

Will papers help me protect my land?

1. What happens if I don't get any papers?

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If the land is yours, then you are still the legal owner of the land whether you have papers or not. Papers do not give you more rights to the land, but they do give you proof that is more acceptable to those from outside your community that the land is yours. They also mean that your land will be ad followed (e.g. for inheritance) and you will have to be

2. What happens if I get a Certificate of Customary Ownership (CCO)?

An official paper to say you own the land, but don't have a Certificate of Customary Ownership (CCO) registered that is, if a title area is free, and the Certificate

2. What happens if I get a Certificate of Customary Ownership?

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If you want an official paper to say you own the land, but don't have one, you can apply for a 'Certificate of Customary Ownership' (CCO). If your land has already been registered, that is, if a title exists, this goes to the Area Land Committee, and the Certificate of Customary Ownership (CCO) is issued to you (the owner of the land). Unfortunately, the Districts have never offered this service to the people of the country. Courts will consider them, but they don't know about how to handle them. Courts will consider them, but they don't know about how to handle them. Courts will consider them, but they don't know about how to handle them.

3. What happens if I get a Certificate of Customary Ownership?

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your rights to a Certificate of Customary Ownership (CCO).

Advantages

A title which is given by the government should be applied for by the authorities.

3. What happens if I get a title?

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Advantages of having a freehold title

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Upon your death if you leave your land to your wife and/or children it will be easier for them to claim all the land if they have their names already on the title. The title is just to your name, you way to ensure ins. is to have their names on the title. It is make sure that they can take over should write a will to make sure that they can take over ins. to their own names on your death. If transferred into their own names, they may Then, even if someone grabs the land from the because they appear to be dead. They will remain with the title and can always claim the land to remain in the future. If necessary by going to court and enforcing their rights.

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The land is not governed by customary law. This has advantages and disadvantages. The good thing is that State law is much clearer and is written down although it must be recognized that the justice system is very weak and the law is not always followed correctly or enforced.

Under State law, any rights not written on the title cannot be claimed, so there is much less confusion about the rights which different people claim over the land. It is possible to write down the different rights which people have on the land, and these will remain even if the land is sold. Though many people do not think to do this or do not know it can be done, rights to graze cattle on the rights to cross the land, rights to graze cattle on the land after harvest. Once these are written down, they are clear and cannot be disputed.

Titled land is formally surveyed and the map is written down in the Land Registry. Even if someone removes the marker stones, the official record of the land boundaries remains. When land is titled, there are advantages for the Government. Stamp duty and other fees are an important source of revenue, and it makes it easier for people to plan land use when everything is documented.

A title may be accepted for institutions as security for a loan. However, you need to remember that if you don't secure the loan on time, you may lose the land.

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Advantages

Advantages

A CCO is an official document saying that you are the owner of the customary law recognised you as the owner of the land. This can be used the land. (If someone else owns it, you can sue them for it, but the court will not give you the land, but the court will give you a stronger claim to the land.)

It is much easier to write many names on a title - although there is nothing to stop the number of names on a title.

The CCO has a map attached to it, where your land boundaries are, boundary corner 101s because you have proof of where your land ends. (If it is not formally surveyed with a survey, so unless it is made very clear, are, e.g. by planting marker to show for there to be a dispute about the boundary lies.)

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**Land and
Equity Movement
in Uganda (LEMU)**



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Will papers help me protect my land?

Most people do not have any papers to show they own their land. The law says that even without papers, you have the same rights of ownership as people who have titles to their land. It is not necessary to get a title in order to own land.

You can own land without titles according to 'customary rules', for example because you inherited the land or because you bought it from the person who was locally recognised as being the real owner.

Nevertheless, some people feel that they would be more secure if they had titles, and there are some programmes which are encouraging people to get titles.

Is this a good idea? Are there advantages in getting papers for land? There are both advantages and disadvantages in getting papers of ownership for your land. No-one can decide for you what is the best for you, because that will depend upon your circumstances and your needs. If you understand what is involved in the different choices that you can make, then you and your family will be able to make the decisions that best suit you.

What should I do?

You have three choices.

- 1) You can choose **not to get any papers** at all. You are still the legal owner of the land.
- 2) You can get a **certificate of customary ownership**. The certificate is given by the Recorder (the sub-county chief).
- 3) You can get a **title** to your land. This means that you will be what is called 'the freehold owner' of the land. You can apply for a title at the District Land Board.

Some people want to get a leasehold title from the District Land Board on their customary land. This is not correct. A lease is a long term rental agreement, which is why you have to pay ground rent every year. You get a lease on land which is owned by someone else, e.g. the State ("the Government"), but not on your own land.

There are advantages and disadvantages to each of the three choices. There is no 'best way forward' that will suit everyone. Read through the leaflets which explain what is involved in each choice. Discuss it with your family and decide which one suits your interests best.

1. What happens if I don't get any papers?

If the land is yours, then you are still the legal owner of the land whether you have papers or not. Papers do not give you more rights to the land, but they do give you proof that is more acceptable to those from outside your community that the land is yours. They also mean that your land will be administered in a different way, as some State procedures will have to be followed (e.g. for inheritance) rather than using local or customary procedures.

Advantages to having no papers

There are costs involved in getting papers, either a title or certificate. You don't have to pay anything if you remain without papers. (A certificate should cost 10,000/-. A title will cost 30,000/-, but you may have to pay a great deal more for surveying.)

If you don't get papers, then the land continues to be governed by customary rules, and to be administered by the customary system. This has some advantages:

- You know what the procedures are in your local system (e.g. going to the head of the family, going to the clan, going to traditional figures such as (*adwong wan tic* or *rwot kweri*). You may not know what you have to do if you want to sell the land, if you have a land dispute or if the land is being inherited under the State system. This could cause problems if you don't do things in the correct way.
- Customary law is more flexible. This means that if mistakes are made, it is much easier to put them right. It also means that solutions can be found which suit people in that situation. As long as everyone agrees, then this solution is legal.
- Under customary law, everyone has some land rights. Sometimes, this means you have to accommodate other people's needs, but it also means you

know that your children's needs will all be heard in the future when the land is divided and passed on to future generations. Customary law is supposed to protect the vulnerable members of a family (although in practice this protection is not always given.) If you have title, then people who do not have their names on the title may lose all their rights. If you want to title your own land, this may not seem a problem for you - but it may be a problem for your children or grandchildren if one person inherits the title and tries to claim all the land as their own.

- It is harder to sell land outside the family under the customary system. Sometimes this can be seen as a disadvantage, but there is also a positive side. Land is more likely to remain in the family for future generations.

If there is a conflict, it can be dealt with locally. This makes it easy and cheap for everyone. (If you get a title, disputes will be dealt with by magistrates courts. This may involve lawyers fees, costs of transport, court fees, etc.)

Certificates and titles mean that boundaries are marked and written down, which can reduce conflicts. However, it is also possible within customary tenure to mark the boundaries of plots and to get public

recognition of all the boundaries. As a village, you can agree to plant specific trees, and to draw a map of all the plots and who has which rights and responsibilities over which plot. This can be used locally in solving disputes and in proving ownership

of land. (See LEMU's leaflet, '**How can we minimise land conflicts?**'))

When you sell land, or when land is inherited, there are no costs involved. (Some LCs may request a small fee to witness letters of sale.)

Disadvantages to having no papers

The law says that you are the secure owner of your land without papers, but the law may not always be applied very well. If you have no papers, you may find it difficult to prove the land is really yours. If someone else is able to get a title to your land, even if they have no right to the title, then you will have to prove that they used fraud to get the title. This can be difficult. Sadly, such cases of land grabbing do occur.

Once you have papers, then the ownership and all land transactions (sales, mortgages, gifts, inheritance) are supposed to be registered officially, which helps to reduce problems in the future. (However, you can also write these things down even if you don't have official papers).

Getting a certificate or a title means that the borders of the land have to be fixed and agreed upon by the neighbours. This process alone can be very important in preventing future disputes and in preventing encroachment. (Though, again, it is possible to fix boundaries publicly even without getting papers.)

Because customary law is not written down, it is flexible - but it is also confusing and not always very clear. Sometimes it is being distorted by people who have particular interests to get more rights to land. When land is registered, then State law applies. This at least is much more certain and clear - though it must be remembered that the law is not always correctly enforced.

It is often possible to sell land under customary law, but you may need permission from the family or clan leaders. Some one who wants to buy the land may fear that they could have problems in the future, if you don't have papers proving your rights to the land you want to sell. This is especially probable if the buyer is from outside your community, clan and tribe. This may reduce the price of the land, in some places, especially in urban areas.

It is harder to protect land from land grabbers without papers. This also applies on inheritance. If you want to leave all your land to your wife and children after you die, then they may find it easier to claim all the land if they have papers.



2. What happens if I get a Certificate of Customary Ownership?

If you want an official paper to say you own the land, but don't want to get a freehold title to your land, you can apply for a 'Certificate of Customary Ownership' (CCO). You cannot apply for this certificate if your land has already been registered, that is, if a title already exists for your land. You can apply for this by going to the Area land Committee, and the Certificate is then issued by the Recorder (the Sub-county chief). Unfortunately, although Parliament created these certificates nearly ten years ago, most Districts have never offered them, and few people know what they are. As a result, there is a lot which we don't know about how the certificates will work - it is only with experience that we can say how the Courts will consider them, how the rights of different people to use the land will be protected, what procedures will be used for updating the certificates when there are land sales or upon inheritance when the certificate holder dies. In principle, you can get a certificate for land which you own either in rural or urban areas, as long as the land has never been registered (i.e. had a title issued for it). Unfortunately, the laws governing customary tenure are not very clear. You may need help in proving your rights to a Certificate. This situation should gradually improve if more people apply for CCOs.

Advantages of having a Certificate of Customary Ownership (CCO)

A CCO is an official document from the State saying that you are the owner of the land, because customary law recognised you as the rightful owner of the land. This can be used as proof of legal ownership if you want to sell the land, or if you have any land dispute. (If someone else manages to get a title issued on your land, this certificate may help you prove fraud or theft, but the title may still be regarded as having a stronger claim on the land.) It is much easier to write many names on a CCO than on a title- although there is nothing in the law which limits the number of names on a title.

The CCO has a map attached to it, so it also proves where your land boundaries are. This will reduce boundary conflicts because you will have formal proof of where your land ends. (However, the 'map' is not formally surveyed with marker stones, and so unless it is made very clear where the borders are, e.g. by planting marker trees, it is still possible for there to be a dispute about where exactly a boundary lies.)

In order to get a certificate, there has to be a public process with your neighbours of marking out where your boundaries lie and having a map drawn showing you own the land. This process is a public demonstration that you are regarded as the owner of the land and where your boundaries are. This alone should help reduce conflicts on the land.

A certificate will help protect you from land grabbers. It is an official document that you own the land, and this will be recognised by all courts in the country. Since the certificate is based upon the fact that you are regarded as the rightful owner by customary law, you will have to demonstrate that your community

or clan accepts that the land is yours. This means that in the future, your certificate should also be recognised by the clan heads or by your community, as well as by LCs and Magistrates.

A certificate will help you protect your land from claims by other members of your family. For example, if the family head tries to sell your land, your certificate will be proof that he had no right to do so and so the sale will not be valid.

The certificate will help ensure that the land will go to your wife and children (and anyone else) when you die. The simplest way to do this is by including their names on the certificate. In this way, even if one of you dies, the certificate will still be 'alive' in the names of all those remaining. You can also write a will, so that the people you want to leave the land to can have their names put on the certificate, to prove that they are the new owners of the land. Even if someone else tries to take advantage of them and to grab the land, they will always be able to come back and reclaim the land, for example, by going to court.

A certificate is much cheaper to acquire than a title. A title to land, including the costs of surveying, may cost hundreds of thousands of shillings. However, a certificate should only cost 10,000/-; that is 5,000/- on application and another 5,000/- when it is issued.

A certificate is much easier to obtain and to amend than a title, since it is administered by the sub-county. (You have to go to the District and Kampala in order to administer a title.) It should only cost 5,000/- to obtain a certificate. It should only cost 5,000/- to amend a certificate. It should only cost 5,000/- to obtain a certificate. It should only cost 5,000/- to amend a certificate.

death of the owner, and 10,000/- to change the name if the land is sold.

You may be able to use the certificate as security for a loan with a bank. This may make the loan cheaper, since the bank does not have the risk that it will lose its money if you fail to repay the loan. However, you should remember, that if you use a certificate (or title) as security for a loan, you may lose the land if you don't repay the money you borrowed.

Once there is a certificate to a piece of land, all transactions on the land should be recorded with the sub-county. This means any sales of all or part of the land, any marriage, any gifts, and any inheritance should be officially written down. This will help reduce conflicts in the future.

According to the law, the land should remain as customary land, which means that customary law should still apply on the land. This means that the rights which different people have over the land will not change - e.g. if members of your family or your community had claims to use the land in some way, perhaps to graze animals or to fetch water, they should keep these rights. The principles of inheritance will also apply in the same way. If you needed permission to sell the land as customary land, you should still need the same permission even with the Certificate. This is in some ways an advantage, because the certificate should not create conflict with your family, with your neighbours or with your community, because no-one's rights should change. However, it is not easy for us to give good advice on this, because it is not clear how CCOs will be administered in practice. Courts

are not very familiar with the ideas of customary law, and they sometimes think that 'their' ways of doing things are the only 'legal' ways. Therefore, we cannot be sure how Courts and recorders will regard rights over land with a CCO, or the rights of other people with other claims on your land, and whether they will properly apply customary law. For example, they may insist on 'formal' letters of administration in order for someone to inherit the land, as with a title. These can be difficult and expensive to obtain, since you may need the help of a lawyer. If in practice the Courts and Recorders insist that all rights and transactions on land with a CCO need to be 'properly' registered, then a CCO will have more of the advantages and disadvantages of a title, although registration will be easier (at the sub-county, not Kampala) and cheaper than for a title. (You can read the accompanying leaflet on **'what happens if I get a title'** to understand this better.)

Having a certificate should make it easier to sell or rent land. Someone who wants to buy or rent land will see that the Certificate proves that you own the land and there is less risk of them losing their money in a fake deal. This will make them more willing to buy or rent the land, and may mean you can get a higher price for a large land, especially rented in urban areas.

You can decide later to turn a CCO into a freehold title, if you pay to have your land surveyed, and pay for the title. (The advantages and disadvantages of doing this are discussed in the accompanying leaflet on **'getting a title'**).

Disadvantages of having a Certificate

A Certificate is not as 'strong' in some ways as a title. There is no formal survey of the boundaries of your land. If someone manages to get a title to your land, in some way, the Law may regard this as a stronger claim on your land - though you should have some proof that there has been fraud and could get compensation.

A certificate is not free, though it is cheaper than a title. You need to "keep it alive", by registering and paying a fee of 5,000/- each time land is inherited, or 10,000/- if it is sold or given as a gift.

Although the process of getting a Certificate is easier than a title (and may not need any documents written in English), you still need to know what rights to claim and how to claim them. Some local authorities don't know much about customary law, about your rights to a CCO, or the fact that customary owners of land remain the legal owners even when the land becomes urban land. You may need to find

help in persuading the authorities to give you your Certificate.

The process is currently very difficult, because your claim to the land has to be verified by an Area Land Committee and then registered by the sub-county recorder (who is also the sub-county chief). However, in most places, Area Land Committees have never been set up by the District, and Sub-county chiefs are not working as Recorders. You may need help in pushing the District to respect your legal right to obtain a Certificate.

We simply don't know how ownership of land will be transferred where there is a Certificate. There is no reason why you should need formal 'Letters of Administration' from a Court which is what you need for titled land. Letters from your community (clan heads, family heads, etc.) should be enough, since the land is owned under customary law. However, we cannot be sure what Recorders will actually ask for.

3. What happens if I get a title?

A title which says that you are the owner of the land is called a "freehold title". (A leasehold title is also given by the District Land Board and is sometimes also called "a title"; but this is a long term rental agreement and means the land actually belongs to the State and not to the person with the title. You should not get a leasehold title if the land is yours.). Once you get a title, then customary law no longer applies on the land, and all of the administration of the land will be done by the State (Government) authorities.

Advantages of having a freehold title

A title is the highest form of proof of ownership under State law. If you have a title, then it is very hard for someone to prove that the land is not yours. (However, the Land Registry has many problems and there are many fake titles in Uganda. Having a title is not a complete guarantee that your land rights will be protected.) A title is one of the strongest ways of protecting against land grabbers - that is why the grabbers themselves often try and get other people's land titled in their own name.

In some families, one member has tried to title all the family land in their own name, even the land which had been allocated to other family members. If you already have a title to the land which is yours, then this cannot happen.

It is possible for a whole family to get a single title to all of their land, by forming a Communal Land Association (CLA) and registering in the rules of the Association which family member owns which parts of the land. You will need to get some advice about whether this would be a good idea for your situation, and about how to set up such an Association if you want to do this.

A title may be accepted by banks and micro-finance institutions as security for a loan ("collateral"). However, you need to remember that if you use a title to secure a loan, you may lose the land if you don't repay the loan on time.

Having a title makes it easier to sell land.

- Someone who wants to buy land will see that the title proves that you own the land and there is less risk of them losing their money in a fake deal. This will make them more willing to buy the land, and may mean you can get a higher price for the land, especially in urban areas.
- If you have a title, then you do not need to get permission from anyone outside your household (e.g. family head, clan) to sell the land. However, you will still need the written permission of your spouse, if this is land which is used to keep your family.

Upon your death if you leave your land to your wife and/or children, it will be easier for them to claim all the land if they have a title. (The easier way to ensure this, is to have their names already on the title. If the title is just in your name, you should write a will to make sure that they can have it transferred into their own names on your death.) Then, even if someone grabs the land from them because they appear to be "weak", they will remain with the title and can always claim the land back in the future, if necessary by going to court and enforcing their rights.

The land is not governed by customary law. This has advantages and disadvantages. The good thing is that State law is much clearer and is written down although it must be recognized that the justice system is very weak and the law is not always followed correctly or enforced.

Under State law, any rights not written on the title cannot be claimed, so there is much less confusion about the rights which different people claim over the land. It is possible to write down all the different rights which people have on the title, and these will remain, even if the land is sold - though many people do not think to do this or do not know it can be done. These rights can include rights to cross the land, rights to graze cattle on the land after harvest. Once these are written down, they are clear and cannot be disputed.

Titled land is formally surveyed and the map is written down in the Land Registry. Even if someone removes the marker stones, the official record of the land boundaries remains. When land is titled, there are advantages for the Government. Stamp duty and other fees are an important source of revenue, and it makes it easier for them to plan land use when everything is documented.

Disadvantages of having a freehold title

One big difficulty in titling land is deciding which names to write down on a title. In customary law, family members know what rights they have to use family land, but once land is titled, all the rights belong to those whose names are written on the title. Should a husband and wife both have names on the title? What about children? These are more difficult questions than are first appreciated. It is possible to write down other people's rights on the title (e.g. if other people have a right to be buried on the land), but many people do not think to do this or don't know how it is done. Creating a 'Communal Land Association' with other family members is possible, but you may need help in writing your Association's rules. It is best to get good advice about these questions before you proceed.

Titles can help ensure that your land is inherited by the people whom you choose, if you make a will - but it may also create difficulties for your children and grandchildren. Under customary law, land is more easily shared among descendants. When there is a single title to the land, it is easier for one person to try and get their own name on the title to replace yours, and for everyone else to be left with no rights.

Getting a title is expensive. The land has to be formally surveyed and this can cost over 100,000/-. (Most surveyors are private, so you have to negotiate a price with them.) Although in some Districts the Government is surveying everyone's land for free, you still need to pay to get the title. This costs 30,000/-, that is, 10,000/- to apply and another 20,000/- for the title to be issued.

Each plot needs to be titled separately. If you have three or four gardens, then you will need a separate title for each one - and you will have to pay the full fees each time.

Many people think that getting a title is something that only costs money once. This is not true - a title needs to be 'kept alive' and that is expensive. Every time the ownership of the land changes (through selling, inheritance, gifts, etc.), you have to go through a formal procedure of re-registering the land. You will have to go to a Land registry to do this and there will be costs each time. If the owner dies, then the people who inherit the land need to get Letters of Administration or 'probate' from a Court before they can go to get the name changed.

- most people do not know the correct procedures and may have to hire lawyers to help.
- the procedures are all in English and written down. Some people may find this difficult.
- the procedure is expensive. Apart from the lawyers fees, there may be costs of transport, court fees, and fees such as stamp duty each time a new title is issued.

Many people do not find this possible and as a result, there are many titles in Uganda which are in the names of people no longer alive. This means that the current 'owners' are not well protected, as there can easily be disputes about who now owns the land.

Once a title is issued, the land is no longer governed by customary rules. This means that only the people named on the title, and any other rights' holders written on to the title, will have any claims over the land. In customary law, there are local procedures for ensuring that wives, children and other dependants are looked after. If you are titling land, you need to consider very carefully whose names should be on the title. It is possible to change this later, but it costs money, and can only be done if the ones who are already written on the title agree to it.

Because titled land is taken out of customary law, there may be more conflicts created if one family member wants to title their land. The rest of the family may not like this, and the clan elders may also not be happy. In a culture where people prefer to solve their problems in the family or in the clan rather than going 'outside' to formal Courts, there could be serious social consequences if some people title their land. You will need to consult widely and to consider how to proceed if there is opposition. (This problem may not arise if everyone in the family or the clan decide to get titles together.)

Disputes on titled land will go to the Courts rather than being settled locally. This means that procedures can be difficult to understand, knowledge of English may be required, costs may be much higher - and lawyers may be needed.

The Court system functions in a very different way to local dispute resolution mechanisms. Magistrates and judges do not try to find a solution which would be acceptable to both sides. The system puts one person against another and one side will 'win'. This may cause a lot of conflict in the local community.

State law is not flexible like customary law. Once a title is issued, it is hard to change anything - there is no mechanism for 'cancelling' a title and going back to customary tenure.

Although in theory a title is protected by the Law and the Courts, in practice the justice system is weak in Uganda. If your community does not respect a court judgment, it may be very hard to get enforcement.

There are also many problems with the Land Registry, and many forged titles. Titles can be 'lost' and new ones issued in other people's names. Even a title is therefore not 'perfect' protection of your rights.