

## SECURING LAND RIGHTS FOR WOMEN AND CHILDREN

### The Functionality of Area Land Committees in Bunyoro



*The right of access to justice for all citizens, and the rights to own property are fundamental rights. The right of access to justice ensures that appropriate mechanisms for redress and remedy for communities and individuals whose rights have been infringed upon are available and utilized.*



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# 1.0. INTRODUCTION

## 1.1. Background

Abreast with the numerous land conflicts fueled by among others, the irregularities in registration, administration and transfer of interests on land, causing untold misery among women and children - denying them shelter and food due to loss of homes and gardens from where to feed; the right to education following displacement of families to places in unreasonable distances to schools; social insecurity due to unjust loss of property unjustly; physical and psychological torture as some of them end up in jail and beaten bitterly in fighting back for their rights; and children whose parents lose life or get detained during the land wrangles, yawn helplessly without any provider for the basic needs - Child Rights Empowerment and Development Organization (CEDO-Uganda) with financial support from the United States Agency for International Development (USAID Uganda) under the Supporting Access to Justice, Fostering Equity and Peace (SAFE) Program, is implementing a 12 months project on Community Land Rights for Peace. The overall goal of the project is to contribute to enhanced peaceful co-existence among the citizenry in the districts of Masindi and Hoima through improved land governance and management practices. The two districts are situated in the Albertine region which is endowed with one of the most the valuable land resources that the few privileged members of society from within and without are scrambling for due to anticipated economic opportunities, which arise from the recent oil discoveries in the region.

Implementation of this project is anticipated to result into increased awareness of land rights among Men, Women & Youth; Increased access to legal justice to victims of land disputes in the region; Increased capability of existing institutions for land administration to promote land rights and sustain the project interventions; and increased ability of land disputes affected families to demand for –and access justice in formal and informal institutions.

CEDO has intervened by employing media campaigns conducted in the local language, during which voices of victims have been heard by the wider audience on local radio stations. In addition, the capacity of government structures that administer land justice i.e. Local councils, Area Land

Committees (ALCs) and District Land Boards (DLBs) have been built through trainings. Besides, community-based structures for legal assistance and dispute resolution have been established, and mechanisms through which citizens can bring DLBs and ALCs to account initiated. Such mechanisms include community accountability meetings in which relevant authorities on land administration account to citizens.

Consequently, land legal awareness has been created, which has enhanced the level of citizen mobilization and increased access to justice. Currently, there's evidence of a rush to voluntarily settle long standing land related disputes through alternative dispute resolution mechanisms (ADR), and opening of boundaries with mark trees being planted on the boundaries. Moreover, the proportion of local community members able to demand for critical services related to land rights and information from duty bearers has also increased.

## 1.2. About the Brief

This brief is a result of political and social issues pertaining to management and administration of land in Bunyoro, emanating from community dialogue meetings, findings of community legal volunteers and the synthesis of diverse views of other CSOs working on land rights protection; in regard to the functionality of ALCs. It provides recommendations to address gaps as established from stakeholders' own beliefs in relation to land issues- not only in Bunyoro, but also across the country.

Therefore, as the national development plan and the manifesto of the ruling NRM party highlight the concerns and the need to serve those in impoverished circumstances; this brief is an invitation to the technocrats, law and policy makers and enforcers, to experience transformation in their own mandate and the lives of those they serve. It is hoped that the human-interest case stories presented herein are not only to give more than a notice of an event to garner the interest of policy makers and implementers, but also to call for enthusiasm and take actions in implementing land legislations and/or making necessary reforms and address a need affecting a larger category of people in the various communities.



## 2.0. CONTEXTURAL ANALYSIS

An Area Land Committee (ALC) at the Division or Sub-county level is one of the legal structures in land administration. By its roles, the ALC is the pivotal structure in protection of interests of land of individuals, institutions and communities in the different land tenure systems. The roles of the ALC include determining, verifying and making boundaries of customary land within their areas of jurisdiction; advising the District Land Boards (DLBs) in matters relating to land, including ascertaining various categories of land rights of individuals, communities and institutions during the processes of transfer of land interests and registration of land titles.



To ensure that lawful occupants or people using public or freehold land enjoy the right to security and protection, Section 28 of the 1998 Land Act provides that "a number of conditions set in the Land Act have to be met by the leasee before the lease can be converted under the freehold tenure system". Consequently, the Ministry of Land Housing and Urban Development (MLHUD) established the procedures for

acquiring a Freehold Land Title and/or a Lease Hold Land Title on Public Land as provided for in the conditions under Section 12 of the Land Act. The conditions of acquiring land include: Application through the Sub-county Area Land Committee (ALC); the ALC puts a notice of hearing application for the grant of the tenure in a known public place; a decision is made in accordance to the customs of the area on any question or matter concerning the land applied for; The ALC listens to the interests and claims of other people on the land; The ALC makes inspection report and submits it to the DLB for confirmation or rejection and thereafter authorizes the MLHUD for approval to issue the Title or otherwise reject, and the applicant may appeal to the District Land Tribunal if not satisfied with the decision of the DLB.

With respect to the goals of the National Land Policy adopted in February 2013, namely, "efficient, equitable and optimal utilization and management of land resources for poverty reduction, wealth creation and overall socio-economic development", the growing demand for land in the oil dominant Bunyoro region has jeopardized the capacity of institutions for land administration to align land development to protection of property rights.

As a result, land disputes are taking place on the ground, causing untold misery among women and children including: denying them shelter and food following the loss of their homes and gardens from where they feed; denial of the right of children to education following the displacement of their families to places in unreasonable distances to the nearest schools; social insecurity as they lose their property unjustly; physical and psychological torture as some of them end up in jail and beaten bitterly in fighting back for their rights; and children whose parents lose life or get detained during the land wrangles yawn helplessly without any provider for the basic needs.



Part of the Kiyaayo Internally Displaced Peoples' Camp in Hoima



## 3.0. EMERGING ISSUES ON FUNCTIONALITY OF ALCs

The key issues and recommendations on the functionality of ALCs which emerged from the project activities, especially community dialogues, consultative meetings with selected CSOs on land rights protection, radio talk-shows and capacity building interventions for the local structures fall under the following categorical concerns and described further in detail in subsequent matrix:

1. Funding
2. ALC constitution
3. Land inspections
4. Capacity of ALC members
5. Compensation rates

### Matrix illustrating key emerging issues and Recommendations on the Functionality of ALCs

EMERGING ISSUES	RECOMMENDATIONS
<p><b>3.1. Funding</b></p> <p><b>Issue:</b> There are no streamlined ALC remuneration modalities ever been determined by district councils and recommended by the district executive committees as provided for in Section 66(1) of the 1998 Land Act, Cap. 227</p> <p><b>Risk:</b> It is most likely that the privileged rich - some of who are riddled with corruption - may take advantage of inadequately and sometimes non-financed ALCs to influence inspection reports in favour of the leasee without listening to the claims, interests and any other question or matter concerning other people on the land. Thereby rendering ALCs centers of exploitation by the powerful against the poor. In the Oil-rich Bunyoro Region, for example, over 95% of the population do not own land titles, a thing which makes their land susceptible to land grabbing in scramble for land related opportunities that is seen to come with oil extraction.</p>	<p>a) There is need to leverage on the remuneration of ALCs and DLBs already determined by some districts to put in place a Schedule for the remuneration and funding for the ALC activities across the country.</p> <p>b) The budgets and disbursements of the funds for the district land office should include a percentage share for the remuneration and activities carried out by the ALCs.</p> <div data-bbox="797 1192 1516 1602" style="border: 1px solid black; border-radius: 15px; padding: 10px; margin: 10px 0;"> <p><i>“There is a growing trend of individualization of customary land by creating large chunks registered in the form of freehold. This rapid and extraordinary transition is driven by individual scramble to strategically reap from the demand for land anticipated in the region due to oil discovery”.</i></p> </div> <p>A report titled <i>'Escalating land conflicts in Uganda: A review of evidence from recent studies and surveys, 2009, by Dr Margaret Rugadya</i></p>

## EMERGING ISSUES

### 3.2. ALC Constitution

#### Issue:

Lack of a fully constituted functional DLBs and ALCs in some districts and sub-counties, while in other districts such as Masindi<sup>1</sup> the DLB is not fully constituted after its expiry in 2015.

#### Risk:

- This puts the committees in a more vulnerable position to the potential leasee in need of transfer of interests and rights on land to cause for the establishment of the committees that may be compromised.
- Due to absence of DLBs and ALCs, majority of land related conflicts and the requests for opening boundaries are not taken to the competent institutions for administration of land justice. Most communities report them either to the office of the Resident District Commissioners (RDCs) or Non Governmental organizations (NGOs).

### 3.3. Land Inspections

#### Issue:

- Unsatisfactory inspection reports prepared by ALCs for the transfer of land interests under customary and freehold land systems.
- Insufficient consultations and hearing of views of all community members with interests and rights on freehold and customary land
- Inspection reports are availed in English for some community members, the very possible victims of abuse, to read and interpret.

#### Risk:

- If deliberately wished by the ALCs inspection reports may not portray the true picture on ground to lawful evictions and transfer of interests on a given land.

## RECOMMENDATIONS

- a) There should be a ministerial directive for all districts with freehold or public land such as in Bunyoro region to constitute or appoint and determine the remuneration of their respective DLBs and ALCs



Donozio Kasaija (58 years, in black jacket); presents an issue during a dialogue at Birungu in Kitoba S/county- Hoima District, on 27<sup>th</sup> Nov. 2015



- a) There is need to prescribe a specific report format or template on which findings of the ALCs should be transcribed.
- b) There is also need to prescribe a specific report form for the DLBs to transcribe on their findings before approval of the report from the ALCs
- c) The forms suggested above in (a) and (b) should include liabilities in safeguard of the specific interests and rights of women and children and the conditions and terms for the applicant to meet in displacement of women and children in cases of lawful transfer of interests on land.
- d) ALCs should be compelled to give feedback or read and interpret the findings of the report during inspection to the people or their representatives who were heard by the committee.


*In 2012 Tullow Oil explored oil in Block 5 Waraga D site and approached the community leaders for consent to use the land for exploration purposes, which was granted. Later, M/S Gids Consult Limited, wrote to Tullow claiming to be the title holders of the land. To residents, this was the first time to hear that a company held a title for their customary land.*

Godfrey Nnsi, the chairperson LCI Kiryamboga, Village

<sup>1</sup> Masindi District Local Report to Council 2015



EMERGING ISSUES	RECOMMENDATIONS
<p data-bbox="56 241 698 346"><b>3.4. Capacity of ALC Members</b></p> <p data-bbox="56 388 698 535"><b>Issue:</b> Unsatisfactory endeavors of ALCs to mediate between and reconcile parties having conflicting claims to the land.</p> <p data-bbox="56 567 698 682"><b>Risk:</b> This threatens social security of men, women, youth and children.</p> 	<p data-bbox="722 241 1575 577">a) The MLHUD should strengthen or adopt a Public-Private Partnership strategy and regulate the ALCs to co-opt institutions with mediation, peace and reconciliation skills to support them to diligently carryout its mandate to mediate between and reconcile parties having conflicting claims to the land.</p> <p data-bbox="722 430 1575 577">b) The strategy proposed in the National Land Policy 2013 to carry out an audit on the land gazetted for refugees should be expedited and the distribution of the excesses should prioritize the victims of evictions in the spirit of win-win approach.</p>  <p data-bbox="755 997 1550 1081"><i>A woman wondering her life after being displaced and camped at Buhimba Sub-County in 2015</i></p>

<p data-bbox="56 1123 698 1228"><b>3.5. Compensation Rates</b></p> <p data-bbox="56 1270 698 1417"><b>Issue:</b> There is no annual compilation and review of rates of compensation payable in interest of crops and buildings of any nature which is reviewed every year.</p> <p data-bbox="56 1449 698 1669"><b>Risk:</b> The rates of compensation payable in interest of the victims of evictions are allegedly made without adequate consultations to favour the perpetrators or architects for the cause of transfer of interests and rights on the land.</p>	<p data-bbox="722 1123 1575 1228">This task should be shifted to the technical officers in the district land office whose facilitation to do so is certain and the basis for the rates may be derived from the surveys from the district planning office.</p>  <p data-bbox="738 1606 1567 1669">The family of five that was abandoned after compensation at kyapuloni, Hoima</p>
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*Citizens have continuously expressed dissatisfaction with the inadequate compensation rates. For instance, in August 2013, local people in the proposed refinery land lodged complaints regarding inadequate compensation rates on their land, crops and buildings in Kabaale in the proposed refinery area by the Ministry of Energy and Mineral Development and Strategic Friends International – SFI, A consulting firm engaged by the Ministry of Energy.*