resulting in evictions
- Nonpayment of annual nominal ground rent is the only grounds for evicting a tenant. Landlords may serve an eviction notice to a tenant who defaults on payment after a period of one year with a court order

7.2 GUIDELINES AND BEST PRACTICES DURING EVICTIONS

There are various best practice guidelines that must be followed to ensure that evictions do not cause harm to the persons being evicted. These measures must be undertaken before, during and in the aftermath of the evictions.

A. GUIDELINES BEFORE EVICTION

- Consider alternatives before evictions: Explore fully all possible alternatives to eviction before the actual eviction happens;
- Assess the likely impact of the eviction before it happens: This is a process that requires that a detailed analysis is undertaken to find out what is the likely to be the impact of an eviction especially on women, children, older persons and marginalised sections of society. This information helps to determine even when the said eviction can be undertaken.
- Giving notice to the people of the coming eviction: it is vital to issue a notice in writing and inform the affected persons of the exact date of the eviction, a detailed justification of the decision and any plans for their resettlement. Ensure that no one is rendered homeless or vulnerable to the violation of their human rights.
- Court order: There must be a court order directing the eviction of the said persons, describing the land and the various conditions within which the eviction should take place.

B. GUIDELINES DURING EVICTION:

- Ensure the presence of government officials/representatives and/or neutral observers at the eviction site;

- Evictions should not do not take place during bad weather, at night, immediately prior to an election or during or before school/college examinations;
- Vulnerable groups such as women and children should be protected from gender-based discrimination and sexual violence;
- There should be no arbitrary deprivation of the property or possessions of the evictees;
- Where use of force is necessary, it should only be used in extreme circumstances and should not be excessive beyond the danger posed by the resistance of the persons being evicted;

C. GUIDELINES AFTER EVICTIONS

After eviction, the government and other authorities responsible for eviction must:

- Immediately provide just compensation and sufficient alternative accommodation for the evicted persons especially where children are involved;
- Immediately provide for the evicted persons or groups: essential food; portable water and sanitation; basic shelter and housing; appropriate clothing; essential medical services; education for children and child care facilities; ensure that the human rights of women and children, indigenous people and other vulnerable groups are equally protected.

7.3 CENTRES OF RECOURSE FOR HELP REGARDING ILLEGAL LAND EVICTIONS AND OTHER LAND RELATED MATTERS.

Communities and individuals affected by illegal land evictions and land-related matters can report problems to different law enforcement agencies such as:

- The nearest police post or police station, especially if the matter involves some crime such as trespass;
- Land Protection Unit (under Police) which is responsible for all land-related cases or disputes;

- Local council committee executives from LCI to LC5, as well as the political and technical arms of the local government;
- Office of the Resident District Commissioner or Resident City Commissioner (RCC) - the President's representative at the district or city level who can facilitate mediation;
- The Judiciary from all levels starting at Magistrates' Grade I up to the Supreme Court of Uganda. This also included the LCI and III courts at the local village level.
- Ministry of Lands, Housing and Urban Development especially the Office of the Registrar, which may have relevant power

7.4 CATEGORIES OF PEOPLE NOT PROTECTED BY THE LAW IN CASES OF FORCED LAND EVICTIONS

The following categories of people are not protected by law in case of any eviction because they do not legally occupy the land. This does not mean that they should be inhumanely evicted or attacked violently during the eviction. Rather, all the other procedures and guidelines concerning evictions also apply to them. However they are not able to contest their eviction in the courts. These categories of people include the following:

- Unlawful occupants;
- Illegal tenants and trespassers;
- Licensees (Persons with oral or written agreement for a specific period of time or given terms and conditions);
- People renting agricultural land and people renting houses.

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