

How does community land encroachment impact wetlands, the environment and communities?



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1. Introduction.

Uganda's wetlands¹ are treasured natural resources. Wetlands cover 13% of the country's total area.² Wetlands regulate hydrology, purify water, control floods,³ and maintain biodiversity⁴ for a sustainable environment. Wetlands are also critical to the survival and economic success of their surrounding communities. The 1995 National Environment Act allows wetlands to be used by communities for water, fishing, grazing, brick-making, recreation, and harvesting materials for house and craft making. Yet these cherished natural resources are at risk as battlegrounds for land conflicts. The survival and sustainability of these wetlands is in jeopardy as land encroachers take communal land with impunity, degrading the wetlands and depriving people of subsistence.

Realising the importance of wetlands and grazing lands to communities and our environment, LEMU, acting on the mandate of the task force comprising of Lango Cultural Foundation and the environmental officers of the districts of Lira, Apac, Kole, Amolatar, Otuke, Dokolo, Aleptong and Oyam, invited communities to request help protecting grazing lands. In 2011-2012, this support included working with Oyam District in Phase I to assist 34 communities. In Phase II, the support included working with 75 communities from the Lango region. Because of rampant conflicts in community lands, the 75 communities were initially classified into four categories: green (conflict-free), yellow (conflict with possible resolution), red (hard-core encroachment), and black (land is distributed among many and cannot be returned to the community). The task force decided that support would be given to the 24 communities that were considered "green". Unfortunately, it was soon discovered that all areas previously classified as conflict-free did, in fact, have conflicts.

¹The National Environment Act of Uganda (1995) defines wetlands as "areas which are permanently or seasonally flooded by water and where plants and animals have become adapted."

²The National Environment Management Authority (2000).

³Millennium Ecosystem Assessment (2005). Ecosystems and Human Well-being: Wetlands and Water Synthesis. *A report of the Millennium Ecosystem Assessment*. World Resources Institute, Washington, DC5.

⁴Carp, Eri (1980). *Directory of Wetlands of International Importance in the Western Palearctic*. IUCN-UNEP, Gland, Switzerland.

The purpose of this policy paper is to share the findings of the task force's work with those 24 communities, and to show that wetlands and communal lands are adjacent and interdependent; one cannot be harmed without harming the other. Wetlands are threatened by community land encroachment and different types of land conflicts, and if the Government is to fulfill its mandate to protect wetlands, it must actively stop communal land encroachment. If grazing lands do not have effective management and protection systems, wetlands will not be protected. The Government must act quickly to resolve communal land conflicts, as they are on the increase and will not stop, as the typical outcome of land conflict is more conflict.

2. The Causes of Community Land Encroachment and Conflicts.

Large community lands originally existed in Lango for hunting, grazing, forests and wetlands, but as land continues to be scarce, hunting lands and grazing lands were settled, leaving only grazing land adjacent to wetlands remaining for community use and for watering cattle. From 1998 to date, encroachment accelerated because of changes in the law, regarding land as belonging to every citizen of Uganda; this shift in thinking affected grazing land left vacant from displacement. Most grazing lands that formerly had rules and management committees became dysfunctional. As internally displaced people returned to their homelands in the aftermath of Idi Amin and the LRA, land that was once solely used as communal land was viewed as vacant, and encroachers are currently attempting to claim and privatize these grazing lands and wetlands. The data collected from the 24 case studies (reflected in **Figure 1**) reflects this trend. **Figure 1** demonstrates that 70.8% of the observed communal land conflicts directly affect Uganda's wetlands.

Additionally, **Figure 1** shows that though the encroachers are few in number (an average of 8), they prevent many (an average of 2,394) people from accessing grazing land and wetlands.

When grazing land is encroached, wetlands are threatened; not only are the ecosystems of the two interconnected, but as land scarcity continues, if encroachers are not stopped, when grazing lands become scarce, wetlands will become the next target for encroachers and more conflicts will be generated as a result.

FIGURE 1:
24 Lango Case Studies from the Community Land Protection Project

District	Total Number of Reported Conflicts	Number of Wetlands Subject to Conflict	Number of Communal Lands with Large-scale Commercial Cultivation	Number of Communal Lands with Cutting of Trees	Number of Communal Lands Where Access for the Community is Blocked	Average Number of Encroachers Grabbing Each Communal Land	Average Population Dependent on Each Communal Land
Amolatar	4	4	2	0	1	10.5	3824
Apac	10	6	6	2	4	14.9	3039.2
Kole	2	2	2	1	2	1.5	877.2
Lira	2	2	1	0	0	9	1020
Otuke	3	2	2	1	2	2	3095.3
Oyam	3	1	2	2	1	8.7	2511
TOTAL	24	17 (70.8%)	15 (include 12 wetlands)	6 (include 5 wetlands)	10 (include 8 wetlands)	Average: 7.8	Average: 2394.45

3. Types of Conflicts on Communal Lands.

The task force has found that community lands have several different types of encroachment that negatively impact both the environment and the people dependent on communal land and wetlands. These types include the following:

Blocking pathways: An encroacher may develop the land so that others in the community cannot access the water, grass, herbs, firewood, and building materials that they need. In Ayer Sub-County, Kole District, one encroacher chased people with threats of violence, and cut grazing animals with pangas. Similarly, in Chawente Sub-County, Apac District, another encroacher fenced off access to a wetland and now cultivates rice on a large scale.

Commercial use of communal land: An encroacher may cultivate a large area of community grazing land or wetland for his own economic benefit, depleting community resources and decreasing the sustainability of the environment. As **Figure 1** demonstrates, 12 out of 15 communal lands included large-scale cultivation of wetlands. One case LEMU documented in Aduku Sub-County, Apac District included an encroacher who

uses a tractor to cultivate 30 acres of wetland over 10 years, and rented his tractor out for others to do the same. Beyond cultivation, encroachers frequently harm wetlands by cutting down many trees. For example, in a case from Aboke Sub-County, Kole District, an encroacher of community grazing lands and wetlands has felled many trees to create an area for large-scale cultivation and beekeeping. As **Figure 1** demonstrates, 5 out of 6 communal lands were subject to large-scale tree cutting on wetlands. Encroachers also cut trees down on a large scale to use as charcoal fuel for economic profit. One sack of charcoal can yield anywhere from 30,000 shillings to 60,000 shillings.

Clan conflicts: Many grazing lands and wetlands are the subject of historical conflicts between larger and smaller clans. In one case from Aduku Sub-County, Apac District entailed a bitter conflict that arose originally in 1985 between two clans, but was later reignited by one person grabbing land in 2003, which inspired others to do the same. The clans have not resolved the conflict, as the encroacher has not come to meetings, and hatred continues between the two clans, leaving them ripe for future conflict and violence.

Criminal acts: Some encroachers of communal land use threats, arrests, or violence. In a case in Chawente Sub-County, Apac District an encroacher threatened to spear anyone interfering with "his land." Another conflict in Arwotcek Sub-County, Amolatar District has been simmering since 1980 and was described as "ready to ignite" at any point.

Witchcraft: Instead of resorting to criminal acts, some encroachers are reported to use witchcraft to make the community fear them. In Etam Sub-County, Amolatar District, LEMU could not even determine the number of encroachers on communal land shared by 9 different villages because the people were afraid to name the encroachers out of fear of witchcraft.

4. The Impact of Communal Land Conflicts on the Communities.

The social and economic impact of communal land grabbing is devastating to communities. In addition to increased conflicts (as discussed later), people are stopped from collecting water and materials. Moreover, there is no area left to graze cattle. In Adwari Sub-County, Otuoke District, an encroacher of communal land and wetlands did not allow people to graze animals, access water, or collect building materials and thatching

grass on the communal land without first paying him high fees.

Additionally, as reflected in **Figure 3**, it takes tremendous amounts of time and money for a community to fight land encroachers. The case of grabbing demonstrated in **Figure 3** has been fought by the community for over 3 years and is not resolved yet; moreover, the encroacher still continues to cultivate the land and block the community from using it as the legal fight continues.

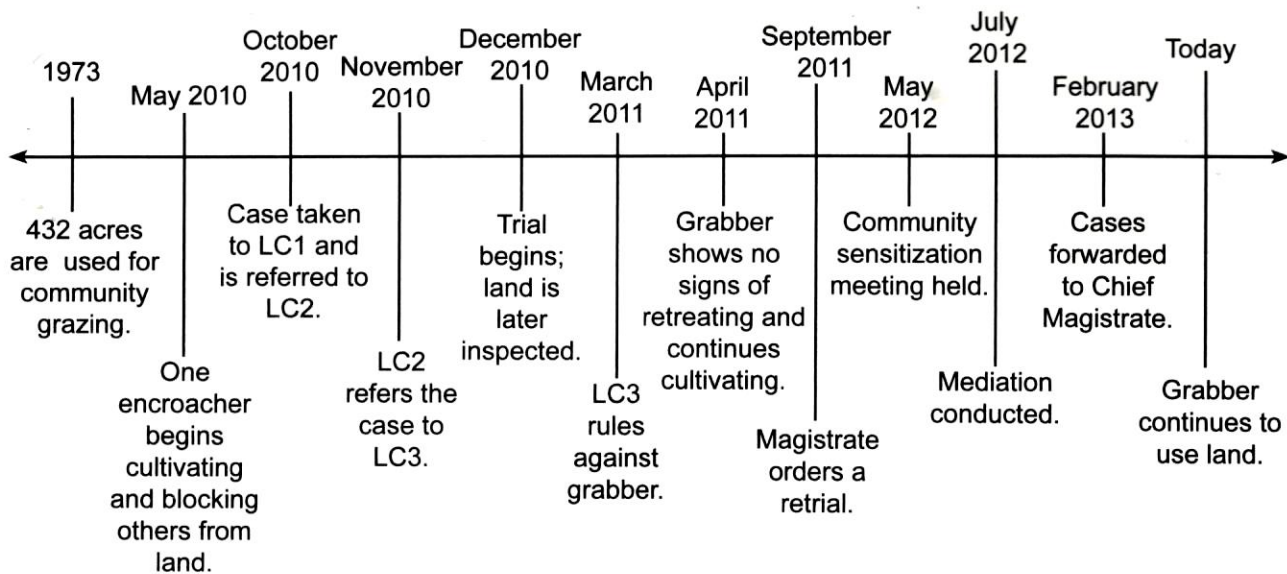
Despite not being the only one with the mandate to protect wetlands, communities have attempted various actions against communal land encroachers, but generally, such attempts have been unsuccessful, as reflected in **Figure 2**. Community action did not successfully stop encroachers in any documented case, action was only temporarily successful in 2 out of 24 cases. **Figure 2** also reflects that when communities attempt to take action against encroachers, the fight continues for an average number of 11.9 years—generally without any success in the end. One community has spent 34 years trying to fight the encroachers through both legal means and clan procedures, and the fight still continues today. When communities fight communal land encroachment independently, the process is highly time-consuming and generally ineffective.

FIGURE 2:
24 Lango Sub-Region Case Studies from the Community Land Protection Project

Total Number of Cases	Cases Brought to Court	Cases Brought to Clan	Cases Brought to Police	Cases Brought to Environment Officer	Cases Where No Action was Taken	Cases Where Community Action was Successful	Cases Where Community Action was Partially Successful	Average Number of Years Each Community ⁵ Spent on Action
24	8 (33.3%)	10 (41.7%)	2 (8.3%)	4 (16.7%)	7 (29.2%)	0 (0%)	2 (8.3%)	11.9 years

⁵Includes only communities that reported some attempted action

FIGURE 3:
Timeline of a Conflict:
Aboke Sub-County, Kole District

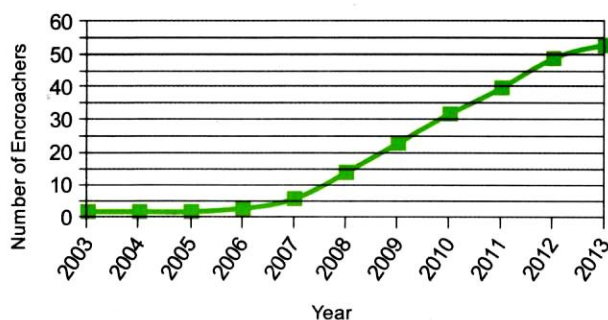


Economic incentives to produce rice, sugar cane, yams, potatoes, and eucalyptus on a large scale offer strong monetary incentives to artificially create shallow-water areas for plants to grow. To do so, wetlands are drained and tilled. Where this occurs, water levels may be affected, with long-term consequences for the entire country. In eastern Uganda, 20% of wetlands have been already destroyed.⁶ One case from Chegere Sub-County, Apac District includes reports from community members that wells have gone down and that some of the wetlands have dried up as a result of large-scale cultivation. Tilling and cultivation destroy the wetland soil's capacity to recharge groundwater, reduce floods, and retain sediments and nutrients. Additionally, the commercial cutting of trees in and around wetlands weakens the soil and harms the entire ecosystem.

FIGURE 4:

Case Study: Number of Encroachers Over Time

Aduku Sub-County, Apac District



5. The Increasing Severity of Encroachment Over Time.

As illustrated in **Figure 4**, one encroacher began large-scale rice cultivation on wetlands. Other encroachers felt empowered by his impunity, and after only 10 years, there were 53 encroachers on the land. When communal land conflicts are not effectively and efficiently dealt with, they frequently result in dramatic increases in the number of people using and exploiting natural community resources for personal economic benefit.

For example, in Artwotcek Sub-County, Amolatar District, a community of 3837 people tried to fight 20 encroachers who claimed over 2000 acres of communal land. They went to the LC3, who ruled against the encroachers and demanded the return of the communal land. In response, the encroachers went to a different sub-county's LC3 and got a different ruling in their favor. The community went back to a third sub-county's LC3 to lodge a new complaint, but the encroachers did not even bother to appear before the third LC3. Similarly, in Chegere Sub-County, Apac District, a community of 3120 people tried to fight 5 encroachers who claimed 200 acres of land. Community meetings, an LC3 ruling, orders from the District Environmental Officer, a police report, and action by LEMU were all ignored by the encroachers. Likewise, an encroacher in Adwari Sub-County, Otuke District refused to even attend community meetings, saying that they are "stupid" and that his children are judges and magistrates.

⁶National Environment Management Authority (2004)

6. General Conclusion.

From the above experience, it is evident that communities alone cannot match the power, determination, and strength demonstrated by such encroachers, and neither can NGOs. In trying to aide communities, encroachers have threatened LEMU and accused LEMU of land grabbing. Encroachers are significantly more powerful than both communities and NGOs, and neither can effectively defend communal land. Ultimately, as communities try to do so, they will resort to violent, criminal means out of frustration, anger, and bitterness. As a community member in Aboke Sub-County, Kole District told LEMU staff, ***"We are very bitter...we have been very patient using the law, but our bitterness would cause us to take the law in our hands. We need help."***

Additionally, wetlands are critical to the health and sustainability of the environment and communities in that they control floods, retain and filter water, reduce soil erosion, maintain soil fertility, regulate the speed, temperature, level, and flow of water while in human and animal water needs; wetlands are used for transport, building and crafting materials, for fishing, and recreation. The harm that encroachment causes to wetlands through degrading water, cutting trees, over-harvesting fish and plants, and draining wetlands destroy these functions. The environmental cost of degradation cannot be repaid, and abuse of wetlands makes them unsustainable. The economic benefits of encroachment may seem enticing, but the damage incurred to the environment as a result is permanent and devastating

7. Why are encroachments on communal lands on the increase?

(a) The effectiveness of the government wetland governance structures

It is curious that wetland encroachment is on the increase when there are five current governmental structures created to protect wetlands. These systems are:

(1) Ministry of Water and Development is responsible for setting national policies and standards to manage and regulate water resources. The Ministry also determines priorities for development.

(2) The National Environment Management Authority is a subset of the Ministry and

NEMA has the authority to take legal action against infractions of environmental law.

(3) The Department of Wetlands is mandated to undertake enforcement activities to protect the environment through its officers. NEMA consults with the Department on all matters and decisions related to wetlands. The Department also demarcates wetlands and examines environmental impact statements.

(4) The Environment Police Force is a force of about 150 officers created to enforce environmental laws. It is used as a backup enforcement unit when NEMA or the Department needs extra force.

(5) The District Environment Officer is the local level arm of NEMA. DEOs are responsible for upholding the environmental laws and regulations and can stop unapproved developments. They can also demand production of environmental impact statements.

(b) Complicity

One of the key reasons why communal land conflicts are so hard for communities to fight is because community leaders are often hard-core encroachers themselves. In Okwang Sub-County, Otuke District, a clan sat several times to try to resolve communal land conflict but could not reach a decision because the encroachers were clan leaders. The first community land encroacher in **Figure 4** is a Senior Police Officer who encouraged others to cultivate on communal lands by renting his tractor to people to use to till the wetlands; now there are 53 encroachers cultivating rice on that land. The local leaders told LEMU that if the police officer is evicted from community land, all of the other encroachers would leave immediately. But they also say they cannot do anything against him because he is too powerful.

In some cases, encroachers manipulated the legal system for illegal purposes, for instance in Adwari Sub-County, Otuke District, an encroacher summoned all those in the community who openly opposed him—17 people total—before the Magistrate and accused them all of trespass. Similarly, in Agwingiri Sub-County, Amolatar District, a singular encroacher using communal land meant for the use of over 5250 people threatened to arrest anyone opposing him and found another NGO to sue LEMU for opposing

The process of wetlands licensing is also being corrupted to some extent by community leadership. Though wetland licenses are supposed to be issued from Kampala, the task force documented cases where the police or local officers issued licenses instead. For example, in one case in Lira, an encroacher obtained a "permit" to settle and cultivate wetland area from a district environmental officer. Such "permits" do not exist and are illegal, but now, the community fears to oppose the encroacher.

Additionally, environmental officers intended to assist communities in wetland protection have been known to pacify land encroachers for the sake of peace. In one district, an environmental officer ruled that an area was a wetland but did nothing to protect the adjacent grazing land. Moreover, he gave the encroachers all the land up to 5 meters from the wetland shores instead of the legally recommended 30-100 meters. Community members told LEMU that this appeasement attempt gave the encroachers "horns."

8. Recommendations.

(1) The Government should actively evict encroachers from communal lands.

The Government is the only body with the capacity and the mandate to protect wetlands. The Government can take action in one of two ways – take the encroachers to court, or to work with the Environment Police to evict the encroachers. We propose the latter option because Ugandan courts are currently suffering from case backlog. The process of eviction is also lengthy and expensive, due to the administrative process of approval, which requires going from the Inspector General of Police (IGP) to the District Police Commander (DPC). We therefore propose and recommend that the Government should not rely on communities or NGOs to take encroachers to court, but should act quickly and independently. The Government should view the encroachment of communal land as a criminal offence, as it is treated by S.92 of the Land Act of 1998, and should offer support for prosecuting such crimes. The Government should also focus on creating an effective legal precedent emphasizing the sanctity of communal land. Fast and decisive action by the police will act as a deterrent and will motivate other encroachers to leave the wetlands on their own accord.

(2) The Government should preemptively protect land against future encroachment.

With an eye towards the future of wetland security,

support to communities throughout the customary land documentation process. To do so, the Government should:

Appoint District Registrars, or appoint Ministry of Lands officials, to oversee Communal Land Association documentation. As communities start drafting their constitutions to manage their community land and creating Communal Land Associations, communities should be supported and given the official capacity to act for the sake of their own protection. This occurs officially through registration with District Registrars, who are currently absent, since not many lawyers desire upcountry district government positions. A mobile registrar could act as an interim solution while appointments are made. Upon official appointments, communities could begin documenting and legally protecting communal land. In this work, the Government should streamline the documentation process so that communities can effectively respond to communal land threats. For example, the Government should provide GPS technology for surveying, which is much more affordable for communities than hiring a surveyor.

The Government should act as a check on abuse of power by community leaders. Upon a community's request, state officials should monitor and supervise communal land and wetland management bodies to ensure that elected officers fulfill their duties and act constitutionally. Government institutions at all levels should act quickly and decisively to remove encroachers from wetlands when communities report violations.

(3) The Government should issue licenses for community wetlands.

The wetland task force found that almost all grazing lands in the Lango Sub-Region are adjacent to wetlands or have wetlands within their boundaries. However, because wetlands are vested in the state, they are available to any Ugandan for entrance and usage. Unlicensed wetlands are a source of insecurity, vulnerability, and conflict for rural communities, as they are open to commercial exploitation and degradation. Therefore, documentation of a community's rights to both grazing lands and the wetlands is critical. The system of documentation of communal lands should make it easier for Communal Land Associations to seek a title or Certificate of

as a license for adjacent/internal wetlands. To get a wetland license, 50,000 shillings must be paid to NEMA, and a form must be filled and sent to Kampala. These licenses then protect against activities such as building and cultivation. NEMA should follow-up and account for granted licenses to keep the process accountable. Also, licenses should not have to be renewed yearly, but should be given to communities for several years for lasting security.

(4) Local governments should prioritize land administration in their budgets.

Districts already receive money from land activities and usage, but this money is not being effectively channeled back into the protection of communal lands and wetlands. Thus, local governments

at all levels should prioritize the funding of land administration, particularly the wetlands division, to ensure that land administrators have the necessary resources and capacity to protect wetlands and valuable community resources.

(5) Wetland Demarcation.

The wetland/grazing land task force should join efforts with wetland demarcation exercise being carried out by the Ministry of Water and Environment under the Department of Wetland Management. This exercise is also being done by the International Union for Conservation of Nature (IUCN).

Cooperation of efforts will lead to the best outcome for all stakeholders involved in each initiative.

Conclusion.

Wetlands remain vulnerable to encroachers who use their powers to take from communities with impunity. Only the Government has adequate power to combat such encroachers and protect both wetlands and communities as a whole. If the Government were to support communities actively by proactively removing encroachers, protecting community wetlands against future encroachment, and issuing wetland licenses, then efforts to preserve community wetlands would be effective.

Efforts to implement communal land documentation depend on the proactive involvement of the Government against exploitation and nonrenewable use. By working hand-in-hand with Government agencies and community land owners, wetlands may be preserved for years to come for the sustainable benefit of all.

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