

# **Research to Explore Customary Land Owners’ Perceptions of Titling in Lango and Teso Sub-regions Uganda 2019**

## **Final Report**

**By Anthony Okech**

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## ACRONYMS AND ABBREVIATIONS

ALC	Area Land Committee
CBO	Community Based Organisation
CCO	Certificate of Customary Ownership
COU	Church of Uganda
DLB	District Land Board
FGD	Focus Group Discussion
LC	Local Council
LEMU	Land and Equity Movement in Uganda
NGO	Non Government Organisation

## EXECUTIVE SUMMARY

**Rationale and objective:** Customary land tenure, under which most land is held in Uganda, is not adequately supported by the Government for registration and certification to secure land rights of customary landowners. The land demarcation, registration and titling that the Government is encouraging, and which is supported by some development partners, is aimed mainly at establishing the freehold tenure system. However, the Government and some development partners are also increasingly supporting the acquisition of the Certificate of Customary Ownership (CCO), about which some concerns have been raised. Sometimes people have accepted such initiatives without adequate realisation of their implications and later realised that they were not in their best interests. As these titling initiatives are increasingly encouraged, it was therefore of interest to determine the perceptions of land owners under the customary land tenure system regarding titling and the extent to which they were aware of the implications of the land titling drive.

**Methodology:** This was an exploratory research to provide pointers on customary land owners' understanding and perceptions of land demarcation, registration and titling. It was carried out in 8 sub-counties in 4 different districts: two in Lango (Lira and Apac) and two in Teso (Katakwi and Kalaki) using mainly structured interviews with 163 respondents (86% men) and focus group discussions (FGD) (with 280 women). In each district, one of the sub-counties selected was more urban while the other was rural.

**Sample characteristics and land ownership:** The dominant age group in the sample was from 31 to 50 years; the main source of livelihood was farming for 90%. About 85% had attended some schooling with over 50% stopping at Primary School level. Over 70% of the families had only land that they had inherited while only about 12% had bought land mainly in addition to what they had inherited. The average acreage for the Lango sample was low, between three and four areas, while very few reported owning more than 10 acres. In Teso, on the other hand, almost 50% reported having more than 10 acres.

**Access to information on titles:** The majority of the people individually interviewed (70%) had heard about land titles. They reported having received the information mainly from Government officers, followed by radio and other community members, and then clan leaders, and NGOs, including LEMU. They had heard mainly of the freehold (42%) and CCO (24%). They however had a great difficulty to explain what a land title is. There was a view among some that the land title confers upon the holder the land rights. Very few of the people could also explain the process of applying for and obtaining a land title.

**Land demarcation and documentation:** Customary land owners in Lango and Teso have traditional practices of demarcating their land. The more formal demarcation includes planting of recognised boundary plants especially the *omaraomara* in Lango and the *ejumula* in Teso. This is done by neighbours often witnessed by traditional leaders and in recent years also LCs. About 50% of those interviewed had planted such boundary plants around their land. The others reported demarcating their land by simply heaping dug up rubbish on the boundaries, planting or leaving grass to grow along the boundaries, digging trenches or even planting trees that grow big to act as boundary markers. Participants in the focus group discussions emphasised that the important thing was mutual understanding with the neighbours. Reflecting the oral culture that

still prevails in the society, only 36% of those interviewed reported having taken any action to have documents as evidence of their land rights, mainly as agreements after conflict resolution or sales agreements.

**Decision on titles:** Very few of the people (only 5%) had ever tried to acquire a land title of any kind. The reasons for applying given by the few interviewed and at the FGD included: to benefit from compensation in case of being affected by a Government project, to prevent land grabbing, to make land more secure for the family and for clarity of boundaries. The difficulty all the applicants mentioned was that the process needed a lot of money and some had failed to get the titles because of the cost involved. It is the cost that about 40% of the respondents gave for not applying. Others explained that they did not apply because they did not have enough knowledge about it (about 30%). Some others said they have security of tenure on their land (8%) or on the other hand there were disputes over the land (5%).

**Views on the most suitable title:** A significant percent of the respondents (67%)<sup>1</sup> assessed the Certificate of Customary Ownership (CCO) as the most suitable type of title for land owned under customary land tenure. The reasons given by those who chose the CCO are revealing of their perceptions and convictions: over 50% said it ensures land rights security of all family members while 11% said it enables land to be managed under customary tenure. Asked what they would do if government did not offer the title they considered appropriate, 56% said they would abandon titling and remain as they are, 35% said they would comply with the government position while 9% mentioned taking action against Government in one way or another.

**Readiness or not to move to the Government system:** The people reported overwhelmingly (85%) not being ready to move to the formal government system mainly because the government system is expensive and because they felt customary land should be managed in the traditional system. Although most of the people felt they were not ready to move to the government system, 81% said they had not received enough information on titles and needed more information and training on them.

### **Conclusions and recommendations:**

People are uncertain about their land rights especially in face of public projects that need their land, especially in the more urban areas, and some feel that those with titles have greater land rights security.

On ***understanding land titles***: Incomplete knowledge and inadequate understanding of land titles may leave people vulnerable to crafty campaigns for titling with ulterior motives. *It is therefore recommended* that LEMU and other like-minded actors should intensify the education on titling and the merits and demerits of the various titles.

On **preferences in demarcation and documentation**: Although 70% of the respondents had heard about land titles, the research found little spontaneous desire for titles. This may be partly because of low understanding of land titles but more because they are satisfied with the way they are currently managing their land, with traditional boundary marking plants or in more rudimentary ways. *It is therefore recommended* that LEMU and other like-minded actors should continue disseminating and supporting the boundary tree planting with signed sketch mapping

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<sup>1</sup> Although this is the percentage from the responses as entered in the research database, it does not rhyme with another finding that only 24% of those interviewed had heard of the CCO.

and intensify lobbying and advocacy for implementation of the National Land Policy 2013 strategy to, “*Recognise and confer official status to community-based boundary-marking systems in all tenure systems*” (Strategy 109 (v)).

On **factors that determine decisions on titles**: Inadequate understanding of land titles and satisfaction with the customary way in which land is currently managed may be the two key factors that determine decisions on titles. Inadequate understanding of land titles may make people fear to move to the unknown formal state titles, while preference to stay with the system they understand, may be leading to the choice of the CCO, which some said enables the land to continue being managed the customary way. In view of that, *it is recommended* that, since the CCO seems acceptable to many customary land owners, and there is increasing momentum to popularise and support the CCO acquisition, LEMU and like-minded actors should also increase the momentum to enable the people to understand the CCO properly and LEMU’s idea of setting up the “CCO Observatory” should be urgently pursued.

On **readiness or not to move to the Government system**: Although the majority of the people said they were not ready to move to the Government system and did not have enough information about land titles, some were still able to express the view that the government system is expensive and that they felt customary land should be managed in the traditional system. It is accordingly *recommended* that the intensified education on titles already recommended should make use of the kind of reasons the people are giving that the government system is expensive and especially that the people feel it is best for customary land to be managed in the traditional system.

# **1. Introduction**

## **1.1 Background and rationale**

One of the ways in which land rights are secured in Uganda is by having the land rights registered by the appropriate Government organ in the name of an individual or another legal entity and having a certificate of title issued to the individual or other legal entity. Such certificate of title, commonly referred to as “land title”, confers state recognition of the holder’s ownership of the land and so provides legal protection of the holder’s rights to the titled land. As a result, the land title is expected to give the holders security from land grabbing. The land title also gives confidence to whoever undertakes a transaction with the title holder based on that land, such as accepting the land as mortgage or buying the land.

The protection and confidence that land titles give are expected to make land more securely available for use in economic development purposes. The title holders are expected to be able to use the titled land safely for agriculture, building and other purposes. They are also expected to use the land titles to secure loans for development purposes. With land titles, they are also able to more easily sell at good prices the land that they may not want to develop and so obtain the money to use for other development. Such perceived development benefits of land titles is the basis of the Government’s drive to encourage Ugandans to register their land and obtain land titles.

## **1.2 Justification for the research**

The Constitution of Uganda and the Land Act 1998 recognise four different land tenure regimes in Uganda, including the customary land tenure under which most land is held. The land under customary tenure is to be managed by the customary institutions with the mandate to do so. Ideally, the registration of such land should be managed by those institutions and the Government should therefore provide them with the framework and resources to do so. However, the titling that the Government is encouraging, and which is supported by some development partners, is aimed mainly at establishing the freehold tenure system. Even the Certificate of Customary Ownership (CCO) provided for in the Land Act is being implemented in a manner more suited to the freehold than the customary tenure system.

People in those parts of the country where these initiatives are taking place are accepting to have their land registered under the CCO provision. Some are even converting their family land held under customary tenure into the freehold tenure system. Sometimes people have accepted Government and development partner initiatives without adequate realisation of their implications and later realised that they were not in their best interests. As these demarcation and registration initiatives are being encouraged, it was therefore of interest to determine the perceptions of land owners under the customary land tenure system regarding titling and the extent to which they were aware of the implications of the Government’s land titling drive. This would make it possible to establish whether when the people accept the initiatives they do so through well-informed decisions or as a result of ignorance or misconceptions. Establishing this

would enable those working for the best interests of land owners, especially under customary tenure, to design and implement well-informed action to promote their cause.

### **1.3 Research objectives**

The overall objective of the research was to explore customary land owners' perceptions of titling in Lango and Teso sub-regions of Uganda. The more specific objectives were:

- a) To determine the extent to which customary land owners are aware of land titling provisions and practices in Uganda.
- b) To identify customary land owners' preferences in demarcation and documentation for their land
- c) To establish the factors that determine people's decisions on titles
- d) To assess customary land owners' readiness to seek and work for land titles that are appropriate for customary land tenure

### **1.4 Previous research**

Some years back, LEMU carried out in Lango a research on land titles obtained during the period from 1988 to 2007. The output of the research was a database saved on a computer as a spreadsheet (Excel). During 2019 LEMU tried to update that database with information on titles obtained in Lango from 2008 to 2018. However, this was not possible because LEMU could not obtain the necessary clearances from the Ministry of Lands to access the information from the Land Office in Lira.

In May 2019, LEMU carried out a spot study with a group of customary land rights holders and sampled clan leaders to determine people's choices of land titles, other land documentation and land demarcation, and reasons for the choices. It was also to assess the people's readiness to protect their land rights under threat. The findings of the small study showed differences among the people in their preferences for freehold or family land titles that LEMU has been advocating for. However, the majority, having benefited from LEMU training, opted for family land titles, which are, however, currently not provided for in the laws of Uganda. Responses to the question on what they would do if the Government did not offer the family land titles were rather tentative, leaving one wondering about their readiness to work for land titles that they consider appropriate for customary land tenure.

## **2. Methodology**

### **2.1 Research design and components**

This research being reported on was an exploratory research to provide pointers on customary land owners' understanding and perceptions of land demarcation, registration and titling. It sought to provide illustrative findings on perceptions of customary land owners in Lango and Teso. The research was carried out in 8 sub-counties in 4 different districts: two in Lango (Lira and Apac) and two in Teso (Katakwi and Kalaki). In each district, one of the sub-counties selected was more urban while the other was rural.

## 2.2 Population and sampling

The population for the research was land owner households in Lango and Teso. The population consisted mostly of customary land owners, since most land in Lango and Teso is held under customary tenure. In each sub-county, two parishes were selected. One village was sampled per parish. In each village 10 land owner household heads were sampled for individual interviews while 13 to 25 women were met in focus group discussions. The planned sample and actual respondents interacted with were as summarised in Table 2.1 below.

**Table 2.1: The research sample**

<b>Planned sample:</b>							
Districts	Sub-counties	Parishes	Villages	Individual interviews		Focus group discussions	
				Per village	Total	Per village	Total
4	8	16	16	10	160	1(15 people)	16 (240 people)
<b>Actual respondents met:</b>							
Districts	Sub-counties	Parishes	Villages	Individual interviews		Focus group discussions	
				Per village	Total	Per village	Total
4	8	16	16	10 or 11	163*	1(13-25women)	16 (280 women)

\*86% of those interviewed were men

The research team received a good response from the field and it was, as shown in Table 2.1 above, possible to reach all the planned sample and even meet a few extra people. Although this was the rain season, the rain interfered with only a few focus group discussions making the number of participants fall to 14 or 13 instead of the 15 to 20 that was planned. In a few other cases, the number went to above 20, up to a maximum of 25.

## 2.3 Research methods and tools

The research was undertaken through individual interviews and focus group discussions. One interview questionnaire and one focus group discussion guide was used for the data collection. The data collected through the individual interviews were entered into an Excel spreadsheet database template specifically designed for the research. The data were then analysed using mainly Excel. However, the more open-ended text responses were more manually analysed using the Microsoft Word application.

## 2.4 The Research Team

The research team was led by a consultant who has for several years been periodically engaged by LEMU to facilitate Monitoring and Evaluation activities. One LEMU Programme Manager, three LEMU Field Officers and one hired research assistant worked with the consultant to make the research team. After the data collection the consultant had the data entered into the database and carried out the analysis and report writing.



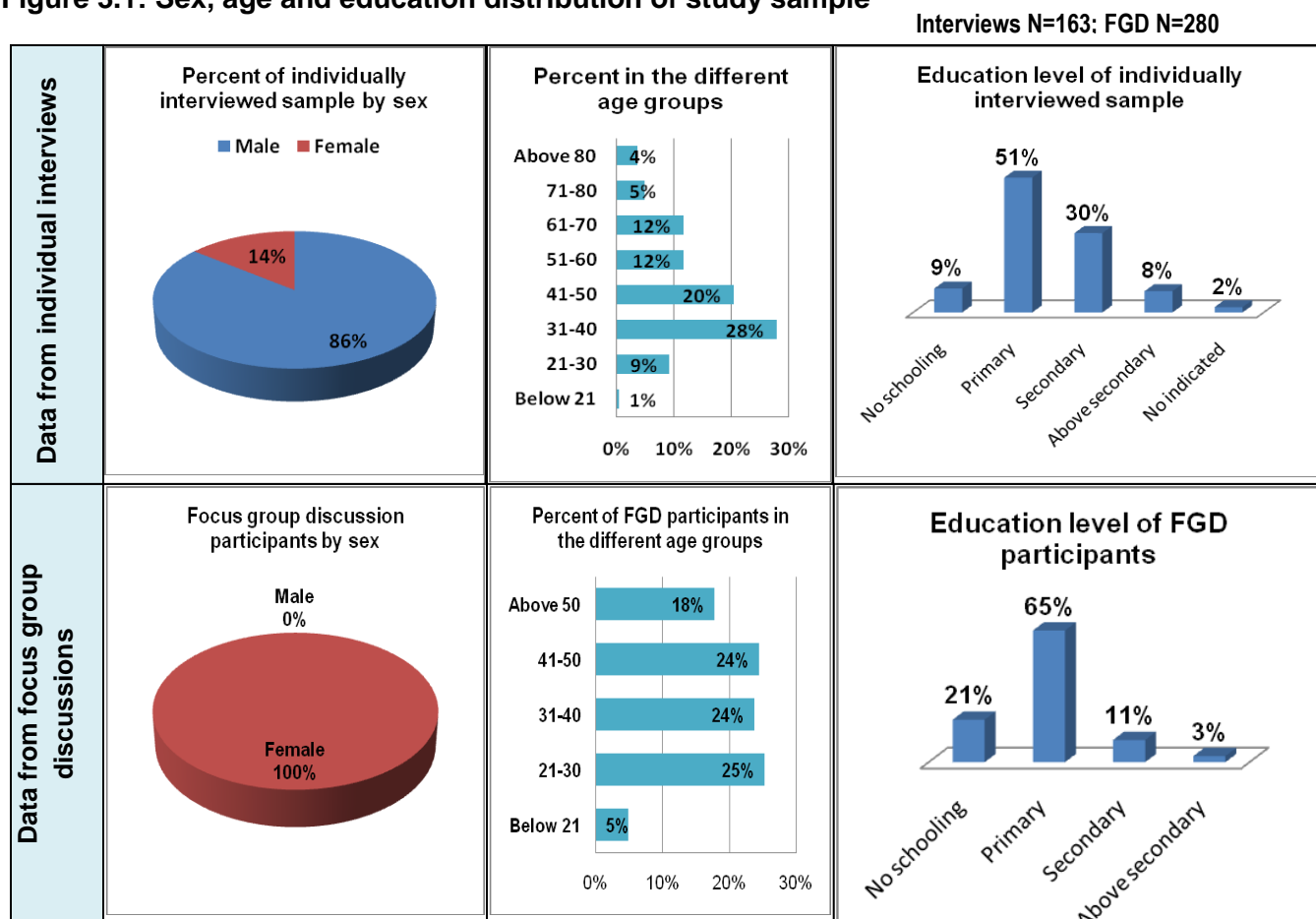
### 3. Research Findings

#### 3.1 Sample characteristics and land ownership status

##### Sample characteristics

The research collected and analysed some selected characteristics of the study sample and sought to relate them to their perceptions and practices of land titling. The variables selected were: sex, age, schooling, religion, source of land rights and main occupation from which they derive their livelihood. The findings are summarised in the figures below. One row of figures presents the data from individual interviews (mainly men) while the other presents the data from focus group discussions (FGD) (all women). The data presented are later in this report used to discuss whether the status of these different characteristics have a bearing on the different aspects of customary land owners' perceptions on land titling and related matters.

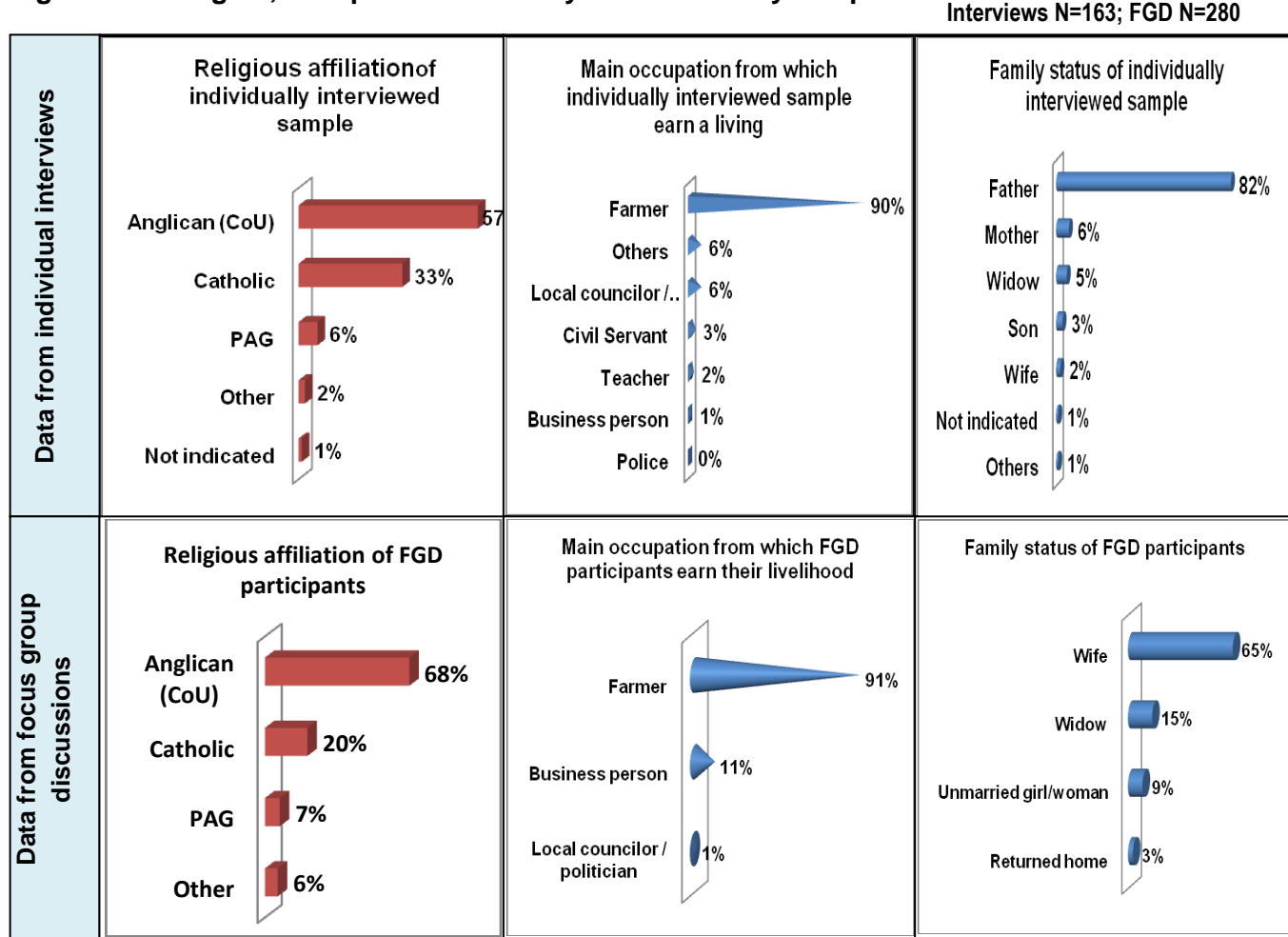
Figure 3.1: Sex, age and education distribution of study sample



Individual interviews targeted heads of households and these are usually men. So the fact that 86% of those interviewed were men may be quite a fair representation of the reality on the ground. However there are some female headed households. The 14% in the sample may be lower than the real percentage of such households in the two sub-regions because of the tendency in the community to mobilise men when those who mobilise are asked to mobilise heads of households. The dominant age group in the sample was from 31 to 50 years. This, too, seems to be a fair representation of the ages at which men are household heads.

The education status for the interviewed sample was that over 90% had attended some schooling, with 40% reaching secondary level and above. For the FGD groups, the education status was lower at 80% who had attended some schooling, with only 14% reaching secondary level and above. The school attendance rate of the sample compares well with that of the 2014 national census that found that only 5% of the male and 17% of the female population of Lango aged 10 years and above had never attended school (5% and 14% respectively for Teso)<sup>1</sup>. In that respect therefore it was a representative sample.

**Figure 3.2: Religion, occupation and family status of study sample**



Religious affiliation may at first sight not appear to be something that would be related to one's perception on land titling. However, some religious bodies have instituted various measures to promote land rights awareness and protection among their adherents, such as establishing land desks in their offices. Among the outcomes of their action may have been influence in their perceptions towards land titling. Moreover, some organisations that work on land rights matters, including LEMU, have been working with faith based institutions. The varying strength of the cooperation of the different faith-based institutions with such organisations may also have differently affected the perceptions of the members of the different faith based institutions. In that way, religious affiliation could come to be a factor that affects people's perceptions of titling. The sample interviewed had a rather high percent (57%) as Church of Uganda (COU) adherents, and the FGD participants even higher (68%), compared to 33% as Catholics, whose

<sup>1</sup> Uganda Bureau of Statistics, *Education Monograph Report Final 08-12-2017*, page 48

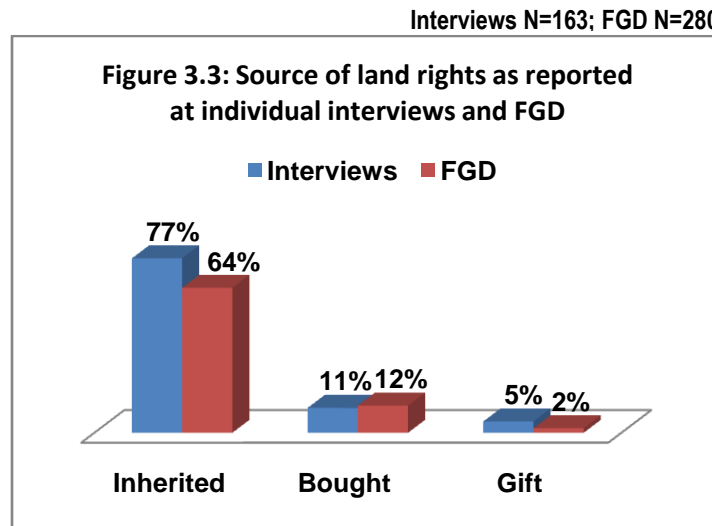
percentage is higher in the 2014 national census statistics (Catholic 39%, COU 32%). This may be reflecting the religious peculiarity of the two sub-regions.

The occupation from which the people earn their living may have a more direct link with their perceptions on land titling. Of those individually interviewed, a high 90% described themselves as farmers. The 2014 national census reported only 64% of the working population (nationally) as engaged in subsistence agriculture. With 90% of the people engaged in agriculture, land is of great importance in the two sub-regions. As will be presented below, the land holding is generally rather small and rapidly dwindling with a high population growth. Because of the small land holdings and lack of knowledge and technology for intensive high productivity farming, what most of the people are engaged in is often even below subsistence level. Their responses to be presented later in this report show that this has an effect on their thinking about land titles.

The family status of the respondent may determine the decision making role he or she plays on matters of family land. The father is normally the head of the family and so the custodian of family land rights under customary tenure. The sample for individual interviews was purposively selected to have heads of family and so they were mainly men (86% of the interviewed). There were also widows, who were heads of family. Fifteen percent of the women who participated in the focus group discussions were also widows, a fairly significant proportion. A very few of the individually interviewed were not heads of family: wives, mothers and sons.

### ***Land ownership and related perceptions***

Asked how they acquired rights to their land, those interviewed individually and participants at the FGD gave answers in practically the same percentage about having inherited, bought or received the land as a gift, as displayed below in Figure 3.3.



In most cases the land bought was in addition to land inherited, which was in most cases reported to be too little for the family. There were however some cases reported where families had only the land they had bought. The largest focus group discussion with about 25 participants, in Lira, had over 50% of the participants with only land that they had bought. They

explained that they had abandoned their homes in remote villages during the time of insecurity and did not have plans of returning there.

Sizes of land holdings were on average somewhat larger in Teso than in Lango. The average acreage for the Lango sample was as low as between three and four while very few reported owning more than 10 acres. In Teso, on the other hand, almost 50% reported having more than 10 acres. There is a possibility that the districts sampled for the study are not representative of land holdings in the two sub-regions. While the findings on sizes of land holdings may not, therefore, be safely generalised to the whole of the sub-regions, they are still indicators of the dwindling land holdings, especially in Lango. As came out in the findings on desire for titles, the small sizes of land seem to limit interest in land registration.

Perception on land ownership rights also have influence on land titling. At the focus group discussions in Lango, the perceptions of the women on family land ownership were sought to determine to whom they thought the land belonged. In spontaneous response, about 25% of the participants expressed the view that the land belongs to the husband who therefore has the power to decide over it. This generated quite a debate in two groups where several women disagreed with the majority on this. The argument to support the power of the men over the land was that it is the men who inherit the land from their fathers in their clan, whereas the women come empty-handed from their fathers and clans. Some women pointed out that if they leave their husbands for any good reason they can still go back to find land in their own clans at their parents' homes. Some other women were of the view that the land belongs to the clan, not the husbands. The position that the man has the overall controlling power over the land has significant implications for land titling.

It is, however, important to note that the majority of the women, about 75%, perceive the land as belonging to husband and wife or to the whole family. The sensitization carried out by the clans supported by LEMU and other organisations is apparently producing positive results. Many of the women were very articulate in stating that, according to the Lango customary land principles, by their marriage they acquire rights over the land inherited by their husbands. They further often stated that upon the death of their husbands, they remain as widows in charge of the family land. This awareness has significant implications for land registration and titling.

### **3.2 Customary land owners' knowledge of land titling legal provisions and practices**

#### ***Access to information about land titles***

Generally, the people had heard about land titles. Asked whether they had ever heard of land titles, 63% of those interviewed individually, who were mainly men, said they had. Among the Lango sample alone, the percent was higher at about 70. The focus group discussions with women also revealed that the majority had heard of land titles. Many of those who reported having heard of land titles could not readily recall where they had heard of them. The sources as presented in Table 3.1 show percentages among those who had heard about titles who stated the sources, excluding those who did not mention any source.

As the table shows, Government officials and LCs were the main sources mentioned. Radio and the community were also mentioned by many as the source of information on land titles. A significant number mentioned NGOs, with LEMU leading. Clan leaders could, perhaps, have played a more significant role, especially in Lango where many have been trained by LEMU to discuss matters of titling with their members.

**Table 3.1: Sources of information on land titles**

Source	% of respondents
1. Government officer, sub-county, LC	36
2. Radio	11
3. Neighbour, Social network, community	10
4. Clan leader	9
5. LEMU	8
6. Other NGO/CBO	5

Asked what type of land title they had heard of the respondents interviewed reported mainly freehold and CCO, as presented in Table 3.2. About 20% of the respondents mentioned both freehold and CCO. A smaller percent of women in the focus group discussions were able to mention the different titles. They simply reported that they had heard of titles. The mention of mark stone as a type of title was higher in the focus group discussions.

**Table 3.2: Types of land titles people had heard of**

Type of title	% of respondents
1. Freehold	42
2. CCO	24
3. Leasehold	4
4. Mailo	3
5. Mark stone	2
6. Land titles in general	21

***Percentage of the customary land owners able to explain what a land title is***

The research found that there was a very low understanding of what a land title is. Of the people interviewed individually, only 24% explained that it was a document to do with land rights of the holder, while 14% explained that it was a mark stone or mark stones planted on one's land. The rest gave a variety of different explanations or said in different ways that they could not explain. While many who mentioned that a title is a document explained correctly that it is evidence of the holder's land ownership guaranteed by the Government, quite many also stated in one way or another that the title gives the holder the rights to the land for which it is issued. The following are sample statements they made:

- Document that confers rights to the bearer; if the government wants to occupy land with a title then it needs to enter agreement with the holder
- The right that the government has given you to own a particular piece of land
- The right over the land granted by the Government

- Document that gives right to the holder to enjoy utilising his/her land peacefully
- Documents awarded to give full rights to land and how land should be used
- Document obtained from Government that gives one full possession of land rights
- A written form by the government that gives full rights to any person on application
- A document from Government that gives rights of land to anyone holding it
- A document given by Government that gives land rights to the bearer
- Document that is granted by Government to confer rights to the applicant to his/her land
- It helps protect your land especially now that it is Town Council

In the focus group discussions it was possible to probe deeper into the perception that the title confers land rights to the bearer. The first statement by an individual interview respondent in the list above captures the gist of what came out during a number of the focus group discussions. Many of the women explained that the title gives rights to the holder and makes his or her land safe from being simply taken by the Government and anyone else. The perception was particularly strong in the municipal council areas in Lango. The women explained that it is because they had no titles that the municipal councils simply wanted to go ahead with the programme of opening up roads through their land without any compensation. They further explained that land with titles would either be avoided or would be well compensated. Some of the women even said that some officials were telling them that since they were in the municipal council the Government had the right to use their land for development. The last statement in the list above, from a respondent in a Town Council in Teso, reveals a similar fear there.

Earlier in the discussion, the women had been asked how they had acquired rights to the land on which they were. Almost all answered that the land had been acquired through inheritance: their husbands had inherited the land from their fathers. Very few had additional land that was bought and even fewer (14% of the interviewed) had only land they had bought. However, they all still seemed to believe that their rights over their inherited land were subject to government confirmation.

When this point was raised in focus group discussions outside the municipal councils similar sentiments were echoed. They expressed the view that without a title even their inherited land was at risk if government wanted it. A few stated that they were being taken advantage of because they were ignorant.

### ***Percentage of customary land owners who can explain the process of land titling***

Efforts to explain the process of land titling were tied to the people's understanding of what a land title is. Generally the explanations of the land titling process that they gave were very vague. In very few cases were respondents able to list most of the steps of the process of the freehold title from the meeting with neighbours and the Area Land Committee (ALC) up to the issuing of the certificate of title by the Ministry of Lands. The steps leading to obtaining the CCO were explained by a few people, slightly more in Katakwi maybe because people in other sub-counties there are being supported in a project to promote customary land mapping and obtaining CCOs. People in the rest of the study areas had not been exposed to the CCO process.

The other few people who were able to explain the initial steps towards titling stopped with their explanation at the stage of surveying and planting survey mark stones. As already explained, some of the people, especially the women at the focus group discussions, equated a land title to the survey mark stones planted at the boundaries. The perception among many was that the mark stones are more secure than the boundary trees. However, there was sometimes a debate about that, with some arguing that the boundary plants, which are visible, are more reliable than the mark stones that are usually underground. Table 3.3 presents the authorities or activities mentioned by those who were individually interviewed in their explanation of the process of getting a title.

**Table 3.3: Body or activity mentioned as involved in land titling process**

<b>Body or activity mentioned</b>	<b>% of respondents</b>
District	14
Sub-county	13
LC1 (a few also LC2 & 3)	12
Survey	12
Authority or authorities	9
ALC	7
DLB	7
Neighbours	6

As Table 3.3 shows, only a few people were able to mention one or several of the authorities involved in the procedures of processing titles for people. Most could not even explain where they could start the process.

### **3.3 Customary land owners' preferences in demarcation and documentation for their land**

#### ***How customary land owners have demarcated their land***

Landowners in Lango and Teso have various ways of demarcating their land but not all take specific action to do so. Asked whether they had taken any action to demarcate the boundaries of their land, 77% of those interviewed individually said that they had, 23% had not. Of those who had taken action, 65% had planted the traditional boundary plants (*omaraomara*, *oligo*, *ejumula*) and 13% reported simply heaping dug up rubbish on the boundaries, while the remaining 22% used various other means, such as planting grass, digging trenches or even planting trees that grow big. At the focus group discussions, the women emphasised that the important thing was to have an understanding with the neighbours. Trees planted at the boundaries may spread to either side of the boundary, but this will not create problems if there is proper understanding. They could, however, lead to serious conflicts if there is no mutual understanding.

Very few mentioned having planted mark stones. Two explained that they had reached the stage of having survey markers planted around their land but they had not yet completed the process of obtaining the title.

### ***Customary land owners with written evidence of ownership of their land***

A reflection of the oral culture that still strongly prevails in the society is the fact that only 36% of those interviewed had taken any action to have documents for their land. It is no surprise, as already reported, that some had explained a land title as the mark stones planted around the land. The efforts to train and encourage people to draw sketch maps of their land and sign them together with the neighbours and clan leaders seems to have produced minimal results. Only 5 of the 163 people interviewed reported having used the signed sketch maps. The main type of document used is the written agreement mainly when buying and selling land and after resolution of a conflict. Preventive documentation is hardly considered.

### **3.4 Factors that determine people's decisions on titles**

#### ***Customary land owners who have tried to acquire land titles***

Very few of the people (only 5%) had ever tried to acquire a land title of any kind. This is not surprising since 30% of those interviewed reported never having heard of land titles and most of the 70% who had heard about them could not explain what they were. Some of those who reported having applied to obtain land titles could not even specify what type of title they had applied for as freehold. The reasons given by those who had applied included:

- The Government project may affect the area so I need to benefit from the compensation
- To prevent land grabbing;
- For greater security of my land rights;
- To make the land more secure for my family;
- For clarity of boundaries

The difficulty that all those who had applied faced was that the process needed a lot of money. One respondent reported also resistance from the family. Only one of the applicants reported having obtained the title applied for. Reasons given for failure to obtain the title were: lack of money to complete the process, delay in the process and, in one case, dispute with family members.

**Table 3.4: Reasons given for not applying for a land title**

	<b>Reason</b>	<b>% of respondents</b>
1.	It requires too much money	38.1
2.	I don't have enough knowledge about it	32.0
3.	We have security of tenure on our land	8.2
4.	I don't need a land title	5.2
5.	There are still disputes on the land	5.2
6.	It is a lot of trouble	4.1
7.	Land not yet allocated to children	4.1
8.	We have a signed sketch map	1.0
9.	We and neighbours know our boundaries	1.0
10.	Brother already acquired title for whole land	1.0



As shown in Table 3.4, the cost of the title is the main reason people give for not applying for the land title. Most likely they have in mind the freehold title. This is followed by lack of knowledge about titles, which has already been reported on.

### ***Benefits and disadvantages of land titles***

Despite the poor knowledge of land titles, most people were still able to broadly state perceptions on the benefits of titles, although they could not assess the benefits of the different categories of titles. The benefits mentioned are presented in Table 3.5 below:

**Table 3.5 :Benefits of Titles in the people’s perception**

<b>Category of benefit</b>	<b>% of respondents</b>
1. Reduces / stops land dispute	24
2. Evidence of land rights	14
3. Protects land from grabbers	14
4. Ensures land rights for the children and future generation	14
5. Used as collateral / security for bank loan	12
6. Ensures compensation*	8
7. Adds value to land	7
8. Gives full rights to the land*	6

*\*As already presented earlier in the report, there is a belief among many that it is the title that confers the right to compensation for land taken for Government projects*

There were fewer views expressed about the disadvantages of titles.

**Table 3.6 :Disadvantages of Titles in the people’s perception**

<b>Category of disadvantage</b>	<b>% of respondents*</b>
1. It is expensive	10
2. May lose the land when term of the lease expires	6
3. No disadvantage	5
4. Denies or reduces rights of others	5
5. May lose land when fails to repay loan	5
6. Title may be used by Government to take one’s land	4

*\* No responses were recorded from about 60% of the respondents*

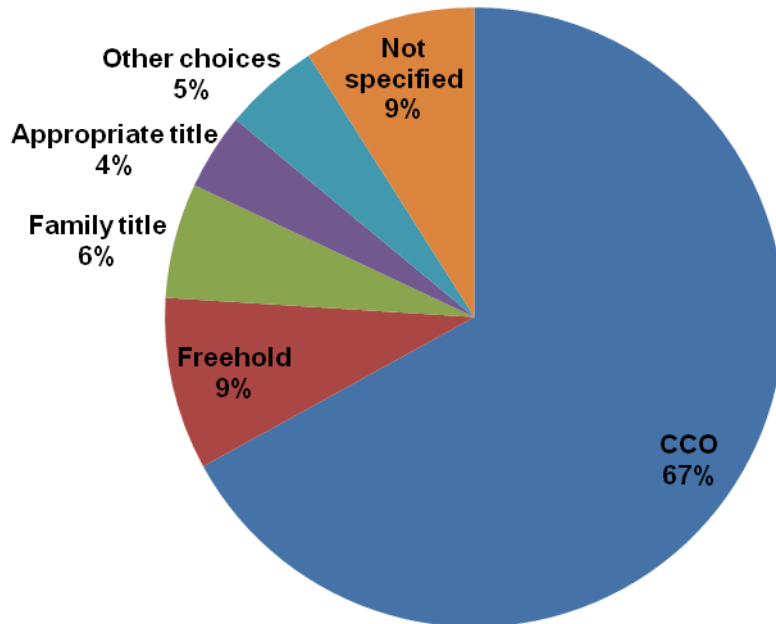
A few other respondents had views about possible conflicts that titles may cause in the family and with neighbours and also the difficulties faced when one loses the certificate of title. Similar views were expressed at the focus group discussions. The conflicts were said to arise especially when the titling is done without sufficient consultations. However the views were also expressed that the titles may deny some current or future family members their land rights. These disadvantages were, however, being expressed without reference to specific types of titles,

## **3.5 Customary land owners’ readiness to seek and work for appropriate titles**

### ***Customary land owners’ views on the most appropriate title for their land***

To the question on what, in their opinion, is the most suitable type of title for land owned under customary land tenure, The respondents answered as displayed in Figure 3.4.

**Figure 3.4: Most appropriate title for customary land**



In view of the fact that only 24% of the respondents had mentioned that they knew of the CCO as one of the types of title, it would seem that the response to this question was after the interviewers had given the respondents options of titles to choose from, maybe with some explanation of the different titles. It is otherwise difficult to explain the 66% choosing the CCO when only 24% had earlier in the interview reported knowing of CCO. This may weaken any conclusions that could be made from this finding. The responses grouped in Figure 3.4 under “other choices” (5%) included some for clan title or registration and others for no title required. The “not specified” (9%) included 5% with no responses recorded and the rest not sure or saying they did not have enough knowledge.

However the reasons, they gave for choosing the CCO, as summarised in Table 3.7, are revealing of their perceptions and convictions.

**Table 3.7: Respondents’ reasons for choosing the CCO**

Reason for choice	% of mentions
1. Ensures land rights security of all family members	68%
2. Enables land to be managed under customary tenure	19%
3. Gives Government security to customary land owners	5%
4. Enables customary land owners to use their land easily for business transactions	3%
5. Affordable and most familiar	3%
6. Enables customary land owners to get loans for development	2%

**Action customary land owners would take to secure the appropriate title for their land**

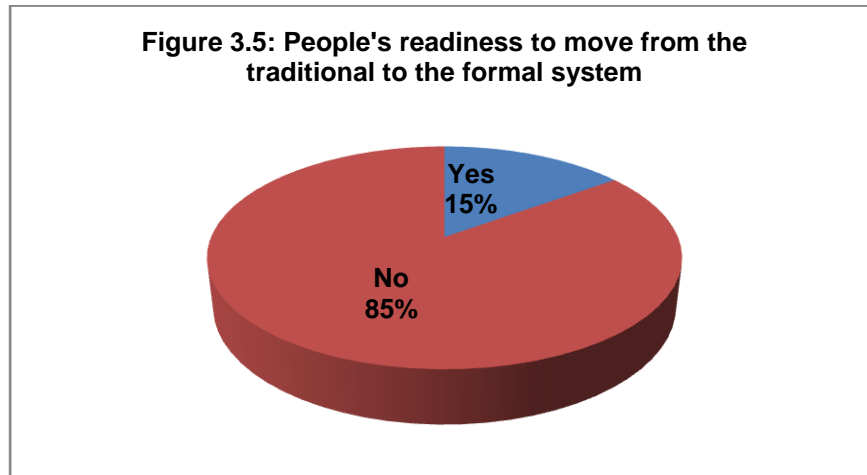
To probe the level of their conviction to ensure they obtain only the title appropriate for their customary land, the people were asked what action they would take if Government did not offer them the title they consider most appropriate. Their responses summarised in three categories in Table 3.8 below, with typical responses under each category:

**Table 3.8: Action the people will take if Government does not offer the title they desire**

Comply with Government position (35%)	Abandon titling and continue as we are (56%)	Take action against Government (9%)
<ol style="list-style-type: none"> <li>1. I would go for / divert to a freehold title (8 responses)</li> <li>2. To resort to the interests of the Government</li> <li>3. Abandon it because no one is above Government</li> <li>4. Seek for legal advice and start to process the one government is in support of</li> <li>5. Would get an alternative title / go for CCO</li> <li>6. To get another form of title the Government considers most appropriate</li> <li>7. I would go for the form of title the Government wants because it is hard to compete against the Government</li> <li>8. Just to comply with the state system</li> <li>9. No action</li> </ol>	<ol style="list-style-type: none"> <li>1. Will just leave the land without a titled (6 responses)</li> <li>2. Just abandon in case nobody is disturbing or threatening me on the land</li> <li>3. I would neglect all forms of titles and stay under traditional land governance</li> <li>4. I deny the government interest and abandon titling land</li> <li>5. Would only plant omaraomara and have neighbours sign on the map of the land (3 responses)</li> <li>6. Would abandon and continue with customary land management by traditional institutions (6 responses)</li> <li>7. I would not accept any other form of title except the family land title</li> <li>8. To inform the clan leaders to protect my land for my children</li> <li>9. Then I ignore and continue with the clan system</li> <li>10. Would just plant trees on my land without getting a title because the trees will show land rights</li> <li>11. Seek for legal advisers to get advice whether to accept the form of title that is good for my land</li> <li>12. Would ignore all forms of title, not go for any, only if it is by force then I will go for freehold</li> <li>13. My land should remain with the clan, I would keep my land with the clan</li> <li>14. I would insist on the type that provides a similar advantage</li> </ol>	<ol style="list-style-type: none"> <li>1. Sue the Government</li> <li>2. Would report to LEMU so that I am assisted because LEMU has been helping me on land disputes</li> <li>3. Seek legal advice from legal advisors to protect my land</li> <li>4. Would resist any other form of title other than CCO</li> <li>5. To contact LEMU for more legal advice</li> </ol>

### **People's readiness to move from the traditional to the formal ways of protecting land**

Customary land owners in Lango and Teso are overwhelmingly not ready to move from the traditional ways of protecting land to the Government system, as their response presented in Figure 3.4 shows.

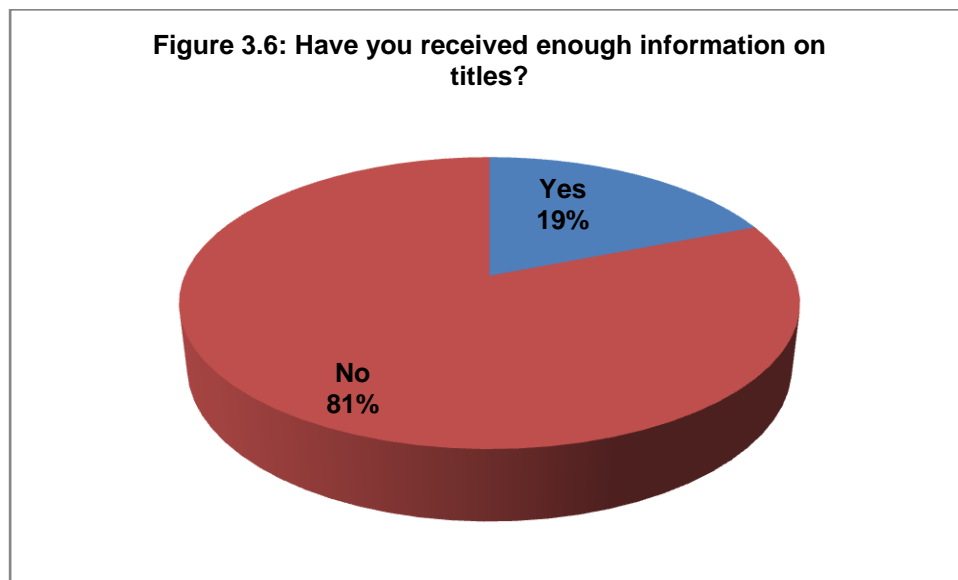


Frequently mentioned reasons why they are not ready to do so fall into these categories:

<b>Not ready to move from traditional to Government System</b>	<b>No. of responses</b>
1. Government system is expensive; traditional is cheap	20
2. I do not trust the government system (can't be sure of their intention, there is corruption, does not favour the people)	19
3. Traditional system easy to reach and people understand it	17
4. I do not understand Government systems (not enough knowledge available, it is new, complicated and confusing especially when one is not educated, illiterate)	13
5. Customary land should be managed in the (time tested) traditional system	13
6. Land managed by traditional institutions are always protected for all family members by the clan leaders unlike land managed by Government (Government titles favour individuals, land difficult to sell in traditional system)	13
7. Traditional leaders know about our land more than the Government system people	9
<b>Ready to move</b>	
a) Some clan leaders are biased; government can help him in case of dispute other than the clan who are biased	2
b) The Government has a clear system while traditional system is sometimes based on gambles	1
c) It gives security and is recognised by Government	1
d) He is in the Town Council and it is difficult to instill clan practices in the Town Council	1
e) He is a child born out of marriage and the clan wants to chase him out of its land and the Government may consider his status	1
f) The title granted by Government can be used as evidence in court in case dispute arises on the land	1
g) In case of development and you do not have a title, or you are not at par with the government the land can easily be grabbed for investment when Government is not in protection	1
h) The government system is good because justice is applied unlike the clan that are corrupt	1
i) Because in case of sales, consent need to be got from children and spouse; Children can inherit after the father dies	1

### ***Need for more information about titles and titling***

As the findings presented in this report have amply shown, there is much need for more information on titles and the titling process. The people are clearly aware of this need, as their response presented in Figure 3.5 shows.



It was much more difficult for them to articulate what more information they need. A woman in a focus group discussion stated: “We know nothing. You know all that we need to know. You arrange and come to train us!”. Twenty-two percent (22%) of the respondents, who said they needed more information, could not state the information they needed. However, 66% of the respondents managed to articulate some specific needs.

Thirty-five percent 35% of those who stated the information they wanted said they wanted to know the process of acquiring a title, without specifying what kind of title. Only 3 out of 108 specified that they wanted to know the process of acquiring a CCO and one wanted to process for acquiring a family land title! There was an interesting need expressed in Palam, Katakwi District, by about ten people for information on how to manage land in some cases specified as customary land. One wonders whether it has anything to do with the ongoing mapping of customary land project in some sub-counties of the District. Most of the other information needs expressed were to know more about titles– the different types and their merits and demerits,

## **4. Discussions and conclusions**

### **4.1 Views on land rights and implications for titles**

The findings of this research that about 70% of the respondents were living on land inherited from parents and the fact that practically all the land was inherited by men made it interesting to find out women’s views onto whom the land belongs. The finding already reported was that 75% of the women in the FGDs believed the land belongs to the family (some stated husband and wife), while 25% stated that the land belongs to the husband, a few adding that he can decide

what to do with it. One of the specifications made by the women at several FGDs that when their husbands die they remain with the rights to the land as heads of the family confirmed their confidence in the family land rights. The 75% seems to indicate a significant advance when compared to the findings of the research on widows land rights in Teso in 2016 where 35% of the widows interviewed said they did not know the rights they had over land<sup>1</sup>. Compared to this, the confidence the women have shown in 2019 may therefore be an indicator that the work LEMU and other actors are doing with the customary land owners, trustees and managers is producing positive results.

However the fact that 25% of the women still believe the land belongs to the husband and the heated debate in some FGDs where some women defended that belief, shows there is still more work for LEMU and others who are promoting proper understanding of land rights under customary tenure. Of particular concern is the statement by some women that the men are free to decide what to do with the land they inherited because it is they who inherited it and “as a wife, I did not come from our home with any land”. It is a minority position but still of concern.

This awareness of the women that land belongs to the family most likely feeds into the decisions about land titling and what titles to look for if any. A few respondents mentioned preference for the family land title that is promoted by LEMU but does not have legislation to back it. From the reasons given for preferring the CCO, many of the respondents seem to believe that the CCO safeguards family land rights. This preference for CCO is discussed in Section 4.4 below.

Unfortunately, the question on to whom the land belongs was not asked at the individual interviews with the men. Their view on this is very important for the decision on land titling. It is a gap that needs to be filled.

## **4.2 Inadequate understanding of land titles and titling procedures**

This research was to explore customary owners’ perceptions of land titles. The hurdle the research found on the way was that, although the majority of the people (70%) reported having heard about land titles (42%) and CCO (24%), they had a great difficulty to explain what a land title is. Any opinions they expressed about land titles or titling were therefore based on inadequate understanding. Surprisingly, most of these people were from areas where LEMU staff had reached physically, in some cases with special projects like the Community Land Protection project. LEMU has also come out with campaigns over radio and other fora on the risks of titling. However, it seems the people had so far understood the messages only vaguely, and only 8% spontaneously mentioned having heard about land titles from LEMU. This should provide LEMU with some food for thought.

The fact that people have such inadequate understanding of land titles means that anyone who comes out with an aggressive campaign to convince them to adopt any form of land title could win them over. This supports one of the fears that led to this research, namely that people may be accepting to participate in the titling projects supported by some agencies out of ignorance. When 85% of the respondents in this study responded that they were not ready to move from the traditional to the formal (government) land management systems, they were expressing fear

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<sup>1</sup>LEMU, 2016, *Exposed to the Onslaught of Greedy In-Laws – Report of Research on Widows Land Rights in Teso*.

of moving from the known to the unknown. They could not have been making a choice based on the merits and demerits of the two systems when 81% of them responded that they had not received enough information on titles.

#### **4.3 Little desire for land titles**

The findings of this research show that there is little desire for land titles among the customary land owners: only 5% of the respondents had ever tried to acquire a land title of any kind. This should not be surprising in view of the finding that 81% of the respondents have said they did not have enough information on titles. However, in their vague understanding of titles, one of the factors that stood out in their minds was the cost of the titling process: 40% replied that they did not apply because the process was costly, while only 30% responded that they did not apply because they did not have enough knowledge about titles. Two other reasons were that some felt they had security over their land and did not need a title while others had not applied because they had issues on their land.

These responses to why they did not apply may be reaction to the research questioning. The reality seems to be rather that many had not thought about titling at all, as was revealed through deeper probing at FGDs. Participants in the focus group discussions emphasised that the important thing was mutual understanding with the neighbours. To support this mutual understanding, many had planted recognised boundary plants to demarcate their land (50% of those individually interviewed). As already reported, others had demarcated their land by simply heaping dug up rubbish on the boundaries, planting or leaving grass to grow along the boundaries, digging trenches or even planting trees that grow big to act as boundary markers. The oral culture that still prevails in the society sustains low interest in written documents as evidence of their land rights, as was reported that only 36% had any such documents, mainly as agreements after conflict resolution or sales agreements. This is in line with the finding in the LEMU research undertaken in Teso over a decade ago in 2007<sup>1</sup> that, "Questionnaire respondents mostly (60%) cited the desire to avoid conflicts with neighbours as the reason for wanting a certificate – in other words, they did not want a certificate so much as to have marked and securely recognised boundaries to their land" (Page 21).

#### **4.4 Preference for the Certificate of Customary Ownership and its implications**

As reported in the findings, a significant percent of the respondents (67%) assessed the Certificate of Customary Ownership (CCO) as the most suitable type of title for land owned under customary land tenure. In the LEMU research cited above undertaken in Teso in 2007, 28% of the respondents had expressed a desire for certificates of ownership. (The researchers commented that this was more than in Lango). That earlier research reported that the reasons the respondents gave for the desire to have the CCO related to the collapse of trust in the ability of customary authorities to guarantee their ownership rights with the explanation that even though their security of tenure within the customary system was guaranteed, it was too easy for 'an uncle' simply to sell your land behind your back – and nothing could be done. However, the reasons given for the preference of the CCO in the current research seem to show that the

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<sup>1</sup>Adoko Judy and Simon Levine (January 2007), *Land Transactions on Land Under Customary Tenure in Teso*.  
[www.land-in-uganda.org](http://www.land-in-uganda.org)

respondents see the CCO ensuring land rights security of all family members while enabling land to be managed under customary tenure.

LEMU has pointed out the risks with the CCO and concluded in a 2017 policy brief that, “From the above risks, it is not obvious that the CCO will provide an appropriate title and security of customary land tenure that will allow the tenure system to remain within its unique and different system, alongside the other 3 tenure systems – Freehold, Mailo and Leasehold”<sup>1</sup>. The policy brief had presented eight risks, key among them is exclusion of traditional governance from management of customary land with the CCO. Some of the other risks raised are related to the fact that, although provided for in legislation, the CCO has not been properly operationalised by the state administration, which had already been pointed out in the 2007 study. There is also need to harmonise the CCO legislation with the provisions in the National Land Policy.

Although beleaguered by such and other shortcomings, the CCO is acceptable to many customary land owners and several agencies are making efforts to popularise and support its adoption. The momentum seems set to grow and, recognising that reality, LEMU has, in implementing its 2018-2022 strategic plan, proposed a strategy to make the best of the CCO adoption by constituting a “CCO Observatory” consisting of experts from various agencies to monitor the functioning and outcomes of the CCO. However, LEMU still believes that, in order to be able to determine the most appropriate terms of reference for the “CCO Observatory”, more research still needs to be carried out on the on-going initiatives working with customary land owner communities to provide CCOs in various parts of the country. This current research will, hopefully provide some of the information and insight still required.

## **4.5 Conclusions and recommendations in summary**

### **Understanding land titles**

The low understanding of land titles and the titling process no doubt has a great influence on the people’s perceptions and decisions on land titling. They are not in a position to make a choice based on the benefits and disadvantages of titling or the merits and demerits of the different types of titles. This leaves them vulnerable to being persuaded by those who present attractive arguments for titling by conversion to the freehold system. As already reported, 81% said they have not received enough information on titles and needed more information and training on them.

**Recommendation 1:** LEMU and other like-minded actors should intensify the education on titling and the merits and demerits of the various titles.

### **Preferences in demarcation and documentation**

Although 70% of the respondents had heard about land titles, the research found little spontaneous desire for land titles. This may be partly because they do not understand land titles but it seems more because they are satisfied with the way they are currently managing their land. What is important to them is to have mutual understanding with neighbours about their boundaries, which they reinforce with traditional boundary marking plants or in more rudimentary ways. It seems that for many, the boundary sketch mapping signed by neighbours

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<sup>1</sup>Adoko, Judy, 2017, *Certificates of Customary Ownership (CCOs) are not what they seem on the surface – risks to CCOs*. LEMU



with copies securely kept would be enough documentation so that they continue managing the land in their customary way.

**Recommendation 2:** LEMU and other like-minded actors should continue disseminating and supporting the boundary tree planting with signed sketch mapping and intensify lobbying and advocacy for implementation of the National Land Policy 2013 strategy to, “*Recognise and confer official status to community-based boundary-marking systems in all tenure systems*” (Strategy 109 (v)).

### **Factors that determine decisions on titles**

The factors mentioned in the two paragraphs above: inadequate understanding of land titles and satisfaction with the customary way in which land is currently managed may be the two key factors that determine decisions on titles. Inadequate understanding of land titles influences decisions both negatively and positively. On the one hand, because of fear of the unknown, people prefer to stay with the system they understand, and on the other hand, inadequate understanding leaves people vulnerable to clever persuasion to adopt a title on offer. For example, the few who tried to explain the freehold title made dangerous statements such as that it confers upon the holder the land rights and that it stops land grabbing. Also, the preference for the CCO expressed by the majority came after they had failed to explain well what the CCO is.

**Recommendation 3:** Since the CCO seems acceptable to many customary land owners, some of who explained that it enables land to continue being managed in the customary way, and there increasing momentum to popularise and support the CCO acquisition, LEMU and like-minded actors should also increase the momentum to enable the people to understand the CCO properly and LEMU’s idea of setting up the “CCO Observatory” should be urgently pursued.

### **Readiness or not to move to the Government system**

As already pointed out, the overwhelming number (85%) of people who reported not being ready to move to the formal government system may have been influenced by fear of the unknown since 81% said they have not received enough information on titles and needed more information and training on them. However, the number who said it is because the government system is expensive and because they felt customary land should be managed in the traditional system were most likely making well-informed decisions.

**Recommendation 4:** Intensified education on titles has already been recommended. While doing that, LEMU and like-minded actors should make use of the kind of reasons the people are giving that the government system is expensive and especially that the people feel it is best for customary land to be managed in the traditional system.