

# Securing Communal Land and Resource Rights in the Albertine Region of Uganda: The Case of Hoima and Buliisa Districts



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**September 2015**





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## List of Abbreviations

<b>AJWS</b>	American Jewish Worldwide Service
<b>BIRUDO</b>	Buliisa Initiative for Community Development
<b>CDO</b>	Community Development Officer
<b>CLA</b>	Communal Land Association
<b>CRED</b>	Civic Response on Environment and Development
<b>DGF</b>	Democratic Governance Facility
<b>DLB</b>	District Land Board
<b>IGG</b>	Inspector General of Government
<b>LC</b>	Local Council
<b>MLHUD</b>	Ministry of Lands, Housing and Urban Development
<b>NAVODA</b>	Navigators for Development Association
<b>NGO</b>	Non-Governmental Organization

## Executive Summary

Land is essential for the livelihoods and wellbeing of rural communities and has cultural significance that may go beyond production and monetary realms. The policy and legal framework of Uganda provides for communal land tenure system but operationalization of the provisions has not taken place in many parts of the country including the oil rich Albertine region. This scenario has left communal land in this region to be perceived as “open access”, land with no defined owners - hence rendering it susceptible to land grabbers. This has not only raised anxiety within the community but is affecting the livelihoods of hundreds and thousands of the local people. It is still unclear which model of land management will ensure that communal land rights are secure amidst the current threats associated with the nascent oil and gas industry.

The aim of the current study was to provide strategies and mechanisms for securing rights on communal land in the Albertine region of Uganda. The specific objectives were to;

- (i) Document distinctive features of communal land tenure system in oil exploration areas of Hoima and Buliisa districts
- (ii) Determine site specific frameworks that can enhance tenure security of communal land in oil exploration areas of Hoima and Buliisa districts
- (iii) Determine communal land conflict management frameworks for selected communities in oil exploration areas of Hoima and Buliisa.

The sites studied were purposively selected, based on previous reports of occurrence of tenure insecurity on communal land in each district. Key informant interviews and focus group discussions were applied in data collection.

The study found that communal land was perceived to be land that all members of a defined community had use rights. Traditionally, access to communal land was controlled by elders of the clans that occupied an area but currently the area Local Council (LC 1) chairpersons have assumed authority over such land. Accessing communal land currently requires one to seek permission from the LC 1 chairperson of that village and the rights are flexible and sometimes multiple. Access means

one can collect all materials needed for the household from communal land. Land transactions such as selling and mortgaging are traditionally not allowed. There are no well-defined sanctions for those found violating traditional rules of communal land use. Conflicts are addressed by the Local Council chairpersons of villages.

The study further found that the communities strongly believe that in order to enhance tenure security of communal land, there is need for them to form Communal Land Associations so as to register their communal land as provided for in the Land Act, 1998. They prefer an independent committee elected through adult suffrage at village level to manage communal land. This committee should not be part of government apparatus. The study found that the traditional system of addressing conflicts on communal land has been supplanted by LC committees at village, parish and sometimes sub-county levels. In some instances, conflicts on communal land are handled through the formal justice system using state-based justice institutions and procedures. The community has a negative perception of the current system because of the high costs involved and lack of impartiality of the officials involved. The communities studied preferred a mediation committee elected at village level to address conflicts on communal land.

There is a need for legal empowerment of the local communities through legal education and legal aid to salvage the current threats on communal land in the Albertine region



## 1.0 Introduction

Land is essential for livelihoods and wellbeing of rural communities and has cultural significance that may go beyond production and monetary realms<sup>1</sup>. In many parts of the world today, there is increasing recognition of the rights of local communities on communal resources<sup>2</sup>. Various policy analysts have found individual land titling not to be the most appropriate form of protecting these rights<sup>3</sup>. The shift from overemphasizing private rights to communal rights is in recognition of the rights of local people to self-determination. Communal land tenure system implies that the community has control over the land in determining allocation of land for residence, cropping and rights of access to the common property resources<sup>4</sup>. Policies that promote security of tenure for the local people often result in enhanced livelihood options for the poor, equity, social justice, preservation of natural resources and environment, peace and stability. On the other hand, policies and practices that undermine security of tenure of community groups breed vulnerability, injustice conflict and can hasten environmental degradation.

The *Tragedy of the Common* narrative that was advanced by American Ecologist Garrett Hardin cast a shadow over communal tenure as unsustainable and untenable with development processes<sup>5</sup>. Hardin postulated that as population increases, unclear ownership of common pool resources inevitably results in overexploitation and degradation as each user acts in self-interest to maximize personal benefit. He argued for land reform to transform communal tenure into formal, individualized ownership. Other protagonists of this narrative have blamed environmental degradation to communal ownership of environmental resources. They argue that human beings are naturally rational, they make choices that result in the most optimal level of benefit or utility thus will maximize utility as long as environmental costs are shared by a large group of people such as the case of communally owned land.

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1 Behrman *et al*, 2013, Evaluation of grassroots community-based Legal aid activities in Uganda and Tanzania: Strengthening women's legal knowledge and land rights. CAPRI Working Paper No. 108.

2 Reed *et al*, 2007, integrating local and scientific knowledge for adaptation to land degradation: Kalahari rangeland management options. *Land Degradation & Development*.

3 Sjaastad *et al*, 2009, Formalization of land rights in the South: An overview. *Land use policy*, 26(1), 1-9.

4 Cousins *et al*, 2004, Communal land rights, democracy and traditional leaders in post-apartheid South Africa. *Securing land and resource rights in Africa: Pan-African perspectives*, 139-54.

5 Hardin, 1968, The tragedy of the commons, pg. 1243-1248.

Some scholars (e.g. Grafton et al. 2000; De Young) have gone ahead to quote the philosopher Aristotle “*That which is common to the greatest number has the least care bestowed upon it*”. The system and institutions of communal land ownership often characterized as not static, dynamic and evolving<sup>6</sup> is vilified and perceived as the problem rather than the cure to security of tenure in developing countries<sup>7</sup>. This has led to governments in Africa to promote individualization of land in their policy and legal framework<sup>8</sup> with total disregard for the fact that the practices of land tenure system in most African countries have cultural contexts relevant in shaping the identity of local communities.

This narrative has been challenged by recent research<sup>9</sup> which shows that *tragedy of the commons* may only arise when communities fail to exclude potential outsiders from common-pool resources. It is increasingly becoming clear that communal tenure remains legitimate and relevant in the modern world<sup>10</sup>. Some resources can only be used communally. These include landing sites, communal grazing grounds, watering points among others. The key issue, however, is how to effectively engage and support the community governance structures and thereby increase security of tenure.

Although the principle of localized management is well-established, significant debate exists over the most effective frameworks to empower local communities to secure communal land. The current study explores alternatives that are relevant, acceptable, legitimate, affordable and achievable in securing community interests in the Albertine region of Uganda.

## 1.1 Background and Context

Land is the main productive asset and means of wealth accumulation for most Ugandans. In 2013, the first National Land Policy for Uganda was passed. The policy explicitly provides for customary tenure as one of the four tenets of land ownership

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6 Cousins, 2009, Potential and pitfalls of ‘communal’ land tenure reform: Experience in Africa and implications for South Africa. *Paper for the World Bank Conference on Land Governance in Support of the MDGs: Responding to New Challenges* pp. 9-10.

7 De Soto, 2000, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*.

8 Benjaminsen et al, 2003, *Securing land rights in Africa*, Vol. 14

9 Sjaastad et al, 2009, Formalization of land rights in the South: An overview. *Land use policy*, 26(1), 1-9; Ostrom, 2008, Tragedy of the commons. *The New Palgrave Dictionary of Economics*, 360-362.

10 Cousins et al, 2004, Communal land rights, democracy and traditional leaders in post-apartheid South Africa. *Securing land and resource rights in Africa: Pan-African perspectives*, 139-54.

in the country. Customary tenure is defined in the Land Act of 1998, as a tenure category that is applicable to a specific area of land and a specific description of persons governed by rules generally accepted as binding and authoritative in that community.<sup>11</sup> The rules governing customary tenure include communal ownership of land.<sup>12</sup>

Since the enactment of the Land Act in 1998, the provisions of the law relating to communal tenure have largely remained unimplemented. This is majorly attributed to limited demand caused by lack of awareness of the value of formalizing ownership from community groups. At the same time the government has not put in place the necessary structures and guidelines to operationalize registering and administering land under communal tenure. The local communities have also not been sensitized on the relevance of registering their communal land rights. The failure by community groups to formalize their tenure status has made them particularly vulnerable especially in the Albertine region of Uganda where oil and gas exploration and development are currently taking place.

In the Albertine region, local communities are losing land rights to land speculators<sup>13</sup>. Communal land is often viewed as “free land”, “open access” and “land that is free for grabs”. This is due to unclear tenure status, high rates of mobility, morbidity, lack of formalization of rights over land and ignorance of the community members on their statutory rights on land. Customary land holdings are being titled as freeholds without the consent or knowledge of the customary owners<sup>14</sup>. The outcome is that they are denied their right to the royalties that may accrue from natural resources on their land<sup>15</sup>. This demonstrates a disconnect between the provisions of the law that provide for protection of customary tenure rights on communal land and the reality on the ground. There is paucity of knowledge on the applicability of existing legal framework in ensuring security of tenure rights over communal land at a community setting and local elites in connivance with a section of bureaucrats take advantage of this situation.

A classic example is Kiryamboga fishing village adjacent to Lake Albert in Buseruka sub-county, Hoima district. Traditionally, land in this village has always been managed under customary communal system but was recently registered by individuals including officials from the District Land Board of Hoima under freehold

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11 Section 3 of the Land Act Cap 227

12 *ibid*

13 CRED, 2014, Land rights abuses in the oil rich Albertine Graben in Uganda.

14 CRED et al, June 2015, Up against giants: Oil-influenced land injustices in the Albertine Graben in Uganda

15 This is one of the contemporary land policy issues recognised in the National Land Policy, 2013 of Uganda.

(a private property regime) without following the provisions in the Land Act, 1998, other relevant pieces of legislation and the Constitution of the Republic of Uganda which provide for the protection of customary rights on communal land<sup>16</sup>. This has not only raised anxiety within the community but also has a chilling effect on livelihoods of hundreds and thousands of the local people and their off-springs. This kind of injustice is leading to loss of vital access to communal property resources including land for farming, grazing, firewood, forest products and in some places, water supplies. In some areas (e.g. Rwamutonga village, Bugambe sub-county), Hoima district, people have been displaced from their ancestral areas leading to loss of livelihoods, sense of community belonging, culture and human dignity.

Unless models for communal land ownership are harnessed, and the local people legally empowered to utilize such models to protect their interests, communal land and the resources on it in the oil-rich region of Uganda will continue to be appropriated by the elites and politically powerful and well-connected individuals, with a negative bearing on livelihoods, peace and stability in the region. It is still unclear which model of land administration and management will ensure that communal land rights are secure amidst the current threats associated with the nascent oil and gas industry. The current study will illuminate approaches and highlight strategies and mechanisms of securing customary rights on communal land in the Albertine region of Uganda.

## 1.2 Objective of the study

The overall objective of the study is to develop mechanisms for enhancing security of communal land rights in the oil rich districts within the Albertine region of Uganda. The specific objectives are to:

- (i) Document distinctive features of communal land tenure system in oil exploration areas of Hoima and Buliisa districts;
- (ii) Determine site specific frameworks that can enhance tenure security of communal land in oil exploration areas of Hoima and Buliisa districts; and
- (iii) Determine communal land conflict management framework for selected communities in oil exploration areas of Hoima and Buliisa districts.

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<sup>16</sup> CRED et al, June 2015, Up against giants: Oil-influenced land injustices in the Albertine Graben in Uganda

### 1.3 Research questions

- (i) What features characterize communal land tenure system in oil exploration areas of Hoima and Buliisa Districts?
- (ii) What frameworks can enhance tenure security of communal land in oil exploration areas of Hoima and Buliisa Districts?
- (iii) What framework do the communities in oil exploration areas of Hoima and Buliisa prefer to address communal land conflicts?

### 1.4 Research Design and Methods

Exploratory research design was adopted in the current study and data collected using qualitative methods i.e. focus group discussions and key informant interviews.

The sites studied were purposively selected based on previous reports of occurrence of tenure insecurity on communal land<sup>17</sup> and proximity to the shores of Lake Albert. Earlier studies<sup>18</sup> had shown that communal land close to the shores of Lake Albert was the most susceptible to land grabbers. Key informant interviews and focus group discussions were held in Kiryamboga, Kaiso and Sebigoro fishing villages in Hoima district, Buliisa town council and Kakindo village in Buliisa sub-county, Buliisa district. Each focus group discussion had between 5 - 15 participants. Participation was based on age, knowledge of land tenure system in the area and sex. It was deliberately ensured that the focus group discussions included women to ensure fair gender balance in the data collected. The youth and elderly were also represented in each focus group discussion. At least one key informant was a woman in each district studied.

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17 CRED, 2014, Land rights abuses in the oil rich Albertine Graben in Uganda.

18 *ibid*



Figure 1 A focus group discussion session in Kaiso, Hoima district

Focus group discussions were preferred because they provide more insight into participants' thoughts, perceptions, allow in-depth analysis by the group which may result into generation of ideas, and are suitable for exploring people's knowledge and experiences<sup>19</sup>. Key informant interviews were conducted at local and district levels with bureaucrats, elders, opinion leaders, cultural leaders, leaders of civil society organizations operating in the area and local council leaders. Key informants were selected based on knowledge and experience on communal land tenure in the sites studied. A semi-structured key informant interview guide was used to direct the flow of the interview and to ensure that key themes of interest of the study were adequately covered. Key informant interviews enable collecting of quality data within a short time and it may be easy to obtain confidential information that would not easily be brought out in other settings<sup>20</sup>. All the data collected in the focus group discussions and key informant interviews were digitally recorded and later transcribed for analysis.

## 1.5 Data Analysis

The data transcribed was broken down into constituent parts and narratives were generated on each of the themes studied<sup>21</sup>.

19 Kitzinger, 1995, Qualitative research: Introducing focus groups, pg. 299-302.

20 Marshall, 1996, The key informant technique, pg. 92-97.

21 Kitchin *et al*, 2000, Conducting research in human geography: Theory, methodology and practice.

## 2.0 Findings

The study found that there are varied tenets of communal land ownership across the Albertine region. This is attributed to different cultural contexts especially between the north and south. But even within one particular context, the tenets vary at the different level of political and social organization such as district, tribal, and village levels. For example, within the Bunyoro region, there are different tenets for communal ownership for Hoima, Buliisa, Kibaale, Masindi and other political organizations in the Kingdom. This is attributed to historical factors of conquest and traditional political organization before the birth of Uganda. It is also attributed to the long history of inward migration to the Bunyoro region and resultant mix of different cultural contexts. These include the Banyoro, Bagungu, Alur, Bakiga, Bahima, Banyankole among many others. This study was organized along the political boundaries of districts - for Hoima and Buliisa.

### 2.1 Communal land management practices in Hoima district

#### 2.1.1 Distinctive features of communal land tenure system in Hoima district

Participants stated that approximately 25-40% of the land in Kaiso and Sebigoro fishing villages in Hoima district was perceived to be communal. Communal land was perceived to be land on which all members of a defined community had use rights. The resources on communal land included grazing and browsing resources, thatch grass, wildlife, arable land and trees for poles and firewood. Access to communal land traditionally was controlled by elders of the clans (they represented the King) who occupied this area but it is currently controlled by the area Local Council chairpersons whose role is mainly to distribute and allocate communal land to community members.

Accessing communal land currently requires one to seek permission from the Local Council chairperson of that village and the elders of the location of the land that he/she wishes to use. Once given access rights over communal land; one can collect fire wood, cultivate, cut grass for thatching, cut trees for sell and construction purposes, graze animals, pick herbs, plant trees or in any other way considered lawful by the giving community. Some rights over communal land are flexible in this area, for instance, grazing rights and cutting thatch grass. The rights are inheritable

and sometimes are multiple and overlapping - for instance it is common to find members of the community cutting thatch grass, poles and firewood from the land that is used by cattle keepers for grazing. Members of the village with communal land have a duty to protect their land from “outsiders” and only carry out activities that the communal land was intended for.

Much as those who access communal land in this area have substantial number of customary rights, they are, however, not allowed to carry out any commercial transactions on communal land such as selling and mortgaging, fencing allocated land, parceling and demarcating individual holdings, allowing access to non-community members without following the prescribed rules and registering individual holdings. These are unacceptable to the communities in this area because they deny other users access to a common property that is expected to be used by community members.



**Figure 1: A cross section of Kabalega Hydro power dam in Kiryamboga village, Buseruka sub county, Hoima district. The government of Uganda sought the consent of the community in order to set up this facility**

In spite of the fact that there are traditional rules on communal land governance, focus group discussions did reveal instances where the rules were not adhered to by some members of the community.

One key informant mentioned that in some cases Local Council chairpersons together with members of the community coerce those who have erected fences to remove them. The above notwithstanding the sanctions are inexistent or not clear. The reasons for not having sanctions for offenders of communal land governance rules was that the population in this area was previously sparse and flouting of the traditional norms and rules on land was more or less non-existent. Most people derived their livelihoods from fishing and other auxiliary activities of the fishing industry leaving communal land free from any form of competition by users that could have caused flouting of the rules.

*“There was no scramble for land in this area. We were all deriving our livelihood from the lake. There was no need for rules to govern land. Each clan was comfortable with the area they occupied”. - A focus group discussion participant from Kaiso*

It was found that the communal land is revered by the communities in these villages because all members of the community have an opportunity to have access and use rights to land from which they can derive their livelihoods. Other advantages of communal land tenure system that were mentioned were that it is in sync with the traditions, norms and customs of the local people and suits their livelihood options of fishing and livestock rearing. Some key informants mentioned that it minimizes land grabbing and disputes over land because ownership is vested in the entire community.



**Figure 2: Free-range grazing on communal land in Kiryamboga village, Buseruka Sub County, Hoima district**

### 2.1.2 Frameworks to enhance tenure security of communal land in Hoima district

Key informants and all participants in focus group discussions held in Hoima district agreed that there is need to secure communal lands by raising civic consciousness and mobilizing communities to form Communal Land Associations so as to register their communal lands as areas of common land use as provided in the Land Act, 1998. Both men and women participants consider registration of communal land as the only pathway of securing it.



Figure 2 A focus group discussion session in Sebigoro village, Hoima district

They preferred an independent committee elected by adult suffrage in a village assembly to manage communal lands. Participants were of the view that this committee should be constituted of individuals who are at least 40-50 years old and have comprehensive knowledge and background of land tenure system in the area. However there was disagreement on the level of education required for potential members of the committee. The participants from Kaiso suggested that for one to be a member of the committee he/she should be able to read and write English while those of Sebigoro were of the view that this requirement should be for the secretary of the committee. They mentioned that other committee members did not have to know how to read and write English.

*“Requiring each member to know how to read and write English would deny some very good people who did not go to school to serve us. Let it be for the secretary only”- A focus group discussion participant from Sebigoro fishing village*

The participants from Kaiso fishing village proposed having an executive committee of the Communal Land Association with the following positions at a village level:

- Chairperson
- Vice chairperson
- General Secretary
- Treasurer
- Representatives of existing native clans in the area
- Representative of non-native people living in Kaiso
- Representative of women
- Representative of the elderly
- Community mobiliser/ publicity secretary

The participants in Sebigoro proposed a committee with the following positions at the village level:

- Chairperson
- Vice chairperson
- General Secretary
- Secretary for Mobilisation
- Defence
- Treasurer
- Representative of Women
- Representative of Youth
- Representative of People with Disabilities
- Representative of the Elderly

Participants from both Kaiso and Sebigoro fishing villages proposed having a hierarchy of nested system to ensure that there are checks and balances on the executive committee of the Communal Land Association. They mentioned that a smaller committee would be elected at parish level to supervise and monitor activities of the village committee at the village level. They agreed that the parish committee should be elected through adult suffrage. Some of the key informants interviewed suggested that local council executive of the village should be represented on the executive committee of the Communal Land Association in the village.

*“Local councils are involved in dispute resolutions and currently administer communal lands. Their clout and experience would be important for the committee governing communal land”- a participant of a focus group discussion in Sebigoro fishing village*

Participants in the focus group discussions suggested that there should be a framework of removing committee members who are found flouting the agreed upon rules and practices governing communal land tenure. This they envisaged would act as a deterrent hence ensuring that the committee dispenses its mandate appropriately.

Respondents mentioned that for the executive committees of Communal Land Association to be empowered to effectively dispense their mandate; there was a need to have regular meetings with the local community, register all users of communal land, have local support, and good working relationship among themselves and a legitimate constitution. They contended that the capacity of these committees should be enhanced especially in the area of land policies and laws and infrastructure for supervising communal land in their areas of jurisdiction. In both key informant interviews and focus group discussion, awareness and sensitization campaigns on communal land tenure system was suggested to deepen the understanding of existing statutory and customary laws that govern it.

Participants of the focus group discussions from both Kaiso and Sebigoro fishing villages proposed that certain regulations, sanctions and incentives ought to be put in place for proper administration of communal land in their area. They suggested that the executive committee of the Communal Land Association should at least meet four times in a year with the local community to update them on the status of communal lands in the area, allocation of land to anybody outside the community should be with the consent of the whole community, “outsiders” should get reference from the areas they hail from before they are allocated access to communal land and there should be no commercial transactions such as selling and mortgaging communal land.

They further proposed setting of byelaws and marking boundaries to demarcate their communal land from other communities’ land as a strategy of securing tenure rights. Other regulations proposed were preserving the buffer zone between the lake and settlement, prosecuting offenders and paying a modest nominal fee when

acquiring commercially viable use rights on communal land. The fees they proposed would support the activities of the executive committee. Key informants proposed use of fines such as community service and naming and shaming those found flouting the rules agreed upon by the community on communal land as other regulations that ought to be enforced.

Providing for inheritance of rights on communal land was one of the incentives for securing communal land proposed in focus group discussion and key informant interviews.

Other incentives proposed were providing modest financial benefits to the executive committee members managing communal land, implementing a community-based economic activity on communal land and ensuring community participation in decision making processes on communal land through village assemblies.

The respondents mentioned that formulation of regulations, sanctions and incentives can enhance tenure security of communal land. They further argued that their formulation should be done through a consultative process. The executive committee should prepare drafts which should be deliberated upon by the entire community. It was mentioned that it should be the whole community in a general village assembly that should have the authority to make the final decision and approval of the regulations, sanctions and incentives for the proper administration of communal land in an area.

### **2.1.3 Determining Conflict management framework on communal land for Hoima district**

The study found that conflicts on communal land were traditionally resolved through existing elders' councils of the different clans living in an area. One of the key informants mentioned that women were not part of the elders' councils that were involved in addressing conflicts on land.

*“Women traditionally were not supposed to participate in discussions involving land. It was close to a taboo for a woman to sit with elders who are discussing how to address a conflict on land”- a key informant from Kaiso*

The Minister of Culture in Bunyoro Kingdom, where the sites studied are located, mentioned that in the pre-colonial period all land was vested in the Omukama (King) but managed on his behalf by administrators elected by the village (omugongo)

community members. They worked in close partnership with the elders of the different clans on issues related to communal land. They were referred to as *Abasibensi* in Runyoro- the dominant language in this region. If they failed to address communal land issues they would be forwarded to the chiefs appointed directly by the Omukama (King) at parish and sub-county level. He, however, intimated that land conflicts were a rare occurrence because the population was small and the communities respected the decisions made by the people appointed by the King.

The study further found that the traditional system of addressing conflicts on communal land has been supplanted by local council committees at village, parish and sometimes sub-county levels. Respondents also mentioned that in some instances conflicts on communal land are handled through the formal justice system of Uganda using state-based justice institutions and procedures.

When they were probed to share their perceptions on the current framework used to address conflicts on communal land, all participants of key informant interviews and focus group discussions had a negative perception on the current system of Local Councils and state-based justice system in addressing conflicts on communal land. Almost all participants mentioned that the system is riddled with corrupt individuals who are often partial in the decisions they make on land issues.

*“Local councils are so corrupt. They sell our communal land to rich people without consulting us. They are never on the side of the community when there is a conflict with rich people on our land”-a participant in a focus group discussion in Kaiso fishing village*

Participants faulted the formal justice system as extremely bureaucratic, inefficient, slow and expensive. They mentioned that the formal justice system is totally not free from corruption and therefore the poor who may not be able to pay bribes (rent seeking) are not assured of getting justice.

Some key informants also stated that the current system of addressing conflicts on communal land creates perpetual disharmony among or between conflicting parties because it is “a winner takes it all” process which makes it lack legitimacy. It creates a winner and loser scenario in the conflict management which traditionally was avoided by the local communities when dispensing justice especially on land and resources on it.

When participants were probed further to find out whether there are any positive elements in the current system of addressing conflicts on communal land; the majority mentioned that there was nothing positive. Only one key informant said local council chairpersons are respected because they are elected leaders and therefore have legitimate authority to manage conflicts on communal land.

Participants were asked to suggest strategies that they considered appropriate in addressing conflicts on communal land and the suggestions varied between those from Kaiso and Sebigoro. The participants from Kaiso agreed to have an independent mediation committee which should be constituted by elected members from the community. Some key informants mentioned that it would be important to have an elder on this committee because of the assumed experience on the land within this area and gender equality should be considered in the selection of members to this committee. They also suggested that the decisions of the mediating committee should be binding on all the conflicting parties once resolved. The participants in the focus group discussions in Sebigoro suggested that the executive committee of the Communal Land Association once registered would also double as the mediating committee on conflicts on communal land.

In all the interviews and focus group discussions, it emerged that the mediation committee should have permanent members but there should be an arrangement to co-opt three other members on a case by case basis when there is a conflict that needs to be addressed. They further agreed that the mediating committee should have a good working relationship with the local council committee but this should not in any way jeopardize their independence and impartiality when addressing a conflict on communal land.

When participants were asked to suggest the criteria to follow in the selection of members of a communal land conflict mediating committee, they proposed that it should be individuals who are “mature” with impeccable integrity. The age of 30-40 years was proposed as the lower limit for one to be eligible to be a member of the mediating committee.

Some of the key informants mentioned that for one to be eligible he/she should be able to read and write but this was dismissed in the focus group discussion in Sebigoro but embraced in Kaiso fishing village. The other criteria mentioned by key informants were that one should have lived in the area for at least 10 years and should not be above 80 years and where possible retired public servants such as chiefs and religious

leaders should be given priority to be on the mediation committee because of their experience and respect they command in society.

Participants also mentioned strategies through which the executive committee would prevent and monitor conflicts on communal land and these include the following:

- Formulating byelaws on communal land
- Formulating policies, guidelines and codes of practice governing the executive and mediation committees
- Having regular meetings of the mediation committee to discuss emerging issues on communal land. They mentioned having quarterly meetings every year would suffice
- Monitoring of on-going activities on communal land to prevent occurrence of outlawed activities
- The committee members should be able to exhibit good land governance attributes such as transparency, equity, participation and accountability
- The committee members should have had some form of training on policies and laws governing land in Uganda
- Ensuring that communal land in the area is well zoned in order to maintain values, safety and prevent conflicts

## 2.2 Communal land management practices in Buliisa district

### 2.2.1 Traditional distinctive features of communal land tenure system in Buliisa district

Communal land in Buliisa district is predominantly found in Kasenyi, Bikongoro, Kibambura, Wanseko, Kijangi and Bugana. According to most key informants interviewed; a large proportion of the areas in Buliisa district are named after the dominant clan although multiple clans can occupy the same area suggesting that communities are easily identifiable based on the clans.

Approximately 25% of the all the land in Buliisa district can be categorized as communal. However, focus group discussions revealed that the proportion of land that can be characterized as communal is about 40% in Buliisa and Butiaba sub-counties which are dominated by fishing and pastoral communities. Arable land, wildlife, thatch grass, poles, firewood and grazing and browsing resources are the key resources found on communal land in Buliisa district.

It was found that communal land is administered in “dual system” of clan hierarchy and Local Councils at the village level. However the role of the clan system is steadily getting relegated because their decisions are currently perceived as not binding compared to the Local Council executive at the village level. The clan hierarchy also lacks the clout that characterized them before the advent of the current governance system. Local Councils at the village level are more involved in the governance of communal land than the traditional clan system. The clan leaders and local councils have the following responsibilities in administering communal land: settling disputes, supervising and monitoring activities on communal land, allocating use rights and reprimanding those who flout the unwritten rules on communal land.

*“Clan elders had a lot of power on land including inviting friends from other clans to settle on their ancestral land. That is why you find some areas named after a certain clan but other clans are also settled there”. -A key informant from Buliisa district local government*

Focus group discussion participants unanimously agreed that community members with rights on communal land are defined by heritage or relationship with clan members that are perceived to be “aborigines” in the area. All members of the

community who can claim ancestry on a particular area that has traditionally had communal land can freely access it while “outsiders” can only acquire rights through the Local Council chairpersons with endorsement from a community member of the area one wishes to access. Participants indicated that currently ownership of communal land is not well-defined. There is no well-defined authority holding ownership rights of communal land and this often makes it susceptible to land grabbers. Traditionally access to communal land by “outsiders” would only be permitted by clan elders of the area and these have been replaced by Local Council leaders who are easily compromised.

*In the early years, the clan leadership had all powers and rights over communal land in their respective areas but all this has been lost with the coming of the Local Council system which is not helping us in the protection of communal land. It's like communal land does not have an owner now apart from a few clans that have organised themselves and registered it with the district under Communal Land Associations. A key informant from Buliisa district local government*

Members of the community have a right to use, settle, cultivate and rear livestock on communal land. However, they are not allowed to sell, fence, set fires or burn charcoal on communal land. They only have use rights on communal land. The rights are flexible and inheritable and sometimes multiple and overlapping. Members are required to seek permission when they wish to access or use land that already has another user. Examples of secondary rights include the right to access easements and collection of firewood.

The key informant interviews revealed that there are no well-known defined sanctions for those who are found not adhering to the customary rules on communal land but usually Local Councils at the village level prosecute offenders especially those who are found guilty of burning grass are required to pay an agreeable fine by the village members represented by the local council committee while those found burning charcoal are reported to the District Forest Officer who applies statutory laws in apprehending the offenders. All members using communal land are expected to avoid conflicts amongst each other and have a duty to protect the land from “encroachers”.

The participants in the focus group discussions and key informant interviews all intimated that communal land tenure system is highly regarded in Buliisa because the resources from which they derive their livelihoods vary in space and time and therefore having communal land is appropriate in sustaining them.

*“Buliisa land was zoned naturally into fishing sites, grazing sites and cultivation sites. To enable all members of the community to be able to carry out any of the three activities, communal land is important”.-A focus group discussion participant from Ngwedo*

### **2.2.2 Frameworks to enhance tenure security of communal land in Buliisa district**

All the participants in the focus group discussions and key informant interviews held in Buliisa agreed with the view of registering communal land under a Communal Land Association as provided for in the Land Act, 1998. They consider this as one of the ways through which communal land can be safeguarded against unscrupulous individuals who target transferring communal land into freeholds without considering customary rights of local communities.

*“If we had registered our communal land, all these rich people grabbing our land using underhand methods would not have even attempted to do it”. - A key informant from Buliisa town council*

Participants in the current study mentioned that Communal Land Associations with independent executive committees should be set up to manage communal lands in Buliisa district. This view was reiterated by both men and women participants. In order to ensure that the committee is effective, it should operate within a single village. The executive committee should be constituted of the following positions:

- Chairperson
- Vice chairperson
- Secretary
- Treasurer
- Representative of the youth
- Representative of women
- Representative of the elderly
- Mobiliser

They mentioned that the committee should be under the General Assembly of the village to ensure that it remains fair in its actions. Some of the key informants suggested that other small working committees should be set up to operationalise some of the guidelines and rules agreed upon by Communal Land Associations and the land management scheme.

*“Committees such as asset committee, executive committee, land management committee and zoning committee are critical in the management of communal land” A key informant from Buliisa Local Government*

When participants were asked to suggest the selection criteria for committee members, they mentioned that the executive committee of any Communal Land Association should be made up of members of the community who are residents in the area, at least 30-35 years old and the secretary should have at least completed “O” level (Uganda ordinary certificate of education). Some of the key informants were of the view that to qualify for membership to that committee, one should have lived in that area for at least 20 years. They also agreed that the decisions made by the executive committees of communal land association only become binding after their approval by the village general assembly. This would ensure that the activities and operations of the committee are monitored to avoid taking illegitimate decisions.

There were disagreements in one of the focus group discussions on whether there should be term limits on the positions of the committee. The majority of the participants argued for two terms of five years each i.e. 10 years as maximum. The participants who disagreed on having restrictions on terms thought this would disfranchise the community from having leaders who have performed exceptionally well for more than two terms to continue serving them.

Some of them suggested that once a person serves more than two terms he/she should not qualify for the immediate term but eligible for the subsequent ones.

When participants were probed to suggest ways through which the executive committees can be empowered to enhance their performance, they mentioned that there is a need for sensitization of the local communities and the committee on policies and laws on land and technical backstopping through legal aid. There is also a need to survey and demarcate communal land and the committee should be supported by the community to monitor and supervise activities carried out on their communal land.

Participants observed that effective administration of communal land requires certain regulations, sanctions and incentives. The following regulations were mentioned during focus group discussions and key informant interviews;

- There should be no land transactions, such as, selling and mortgaging of communal land
- All community members should have a share of benefits from communal land within their jurisdiction, including but not limited, to compensation, royalties or rent from private companies operating on it
- Accessing communal land by “outsiders” should be sanctioned by all community members
- Land use on communal land should be agreed upon by all members of the community and they should adhere to the agreed positions and practices
- There should be no setting fires on communal land
- All communal land should be demarcated/mapped to avoid conflicts with neighbouring communities

Participants mentioned some sanctions that would act as deterrent for those who do not adhere to the agreed regulations and these include; members of the community who are involved in selling or setting communal land on fire should be prosecuted using existing legal framework, and attempt to sell communal land should be punished by eviction from the land. They further proposed that minor offences should be punishable by paying a fine.

They suggested some incentives which they considered important in the quest for good administration of communal lands and these include,

- Provision of technical and financial support for communities that wish to form Communal Land Associations
- Legal aid during the registration of communal land
- Ensuring benefits that flow from communal land are shared equitably with all members of the community
- Financial motivation to the executive committee
- Awareness and sensitisation campaigns on communal land management

Through focus group discussions, it was found that the general assembly of a village was the preferred system through which regulations, sanctions and incentives governing communal land should be formulated.

*“Leaving formulation of regulations and sanctions to the general assembly is good because all members would participate and therefore what is passed would be easily accepted than when the ideas are from the committee”- a participant of a focus group discussion*

### **2.2.3 Determining Conflict management framework on communal land for Buliisa district**

It was found that conflicts on communal land in Buliisa district were traditionally resolved by elders in the different clans occupying each area. It was noted that unlike in the current era, conflicts on land were very rare because boundaries of different communities were demarcated by indigenous trees/shrubs or bushes that all members of the community were aware of and respected. The traditional approach of managing conflicts on communal land has been replaced by Local Councils and formal Courts of law. When the perceptions of the participants on the system currently used to address conflicts on communal land was sought, it emerged from their comments that the participants did not find Local Councils at the village level as a suitable framework to manage conflicts on communal land. They perceived the Local Council chairpersons as partial and easily bribed by rich people who grab communal land from the local communities. They also argued that currently, the decisions of the Local Council 1 Court are inconsequential and not binding and therefore such a system is not suitable to address matters of land since they are not recognized by the justice system of Uganda. Some of the key informants interviewed mentioned that often political interests over-ride the decisions made by Local Council chairpersons on communal land and therefore it is inconceivable to expect impartiality from them.

*“Some LC 1 chairpersons are supported by rich people who are interested in communal land. They cannot rule against them. Buliisa community is politically divided into two camps umoja and bero . I would not expect justice from an LC 1 chairperson belonging to another camp” – a key informant from Kigwera village in Buliisa district*

In two of the focus group discussions held, the participants raised the issue of failure to prioritize mediation as a negative element in the formal justice system. They also perceived the formal court system as a preserve for the rich who can pay legal fees and they did not regard them free from corruption.

*“Court system is for the rich. When a poor man wins a case here in Buliisa, the rich man can appeal to High Court in Masindi. The cost of taking witnesses to Masindi cannot be afforded by ordinary local people and in the process poor people end up losing because they could not afford High Court costs”-a participant in a focus group discussion held in Buliisa town council*

Despite the weaknesses of the LC system; the participants from one of the focus group discussions found them efficient.

Mediation was mentioned as the most appropriate strategy to address conflicts on communal land. All participants agreed that it is a relatively less expensive approach to resolving conflicts on land at the local levels and it is easy to implement. Participants of one of the focus group discussions suggested that mediation should be operationalized through setting up a mediation committee that comprises of members of the executive of a Communal Land Association and LC 1. The other group preferred an independent mediation committee whose operations and activities are harmonized with those of the executive committee of the Communal Land Association.

Participants in all focus group discussions suggested that the committee should have both permanent and temporary members who are selected on case by case basis to avoid bias during mediation processes. They further mentioned that the mediation committee should have elders and cultural leaders. One of the key informants suggested that this committee should also include faith-based leaders because they are highly regarded in society.

Participants were probed to suggest criteria that should be followed in the selection of members of the mediation committee and they proposed the following attributes:

- High integrity
- Highly respected by community members
- Knowledgeable on the history and background of the land in his/her area of jurisdiction
- Ability to read and write
- Ordinary certificate of education for the chairperson
- No criminal record
- At least 25years of age
- Should be a permanent resident of the area

Experience in mediating land related conflicts was proposed as another selection criterion by one of the key informants.

When asked strategies that they considered important in preventing and monitoring conflicts on communal land; they proposed the following:

- All communal land in the area should be registered
- Guidelines for communal land use should be developed and disseminated to the local community
- Grazing on communal land should be regulated
- Community members on communal land should be sensitized on norms and practices agreed upon
- Monitoring of activities carried out on communal land should be continuous
- Women should be deliberately encouraged to participate in the management of communal land

### 3.0 Discussion

The findings from the current study corroborate Cousins<sup>22</sup> who posit that communal land tenure system implies community control over who is allowed into the identifiable group, thereby qualifying for an allocation of land, as well as rights of access to the common property resources used by the group. The study found that rights to communal land and the resources on it are shared and often flexible to an extent that “outsiders” can also be allowed to have certain rights on communal land. Similar observations were reported by Okoth-Ogendo<sup>23</sup>. Multiple and overlapping rights on land are a common phenomenon in African tenure system<sup>24</sup>. The findings from the current study further confirm that African land tenure is open, negotiable and adaptive<sup>25</sup>. These features are however getting eroded as local elites are converting communal land into private holdings in the sites studied<sup>26</sup>.

Land transactions on communal land were abhorred by the communities that participated in the current study. Similar findings were reported in South Africa<sup>27</sup>. Land in Africa belonged to the community and not the individual but this got eroded with the introduction of the colonial administrators. Resentment of land transactions on communal land is due to fear of losing land to state authorities and large corporations but also communal land tenure system certifies control of access use and allocation of land<sup>28</sup>.

22 Cousins et al, 2004, Communal land rights, democracy and traditional leaders in post-apartheid South Africa. *Securing land and resource rights in Africa: Pan-African perspectives*, 139-54.

23 Okoth-Ogendo, 2002, The tragic African commons: A century of expropriation, suppression and subversion, Land reform and agrarian change in southern Africa occasional paper No. 24.

24 Berry, 1993, No Condition is Permanent. *The Social Dynamics of Agrarian Change in Sub-Saharan Africa*

25 Peters, 2004, Inequality and social conflict over land in Africa, pg. 269-314

26 CRED, 2014, Land rights abuses in the oil rich Albertine Graben in Uganda.

27 Chanock, 1991, Paradigms, policies and property: A review of the customary law of land tenure

28 Cousins, 2009, Potential and pitfalls of ‘communal’ land tenure reform: Experience in Africa and implications for South Africa. *Paper for the World Bank Conference on Land Governance in Support of the MDGs: Responding to New Challenges* pp. 9-10.



**Figure 3: Sebigoro village community member displaying a raze wire that had been used to fence off community land. The community resisted the move.**

Currently ownership of communal land is not well-defined - a situation that has led to Local Council chairpersons at the village level to claim ownership rights over communal land in their areas of jurisdiction despite not having any legal provision from which they derive this authority. It is therefore not surprising that CRED<sup>29</sup> reported illegal conversion of communal land into private holding orchestrated by Local Council leaders. Traditional authorities which were hitherto bestowed with ownership rights are no longer active and lack the clout to influence decisions on customary communal land. This situation is exacerbated by the fact that the statutory laws such the Land Act, 1998, the Land Acquisition Act Cap 226, The Succession Act Cap 162 and Constitution of the Republic of Uganda in spite of recognizing traditional authorities on land are not explicit on their functionality. The findings from the current study are in tandem with Ho<sup>30</sup>, who observed that there is a global trend of

29 CRED, 2014, Land rights abuses in the oil rich Albertine Graben in Uganda.

30 Ho, 2001, Who owns China's land? Policies, property rights and deliberate institutional ambiguity. *The China Quarterly*, 166, 394-421.

communal lands being taken over by Local Government administrative units. This is because of increasing low opinion on traditional authorities from implementers of statutory land laws and lack of adequate consciousness of the local communities to demand for traditional authority involvement in land administration.

If the current trend continues unabated; communal lands will continue to be susceptible to being grabbed by wealthy national or local elites and multinational corporations because the authorities currently governing it do not have legal and legitimate mandate and therefore can easily participate in illegal transactions on this type of land. There are reports of communal land being converted into private property by some local and national elites in the Albertine region<sup>31</sup> and this seems to be on an upward spiral.

Participants in the current study consider registration of communal lands as land of common use the most appropriate way to secure their rights than the current arrangement where there is no well-defined authority with customary or statutory mandate. Formalization and codification of customary rules, norms and practices as proposed by the communities studied has been tried elsewhere and there is evidence that it can provide security of tenure to vulnerable groups<sup>32</sup>. Similarly, Cousins<sup>33</sup> contends that integrating local systems and rules into law by systematizing them and giving them legal definition and registering of local rights can enhance security of communal land tenure.

However it is important to note that there could be some challenges in determining which practice or custom is legitimate when the community is diverse<sup>34</sup>. Therefore the process of formalizing communal land ownership through registration of Communal Land Associations ought to follow rigorous and effective consultations and engagement of all members of the community. The process should be driven by consensus building rather than “majority takes it all” approach. This is especially important in fishing villages which are characterized by a diversity of people with different ethnicity, background, customs and values. It is also important that the interests of marginalized groups, such as, women who traditionally had a peripheral

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31 MLHD, 2013, Ministry of Lands, Housing and Urban Development, The National Land Policy

32 Alinon, 2004, Land tenure and legal pluralism: the West African situation In Saruchera, M. School of Government, University of the Western Cape. Cape Town, South Africa.

33 Cousins, 2009, Potential and pitfalls of ‘communal’ land tenure reform: Experience in Africa and implications for South Africa. *Paper for the World Bank Conference on Land Governance in Support of the MDGs: Responding to New Challenges* pp. 9-10.

34 Kolawole, 2002, Access to agricultural and pastoral resources in Nigeria, in *Dynamics of resource tenure in West Africa*, Pg. 110–20.

role in land issues are prioritized to avoid a situation of formalizing perpetuation of violation of their land rights.

The study showed that conflicts on land are currently addressed by the Local Councils at village level and through the formal justice system. This is contrary to what was reported by Behrman *et al.* (2013) in northern Uganda where clan leaders are the first to be approached when there is a conflict on land. This may be because the communities in the sites studied are more diverse hence Local Council chairpersons and courts of law are perceived to be more suitable than the traditional authorities that are pegged to a particular ethnic group. It may also be because of the difference in the magnitude of land conflicts in the two studies and socio-economic, political and traditional characteristics of the populations studied.

The study found that an independent mediation committee was preferred by most communities to the Local Councils at the village level and the formal justice system. The main indictment of the current system was that it is permeated by corruption from lower to higher levels and it is very costly. Similar findings were reported by Behrman<sup>35</sup> in northern Uganda. Mediation, if well designed through consultative processes, can be effective because it is cheaper and provides culturally relevant remedies, restores and preserves relationships<sup>36</sup>. However there seems to be limited effort in popularizing this approach in addressing land conflicts in Buliisa and Hoima districts in spite of legal provisions for it. Establishing and formalizing mediation processes through registration of Communal Land Associations will be a positive step in trying to promote a justice system that is preferred by the local communities of Hoima and Buliisa as reflected in the findings of the current study. It will also minimize power imbalances that often characterize land conflicts<sup>37</sup>.

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35 Behrman *et al.*, 2013, Evaluation of grassroots community-based Legal aid activities in Uganda and Tanzania: Strengthening women's legal knowledge and land rights. CAPRI Working Paper No. 108.

36 Wojkowska, 2006, Doing Justice: How informal justice systems can contribute United Nations Development Programme, Oslo Governance Centre

37 Forester, 1987, Planning in the face of conflict: Negotiation and mediation strategies in local land use regulation, *Journal of the American Planning Association*, 53(3), 303-314.

## 4.0 Conclusion and Recommendations

### 4.1 Conclusion

The current study sought to interrogate the historical and current features of communal land tenure system in oil exploration areas of Hoima and Buliisa districts in the Albertine region of Uganda. Communal land in these two districts is perceived as land that is “reserved” for common use, such as, grazing, hunting, collection of firewood and cultivation. Access to communal land is determined by heritage or relationship with clan members that are “recognized” as indigenous in the area with communal land. Rights over communal land are flexible, inheritable and members of the community are expected to protect this land from “outsiders”. Members of the community are not allowed to carry out any commercial transactions on communal land. It is expected to be administered in “dual system” of clan hierarchy and local councils at the village level. However the role of the clan hierarchy is getting relegated and most decisions involving access to communal land are made by Local Council chairpersons at the village level. There are no well-defined traditional sanctions which are being enforced for those who are found not adhering to the customary rules on communal land.

Formation of Communal Land Associations to register existing communal lands as areas of common land use as provided for in the Land Act, 1998 is perceived as the most optimal mechanism of securing communal land in the districts studied. It is considered effective given the current context of oil activity and speculation which has rendered it susceptible to land grabbers.

Communal Land Associations should be administered by an independent committee elected by adult suffrage in the community assembly. The committee should be constituted of positions that will ensure interests of all stakeholders in the area are taken care of and there should be selection criteria for membership on this committee. Regulations, sanctions and incentives formulated through effective participatory processes ought to be put in place for proper administration of communal land.

Conflicts on communal land were traditionally resolved through existing elders’ councils of the different clans living in an area. However, this is no longer the position; Local Councils and formal courts are currently addressing most of the

conflicts on communal land. The community has a negative perception of the current system because of the high costs involved and corruption fears. Mediation is preferred as the most suitable approach to addressing conflicts on communal land. In order to operationalize mediation, each community needs an independent mediation committee elected by the village assembly.

## 4.2 Recommendations

### 1. Local governments ought to conduct an inventory of communal lands

District Local Governments need to conduct an inventory of all communal land in their areas of jurisdiction with a detailed account of the beneficiary communities, traditional norms, values and codes of practice. The local governments should support the documentation of customary rules, which could be gazetted as bye-laws to secure communal land. This should be the first step in setting an affirmative agenda for vulnerable communal groups in the Albertine region. Local government structures like the office of the Community Development Officer and District Natural Resource Officer should sensitize communities on the benefits and procedures of registering communal land. The inventory mentioned above will help the respective District Land Boards in identifying and caveating fraudulent land applications seeking to convert communal land to private property. CSOs ought to play complementary roles in sensitizing community groups and assisting them in forming Communal Land Associations as is provided for in the Land Act, 1998.

### 2. Explore use of community mapping technologies

Community leaders should explore the use of community mapping technologies with the view of ensuring that communities' customary land rights are successfully claimed, protected and leveraged for local prosperity. Civil society organizations and development partners should support community groups to conduct participatory mapping through use of tools such as mental mapping, ground mapping, participatory sketch mapping, transect mapping or participatory 3-dimension modeling depending on the context of a particular community.

### 3. Sensitization of communal groups

The communities in the Albertine region need to be legally empowered through legal education and legal aid to raise consciousness and enable them secure their customary rights on communal land. This could be done by Non-Governmental

Organizations and Community Based Organizations. Community groups ought to be assisted to generate governing constitutions and through the application process for Communal Land Associations.

#### **4. Training of local officials on laws, procedures and best practices**

There are apparent capacity gaps amongst political and technical officials at the district and sub district levels, particularly, officials mandated with playing key roles in securing the land rights of the people. These include the District Land Boards, the Area Land Committees, The Sub County Recorders, LC 2s and LC 1s. For example, the Area Land Committees in the districts of Hoima and Buliisa have not gone through induction and any form of training. The current study found out that Local Council leaders, especially LC 1 leaders indulge in illegal and irregular practices. There is need for training, mentoring and orientation of key village, Sub County and district officials. These trainings should be carried out by the Ministry of Lands, Housing and Urban Development, training institutions and civil society organizations.

#### **5. Conduct judicial trainings and exposure**

Civil Society Organizations working in partnership with the Judicial Studies Institute should conduct training and exposure events with the members of the judiciary with the view of “retooling” them on existing customs on communal land in the region to ensure fairness in the dispensation of justice on communal land cases. In addition, the judiciary needs to have more regular engagements with local communities using open days approach to build trust and confidence, address emerging issues and concerns of the local people on judicial processes and enable communities to be more familiar with the functions of the judiciary on communal land as they implement the outreach program. This should be done in strict compliance with the law.

#### **6. The office of the Inspectorate of Government should investigate corrupt practices in land administration and adjudication**

Responsible agencies need to investigate claims of corruption and abuse of power by the Area Land Committees and the District Land Board officials. In addition, judicial officers accused of corrupt practices should be investigated and penalized. There is an urgent need for cleaning up the land administration and management systems as well as judicial processes for dispensing justice in order to restore the trust of the local communities. Agencies and duty bearers involved in land administration at the district and national level need to create

“open days” to disclose information on land registration applications in their areas of jurisdiction and any information relevant in enhancing security of tenure.

**7. Clarify the role of traditional authorities in communal land governance**

The Ministry of Lands, Housing and Urban Development should formulate guidelines and regulations that define the functionality of traditional authorities to enable their effective involvement in communal land governance. Although the National Land Policy of 2013 recognizes the important roles that traditional institutions play, their functionality and how they relate with other land dispute resolution forums remains unclear. There is an urgent need to operationalize the provisions in the National Land Policy by formulating guidelines on the operation of traditional authorities in the governance of customary tenure.

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## About CRED

The Civic Response on Environment and Development (CRED) is a research and advocacy organization that seeks to promote the relevance of public policy and laws to the needs of the people through advocating for a governance framework that upholds democratic principles, values of transparency and accountability, constitutionalism and the rule of law. CRED works in three broad programme areas - Law and Governance, Human Rights and Environment, and Trade and Investment. The activities implemented include research, community sensitization, legal advisory, pro bono legal services, local and national level advocacy. For more information, visit [www.creduganda.org](http://www.creduganda.org)

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