UGANDA LAND ALLIANCE
Block 29, Plot 1521, Mawanda Road.
P.O. Box 26990 Kampala,Uganda.
Tel: 256 414 540 038 Fax: 256 414 540 048
Email: ula@ulaug.org
Website: www.ulaug.org

TRAINING GUIDE FOR COMMUNITY MAPPING IN KARAMOJA



SUPPORTED BY
DAN CHURCH AID
2010

Disputes which may arise and delay the Community Mapping exercise and these should be settled during the adjudication exercise. The following are some of the forms of disputes which may arise and should be addressed during course of the adjudication exercise.

- Boundary disputes
- Succession disputes
- Ownership disputes
- Land lord/Tenant disputes
- Community versus individual interests
- Government/individual disputes

Land disputes will be settled through Land Adjudication. Land Adjudication will involve settlement of land disputes in the selected area. Community Mapping of land rights within a given location will be carried out strictly in accordance with the existing legal frame work by technically competent personnel, assisted by the people at the grass roots who will provide reliable information for fair adjudication.

Community mapping requires co-operation, collaboration and participation of all people for it to succeed. This is the reason why mass mobilization and sensitization is necessary.

Some individuals may try to politicize and sabotage the process, usually at the mobilization stage. Therefore, carefully planned and detailed sensitization which costs a lot of money and requires a lot of dedicated time is required prior implementation of community mapping.

TABLE OF CONTENTS

List of Acronyms iii

PART I – COMMUNITY MAPPING IN CONTEXT 1

1.0 Introduction to Community Mapping 1

2.0 Land Administration and Management Institutions 4

3.0 Forms Of Land Holding In Uganda 6

4.0 Highlight Features Of Customary Land Tenure/ Characteristic AsStipulated By The Land Act 8

4.1 Difference between Customary and other Tenure types with regard to Registration 8

4.2 Rights and Duties of Customary Land Owner 8

4.2.1 Rights of a Customary Land Owner: 8

4.2.2 Obligations/Duties of a Customary Land Owner 9

4.3 Other Rights Accruing Under Customary Tenure 9

4.3.1 Family Land 9

4.3.2 Communal Land 10

4.3.3 Rights of Individuals on Communal land 13

4.3.4 Common Land 14

4.3.5 Third party or other subsidiary rights 15

5.0 Procedure For Acquiring A Certificate Of Customary Ownerships 15

5.1 Procedure for Acquiring a Certificate of Customary Ownership 15

PART II - COMMUNITY MAPPING EXERCISE 17

6.0 Introduction 17

6.1 Benefits and Outcomes of Community Mapping 18

6.2 Methodology for Carrying out Community Mapping 20

6.2.1 What does Systematic Demarcation Field Work involve;..... 20
6.2.2 Steps for Carrying Out the Systematic Demarcation Exercise..... 20
6.2.2.0 Identifying, Ascertaining and Establishing land rights;..... 21
6.2.2.1 Identifying, Ascertaining and Establishing Land Rights..... 22
6.2.2.2 Marking of Established Boundaries..... 24
6.2.2.3 Taking the Necessary Measurements..... 24
6.2.2.4 Drawing a Plan (Index Map) of the Land..... 24
6.2.2.5 Land Readjustment..... 25
6.2.2.6 Recording Land Rights..... 25
6.2.2.7 Issuance of Certificate..... 25
6.3. Roles and Responsibilities of Different Stakeholders in Community Mapping..... 26
6.4 Land Disputes and Land Adjudication..... 27

accurate information concerning the land parcel and ownership.
- The community will be requested to participate in settlement of disputes over land before the actual Community Mapping exercise begins.
- Participate in clearing of boundaries for the mapping team

The Role of the Recorder

- The Land Act gives the responsibility of preparing and issuing of certificates (of customary ownership and occupancy) to the sub-county chief (rural land) and town clerk (urban land). When performing this role, her she will be known as the recorder.
- Upon receipt of the approved report from the DLB, the Recorder will issue the required customary ownership certificate after payment of the official fee by the land owner.

The Role of the Land Owner/ Occupier

The land owners (and of course the community) will play an important role in the community mapping exercise and most important ones will be:

- Availing him/herself during the exercise
- Giving consent and active participation in the community mapping exercise
- Ensuring that boundaries of his land are cleared
- Participating in the settlement of land disputes, if any, before the actual community mapping exercise is carried out
- Availing the required information concerning the land parcel and house hold members

6.4 Land Disputes and Land Adjudication

During the community mapping exercise, the adjudication stage involves settling land disputes. There are several forms of Land

6.3. Roles and Responsibilities of Different Stakeholders in Community Mapping

There are several land administration and management institutions in Uganda that will participate in the community mapping exercise.

Role of the Central Government in community mapping

- Provision of Equipment
- Quality assurance

Role of Ministry of Lands, Housing and Urban Development

As already indicated the department of Lands and Surveys is responsible for survey, mapping and quality control.

- During the community mapping exercise the department will avail up to date maps of demarcation areas to the community and the District Land Office showing administrative boundaries.
- Advise the procurement of **appropriate** program equipment
- Avail Community Mapping **Technical** Staff to District Land Officers

Role of Local Governments in Community Mapping

- Assist in mobilization of people in their areas for Community Mapping exercise
- Appoint land committees
- Appoint and or fill vacant posts in the District Land Offices
- Appoint the District Land Board members
- Sustain (continue with) Community Mapping program through out the district after the pilot phase.

The Role of Community in Community Mapping

- The community will be expected to mobilize, co-operate and participate in the community mapping exercise
- The community (owners/ occupiers) will be expected to provide

List of Acronyms

ALC	Area Land Committee
DLB	District Land Board
DLO	District Land Office
DLT	District Land Tribunals
LC	Local Council
LSSP	Land Sector Strategic Plan
MAAIF	Ministry of Agriculture Animal I industry and Fisheries
MLHUD	Ministry of Lands, Housing and Urban Development
PEAP	Poverty Eradication Action Plan
PMA	Plan for Modernization of Agriculture
SDTC	Systematic Demarcation Technical Committee
SD	Systematic Demarcation
ULC	Uganda Land Commission

6.2.2.5 Land Readjustment

This will involve two or more parties who will agree to redraw their physical land boundaries. This is a purely optional exercise in which, two or more parties may agree to adjust their boundaries either by exchange or sale.

6.2.2.6 Recording Land Rights

This will involve recording the land rights with the Sub-county Chief for rural areas and the Town Clerk for urban centers. The recording of the Land Rights will entail several steps.

- The Land Committee and Community Mapping Team will compile a report, with sketches/ maps attached.
-
- The Land Committee will then send the compiled report with sketches/ maps attached to the District Land Board for approval and issue of certificate of customary ownership.
-
- The District Land Board will meet to approve, or reject the issuance of a certificate of Customary Ownership with conditions, restrictions and limitations as specified by law.
-
- The District Land Board will send the approved application to the Recorder to issue a Certificate of Customary Ownership.

6.2.2.7 Issuance of Certificate

The certificate of customary ownership will only be issued by the Recorder to the applicant whose application is approved by the District Land Board at a prescribed fee.

officers, physical planners and with any other relevant authority. The Environmental/ wetlands officer will be instrumental in identifying various land uses in peri-urban areas.

6.2.2.2 Marking of established boundaries

The second step will be marking the land boundaries by observing corners and turning points (bends) along the boundary. This exercise will apply to individual pieces of land as well as public facilities such as road reserves, health facilities, schools, wetlands as well as peri-urban areas.

In some cases and regions, marking boundaries will be based on the natural man-made boundary marks. The problem may arise that these marks may not be visible or may have shifted. So, in marking the boundary, the concerned parties must be available. Incase of disagreement, the adjudication will be handled before the boundaries are marked. In terms of wetlands and peri-urban areas, the Community Mapping Team will depend on the base maps and the advice given by the relevant authorities.

6.2.2.3 Taking the necessary measurements

After marking the boundary, the parcel will be measured by the surveyors or experts in the survey field. The surveyor will determine which survey tools will best suit the situation on the ground and the survey standards required.

6.2.2.4 Drawing a plan (index map) of the land

After land parcel size has been measured, the technical team, in presence of the parties/ residents, will compile a map showing the land parcel shape and size. All land parcels within a given location will be compiled and displayed so that the local residents view, approve, or recommend readjustment of the land parcels information in question.

PART I
COMMUNITY MAPPING IN CONTEXT

1.0 INTRODUCTION TO COMMUNITY MAPPING

Community mapping is a grass roots community development initiative that strives to connect various actors in a particular area to issues affecting that area through a local inquiry. Community mapping is an exercise through which tacit knowledge as embedded in people's spatial memory is converted into explicit and externally usable knowledge. It is an open ended, dynamic, and broadly inclusive way to bring community members, civil society, local governments and the central government together to better understand the places in which communities live, the social, economic and political issues affecting those places and the means by which those issues might be addressed. Resultantly, this programme allows for improved information exchange between outsiders (i.e. Central government, NGOs, Researchers, Donors, e.t.c.) and the insiders (Community members) in the design and implementation of development projects. Mapping tenure relations not only provides spatial information but also socio-political relationships, such as gender dynamics, underlying these entangled links, and socio-institutional structures that govern natural resources.

Community mapping is of great significance to customary tenure, which for a long time has been regarded as non- progressive and backward. Through community mapping, it is possible to use the information generated for community project design and

implementation, thus empowering people and their communities. Community mapping gathers gender disaggregated information on overlapping land claims where duties, rights and responsibilities are not clear and provides spatial information that is useful for territorial planning and natural resource management. It will map socio-political relations underlying the spatial information and socio-institutional structures that govern natural resources. Here, the roles of the women and the youth are clearly defined in the process. Furthermore, secondary rights to land are clearly demarcated e.g. access to grazing land, water resources, fruit trees, firewood lots e.t.c as these are fundamental in defining the livelihood strategies for the communities.

Community mapping buttresses the community's own vision of development and economic growth, of peace and security, and of their needs as a community, especially the role of women in the management and administration of land. The cultural dimension of this is that community mapping has the potential to enhance local governance structures as a channel through which to defend or advocate for the rights of indigenous peoples like the pastoralists, to their ancestral lands.

Through the identification, adjudication and registration of interests, these community led land reforms are recognized and later perfected by the state, taking into consideration the fact that Government itself through its Land Sector Strategic Plan (LSSP) has embarked on a systematic demarcation programme. The community mapping exercise ensures that the outputs are of a standard enabling the issuance of certificates of title. Geo-referencing community spatial knowledge will provide the accuracy needed in community led processes for the government to recognize the results. Mapping for land registration enables information to be transferred and digitized into a Geographic Information system (GIS). The process should however, be affordable

The phase will involve a set of questions namely:

x) ***What rights and interests are associated with each parcel of land?***

These interests maybe, easements (rights of another person or persons over one's land), mortgages (pledging of land as security for a loan or credit), licensees, user rights (e.g. family interest for minor children, dependant children, spouses), third party interests, clan interests or community interests.

xi) ***What form of ownership is associated with each particular piece of land?***

This is customary tenure but there are also emerging forms of land utilization which can be in form of wetland or peri-urban areas that may require special attention.

xii) ***Who owns each parcel of land in a given area?***

The team together with the community has to establish whether the ownership is individual, communal, family, institutional or public land ownership.

xiii) ***What types of land can be identified in the area?***

This may be one or a combination of the following: agriculture, pastoralism (cattle keeping), fish farming, wetland utilization, commercial, residential, infrastructure (schools, hospitals, government buildings, and recreational grounds), forests, or industry.

The Community Mapping Team will be required to confirm the boundaries with the neighbors, local opinion leaders, environmental

- forestry- No
- Industry- No

v) Identifying the different stakeholders in the systematic process;

- Opinion leaders
- Local council Leaders
- Parish Land committees and the sub-county land committees(area land committees)
- Local community
- Parish chiefs
- Physical Planner
- Environment Officer

vi) Sketch Mapping Process;

- Identifying features for the sketch maps;
- Roads
- Schools
- Health Units
- Water sources
- Security units (Barracks, police post, prison)
- Garden
- Home/ Manyatta
- Rivers, wetlands, trees, mountains,
- neighbors

6.2.2.1 Identifying, ascertaining and establishing land rights

The first step will be identifying the boundary of the individual piece of land, as well as public facilities. The public facility may include; road reserve, health facilities and schools. It will not only be identifying land rights but also the limitations of such rights and disputes with a view of solving such disputes.

and user friendly generated by the participation of the community making the entire process clearly understandable by them.

A reliable and regularly updated cadastral system enhances land security for the rural people as this system is maintained by the community itself through ULA member organizations in those areas, with a decentralized land administration system created, monitored with the participation of the community.

Community mapping for land use planning and natural resource management is one critical area where this project becomes critical. Planning and managing land use is intimately linked to tenure security. The consolidation of secondary rights to land not only enables the definition of livelihood options and strategies, but also defines the comparative advantage of a communal tenure system as alternative or complementary to an individual ownership/tenure system. In this, issues of pasture management, land and water use optimization, thus taking into consideration the past, present and future natural resource use.

Community mapping is a powerful mechanism to transform and possibly resolve disputes and conflicts by accompanying it with lobby for effective decentralized institutions for conflict resolution (Local council court systems, and magisterial courts) accompanied by a broader effort to empower communities. This mapping project can help manage internal dynamics and disputes or conflicts through the identification/strengthening of dispute resolution capacity of the traditional authorities as stipulated in the Land Act.

This project aids planning and spatial integration especially in identifying administrative units while helping communities to include their concerns in an enlarged integrated vision of the reality. Thus, by using a common spatial framework, the maps will fortify the

community's understanding of how physical, social and political factors interact.

2.0 LAND ADMINISTRATION AND MANAGEMENT INSTITUTIONS

Most land administration institutions have been decentralized by the constitution (1995) and the Land Act (1998) as follows:

i) ***Ministry of Lands, Housing and Urban Development***

The MLHUD is in charge of policy, planning and coordination of all stake holders operating in the area of Land, Housing and Urban Development. The Ministry, using the LSSP and other policy guidelines, is mandated to implement land tenure reforms. The Department of surveys and Mapping is responsible for surveys, mapping and quality control.

ii) ***Uganda Land Commission (ULC)***

The Uganda Land Commission manages Government land and land held in trust by Government; such as forests, water bodies, game parks, and wetlands. Uganda Land Commission also manages government land outside the country such as embassies.

iii) ***District Land Boards (DLB)***

The District Land Board holds and allocate land in the district which is not owned by any person or authority and they are mandated to facilitate the registration and transfer of interests in land. The District Land Boards took over the role and they do exercise the powers of the less or in case of a lease granted by a former controlling authority under the Public Lands Acts, 1969.

iv) ***Land Committees***

These assist the District Land Boards in advisory capacity on

6.2.2.0 Identifying, ascertaining and establishing land rights;

i) What form of ownership is associated with each particular piece of land ownership?

ii) What rights and interests are associated with each parcel of land?

- Mortgage- No
- License- yes
- Sell- yes, but upon the family agreement
- Give away- yes upon the family agreement
- Third party rights/ easement- Accepted upon community and the local council leaders agreement
- Clan/community interest- No, there is no Freeland.

iii) Who owns each parcel of land in a given area?

- Individual land – yes
- Institutional land – yes for the sub-county was given by the British
- -Land for the institutions like the church was got through an agreement
- -Sub-county also hires land.
- Public/ communal land- yes

iv) What types of land use can be identified in the area.

- agriculture- yes
- pastoralism- yes
- fish farming- No
- wetland utilization- No
- commercial- yes (upland rice scheme is the only one so far in Nabwal
- residential- yes
- infrastructure and development that is schools, hospitals, government buildings and recreation grounds- yes

owning customary land will be recorded.

- ❖ It will curtail land grabbing.
- ❖ It will protect land market.
- ❖ It will promote sustainable utilization of wetlands, since these areas will be demarcated.

NB. Emphasis is going to be placed on individual level, because, it is the people we are targeting in the project and not the government institutions.

6.2 Methodology for Carrying out Community Mapping.

Community mapping contains a component of systematic demarcation which means that all the land within a given territory is mapped at the same time with community participation.

6.2.1 What does Community Mapping Field Work involve;

This chapter outlines the steps that will be taken in carrying out the Systematic Demarcation exercise by the systematic demarcation team, land committees, LC's, chiefs, community members and other stakeholders. The following are the steps that will be followed to conduct a Systematic Demarcation exercise.

6.2.2 Steps for Carrying out the Community Mapping Exercise.

An application is required to be made to the Area Land Committee which then places a notice in the prescribed form requiring all persons claiming an interest in the land or any adjacent land to attend the meeting of the committee. The meeting is required to be held not less than two weeks from the date of the notice.

matters relating to land including rights in land. These committees are mandated by the Land Act to undertake both adjudication and demarcation aspects in cases where a tenant by occupancy or a customary ownership applies for a certificate of occupancy or a certificate of customary ownership respectively. The committees also perform any other functions that are conferred on them by the Land Act.

v) ***Local Council Courts***

These are courts that handle disputes in respect of land held under customary tenure. They also have jurisdiction for the trial and determination of matters relating to land. Every suit is instituted in the first instance in a village local council court. Appeals from the judgment and orders of a village local council court are made to a parish local council court. From the parish local council court, the appeals go to a town, division or sub-county council court. From the town, division or sub-county council court, the appeals go to a court presided over by a Chief Magistrate. Appeals lie from decrees and orders made on appeal by a Chief Magistrate, with the leave of the Chief Magistrate or of the High Court, to the High Court.

vi) ***District Land Tribunals (LT)***

Each district has a land tribunal, which handles land disputes in the district. The District Land Tribunal determines disputes as the court of first instance in all land matters where the subject matter does not exceed Ushs 50,000,000/= (Uganda shillings fifty million).

It is important to note that currently, the jurisdiction of the District Land Tribunals is being temporarily exercised by Chief Magistrates or Grade One Magistrates in the area where the land dispute has occurred.

vii) ***High Court***

The High Court handles appeals on land matters from the District

Land Tribunal as provided under the Land Act, from the Chief Magistrate under the structure established under the Local Council Courts Act, 2006

viii) *Recorder*

The recorder is responsible for keeping records relating to certificates of customary ownership and certificates of occupancy. In rural areas, the recorder is the sub-county chief. In gazetted urban areas the recorder is the town clerk while in a division of a city, the assistant town clerk in charge of the division is the recorder.

ix) *Mediator*

These are appointed by the District Land Tribunals and their appointments are on an hoc basis. Generally, the mediators undertake such functions as are provided for under the Land Act or those conferred on them by the Land Regulations. One of such functions is to assist parties reach an agreement upon being invited to do so, incase where persons not qualified

3.0 FORMS OF LAND HOLDING IN UGANDA.

i) Mailo

This is system where the owner of land referred to as a mailo owner owns land forever. The owner has full powers over his/her land and can sell lease or deal with it in anyway. This form of tenure was only peculiar to Buganda. It was created by the 1900 Buganda Agreement between her and the Kingdom of Buganda. By this Agreement, chunks of the land were given to certain individuals to own forever. The owner of Mailo land is entitled to certificate of title.

ii). Freehold Land

This is the system where the owner of the land, referred to as a land owner, owns land forever or for unlimited time, depending on a

2. Local Government

The Demarcation of parcels will enable the local government in various ways namely:

- Planning of local land use
- Proper land management and administration, especially insurance of certificates
- Levy of local tax from land transaction of the registered land
- Social benefits in terms of peaceful environment with few land disputes and tension.

3. Individual Level

- The long-term benefits of community mapping at the individual level are linked to secure ownership rights that will lead to sustainability of livelihoods, particularly among the rural farmers. The specific benefits are:
- After the completion of the community mapping exercise, a person will have undisputed right of ownership because one's piece of land must have been identified and demarcated, and ownership rights defined.
- The adjudication process that will be carried out during the demarcation exercise will remove the existing defects in tenure. Once these are removed, greater security will lead to greater investment in land and production.
- This will eventually reduce tension between neighboring landowners.
- Registration of land will improve land transaction since a registered land holder will have a land certificate or a land title as evidence of his/her, ownership rights which can be presented to the buyer.
- Getting a land title will be cheaper and easier.
- The customary ownership can be used as security for getting a loan from financial institutions
- The rights of women, orphans and other vulnerable groups

The other three (3) activities include

iii. Confirmation and marking of parcel boundaries
iv. Measurement of the dimensions of land, land readjustment and producing sketch plans
v. Recording land rights with the sub-county chief for rural areas and town clerk in urban areas
vi. Insurance of certificates

Community mapping generates information for planning and decision making

6.1 Benefits and Outcomes of Community Mapping

These benefits are the same as those derived from the Government Systematic demarcation programme and can be analyzed at three levels namely; Central Government, Local Government, and Individual level.

1. **Central Government**

- The information concerning land ownership will enable the central government to effectively plan development activities within the country. The availability of update cadastral maps and other information will help development of information on land at all levels; and such information will be used for physical planning, development and transactions.
- Secondly, land ownership information will enable the government in the process of fair tax assessment.
- It will enable clear marking of central government and local government lands (forests and wetlands) for enhanced protection. This will enable easy monitoring of land for environmental protection.
- It will enable capacity building of District Land Office and the officers, Recorders and land committees.

condition or happening of a certain event.

The landowner has full powers over this land and can do anything with the land except in cases where the conditions have been put on the landowner not to do certain things.

Grants of land under this tenure were made to certain individuals and organizations by the crown and later by the Uganda Land Commission (ULC)
The grantee of the land in freehold is entitled to a certificate of title.

iii). Leasehold Land

This is the system whereby a person referred to as a tenant or lessee owns land through an agreement between him/her and the owner of the land known as landlord or lessee. Under this system, the landlord allows the tenant to use the land for a specified period but in turn the tenant will pay the landlord a payment called rent.
An owner of the freehold, Mailo, or by the crown or Uganda Land Commission (ULC) would make a grant of land under this tenure.
The grantee of a lease for a period of 3 or more years is entitled to a certificate of title.

iv) Customary Land Tenure

This is a traditional method of owning land. Customary tenants would be in occupation of Mailo land, freehold, leasehold or public land. They occupy such land either by the growing various crops, exercising rights to look after animal or by carrying out any other activity. The term Kibanja became associated with people owning land under this tenure.

NB. During this period land which was not owned either in freehold or by way of mailo was known as public land. Out of public land leases and freehold could be granted. Public land was vested in ULC.

4.0 HIGHLIGHT FEATURES OF CUSTOMARY LAND TENURE/ CHARACTERISTIC AS STIPULATED BY THE LAND ACT.

a) It's characterized by the local customary regulations.
b) Applying local customary regulation and management to individual and household ownership, use and occupation of and transaction in land
c) Providing for communal ownership and use of land
d) In which parcels of land may be recognized as subdivisions belonging to a person, a family or a traditional institution and
e) Which is owned in perpetuity

4.1 Difference between Customary and other Tenure types with regard to Registration

1. Comprises 80% verses 20%of land
2. none titled versus Titled
3. family, community and individual ownership versus Individual
4. unwritten laws versus Written laws

4.2 Rights and Duties of Customary Land Owner

4.2.1 Rights of a Customary Land Owner:

- Acquire a certificate of customary ownership, non acquisition of the certificate does not take away his or her rights as the owner of the land. This certificate is recognized by financial institutions, bodies and authorities as a valid certificate and evidence of title
- Give other rights to use to use and derive benefits from his/ her land for a particular period of time, which may include the life time of that person.
- Lease the land or part of it

PART II
COMMUNITY MAPPING EXERCISE

6.0 INTRODUCTION

Community mapping is an exercise through which tacit knowledge as embedded in people's spatial memory is converted into explicit and externally usable knowledge. It is an open ended, dynamic, and broadly inclusive way to bring community members, civil society, local governments and the central government together to better understand the places in which communities live, the social, economic and political issues affecting those places and the means by which those issues might be addressed.

It is a process whereby the existing land rights in parcels in defined administrative area will be identified and all the existing land rights ascertained, demarcated, surveyed and registered.

In Uganda, land belongs to the people and the community mapping is not intended to grab land from the individual owners but to register the rights so that the land use, pledging of land for fulfillment of obligations, transactions, and transfer becomes easy and transparent.

The two activities from the overall five that are to be concentrated upon in this phase are;

i. Mobilization and sensitization of the communities
ii. Establishing and authoritatively ascertaining the existing land rights, limitations, owners and rights of interested parties.

applied for and listens to claims and interests of other people on the land or occupying the neighboring land

5. the committee makes a report and submits it to the district land board, gives a copy to the applicant and a copy for any person who submitted a claim on the land
6. The land committee produces three (3) copies of the sketch of the land applied for. The original copy is sent to the district land board, a copy given to the applicant and the land committee retains the third copy.
7. The district land board considers the application and in doing so must refer to the committees report and recommendations. The board may confirm or reject the report of the committee.
8. If the board approves the application, it makes copies of the sketch, sends to the recorder and requests him/ her to issue a certificate of customary ownership. The board must inform the recorder in writing about its decision
9. The recorder makes and hands over the certificate of customary ownership to the owner.

Remember that the land for which a certificate of customary ownership is issued bears a unique parcel identification number (PIN) given by the recorder.

- Mortgage or pledge the land or part of it if the conditions in the certificates of customary ownership permits
- Where the mortgager fails to redeem, the mortgagee may sell to a purchaser
- Subdivide, sublet or sell his land or part of it if the conditions in the certificate permit
- May give away the land by will

4.2.2 Obligations / Duties of a Customary Land Owner

- The customary land owner must
- Transfer the land or part of it if a court of law or land tribunal orders him or her to do so.
- Provide the recorder with a copy or accurate information about any dealings on the landing the process of exercising his or her rights in that land
- A holder of a certificate of customary ownership will not lease, mortgage, pledge, create third party rights unless it is registered with the recorder

4.3 Other Rights Accruing Under Customary Tenure

4.3.1 Family Land

Sec. 28 Any decision taken in respect of land held under customary tenure (whether under individual or communal ownership) shall be in accordance with the customs, traditions and practices of the community. However, where a decision denies women or children or persons with disabilities access to ownership, occupation or use of any land it shall be null and void. Or where a decision imposes conditions, which violate articles 33, 34 and 35 of the Constitution, it shall be null and void.

Where land is held by a family, the head of the family is registered on

behalf of the family. The head of the family is not defined though so it could be a man or a woman.

4.3.2 Communal Land

Communal land is the land held by a specific community or group of people recognizing individual rights in that land and regulating its use and management. Communal land may be held on a certificate of customary ownership, freehold or leasehold title by the managing committee on behalf of members of the communal association.

Communal land is managed under customary law and any other law such as statutory law. For example, the provisions of the National Environment statue must be followed to ensure conservation of the environment, wetlands and grasslands.

Management of Communal Land

Formation of Communal Land Associations

- A group of people apply to the District Registrar of titles to become an association under the land Act.
- The registrar convenes a meeting of the members of association giving a notice of not less than 21 days to determine:
  - Whether to convene themselves into an association
  - Whether more than 60% of the members agree
  - That they elect not more than 9 and not less than 3 people. One third of who should be women, as officers of the Association.
- The registrar or an authorized person presides over the meeting.
- The officers elected prepare the constitution of the Association

A community must develop a common land management scheme which guides it in the manner in which the land is to be developed and sustainably utilized, how much extraction of the community resources can be done and who is permitted to utilize those resources.

4.3.5 Third party or other subsidiary rights

There are legally recognized rights in land by persons who do not own land. The main example of such rights is the right of easement, rights of way and passage. Also licensees, thus persons who temporarily use land but do not own it. They only have a license to occupy the land but they do not acquire interest in the land itself.

5.0 PROCEDURE FOR ACQUIRING A CERTIFICATE OF CUSTOMARY OWNERSHIP

We may not get into the details of how to acquire this certificate because it is what the systematic demarcation exercise dwells upon but emphasis is to be laid upon it when talking of the benefits of systematic demarcation to an individual and the community at large

5.1 Procedure for acquiring a Certificate of Customary Ownership

1. The applicant submits an application (form 1) to the land committee with the required fees.
2. the land committee puts a notice in a known place in the parish e.g. in a market , on a prominent tree, on the church notice board and on the land being applied for
3. the land committee confirms and marks the boundaries of the land applied for
4. the land committee makes a decision following the customs of the area on any question or matter concerning the land

her/his/its use and occupation may:

- If held by the Association on behalf of the community apply for a certificate of customary ownership or a certificate of freehold title in respect of her/his/its portion of land. The rules that apply for the application for a certificate of customary ownership or freehold certificate of title apply in this case without exception.
- Where the Association holds land under customary tenure, the individual or family applies to the Association to have her/his/its portion of land transferred and registered. If the Association approves, the applicant causes her/his/its land to be demarcated, transferred and registered by the Recorder.
- Where the Association holds the land under freehold, the individual or family applies to the Association to transfer the portion of land to her/his/it. If the Association approves the application, the applicant causes the piece of land to be surveyed and transferred to the applicant and registered by the Registrar of Titles.

- Any person aggrieved by the decision of the Association may appeal to the District Land Tribunal.
- The District Land Tribunal may:
- Confirm, vary, reverse or modify the decision of the Association
- Make any other orders it is empowered to make under the Land Act, 1998.

4.3.4 Common Land

Common land is that land which the community agrees to set aside for common use by members of that community. It comprises grazing areas, wood lots, hunting grounds, swamps etc.

with the assistance of the registrar, who then certifies that it provides for a transparent and democratic process of management.

- Where it does not conform, the Registrar returns it within thirty days for revision.
- If it is certified, the members vote to approve it and it is binding on all members.
- The officers apply for the incorporation and registration of the officers of the managing committee of the association of the Registrar.
- The Registrar issues a certificate of incorporation of the officers of the Association with or without conditions and limitations.
- The Registrar has supervisory powers over the activities of the Association.

Powers of the Managing Committee of the Communal Land Association

- To sue and be sued in the corporate name
- Make binding contracts on behalf of the Association and all its members.
- Grant mortgages, Pledges or liens over any property of the Association
- Dispose of any property of the Association
- Hold any land and property and exercise their powers over that property on behalf of all members of the Association.
- No transactions of any kind in respect of the land or any part

of the land shall be entered into, undertaken, or concluded by the managing committees unless a majority vote has been attained to approve the specific

- Transactions, which are the subject of the meeting.
- Transactions, which do not comply with the above requirement, are null and void, giving rise to no rights or interest in the land.

Disputes Arising Within the Association

Where a dispute has risen within the association,

a) At least one tenth of the of the members of the association place a request to the District Registrar or titles or;

b) The Registrar on his/her own motion

Under takes an inquiry on the activities of the Association and matters which cause or contributed to the dispute.
Refer the issue to the district Land Board or other person to mediate
Propose amendments to the constitution
Take any other actions as may be necessary

Where the Registrar has intervened, the Association must abide by the directions of the Registrar and cooperate with any person appointed to assist in the resolution of the dispute.

Dissolution and De-certification of the Association

- The managing committee may apply to the District Registrar of Titles for the dissolution
- The application is accompanied by:
  - Signatures of the officers
  - Minutes of the member' meeting

The application must be sent to the District Registrar of titles within 14 days of the decision to resolve.

- The Registrar may consent to the dissolution of he/she deems it fit. This however, does not remove any obligation to:
  - Pay debts owing
  - Pay taxes, fees dues or other sums which the officers owed up to the time of dissolution
  - Any action or proceedings against those officers which have been or which may be commenced in respect of any debts or sums owing.

- When the order of dissolution is consented to, the District Registrar of Titles:
  - Gives an appropriate publicity to the dissolution and its effects
  - Cancel the certificate if incorporation of the Association
  - Cancel any other directions and make any other orders necessary to give full effect to the dissolution of the Association

4.3.3 Rights of Individuals on Communal land.

- Where an Association holds land under customary or Freehold tenure, the Association must recognize and verify that all or part of the land it holds is occupied and used by individuals and or families for their own purposes and benefits.
- Under customary tenure, a family is recognized as legal person represented by the head of the family.
- An individual or family within a community wishing to own her/his/its land which under customary norms is available for