



# **LOCAL COUNCIL COURTS GUIDE**

## **FOR THE ADMINISTRATION OF CUSTOMARY LAND JUSTICE**





**LOCAL COUNCIL COURTS  
GUIDE  
FOR THE ADMINISTRATION OF  
CUSTOMARY LAND JUSTICE**

With financial support from



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## Foreword

The Ministry of Local Government recognizes the pivotal role played by Local Council Courts (LCCs) in the broader administration of justice in Uganda and that they remain the most used institution for dispute resolution. The law expressly empowers these courts to among other things, handle causes and matters of a civil nature governed only by customary law, and this includes, customary land disputes. The absence of LCCs following their nullification in 2006 created a gap in the administration of customary land justice in the last 12 years until 2018 when they were reconstituted.

However, despite their election, the effective operation of LCCs is hindered by a number of challenges including; limited technical appreciation of their roles, inadequate systems, and the need to have their decisions recognized by the mainstream judicial system. My Ministry therefore welcomes this Guide since it will empower LCC members to appreciate and execute their mandate especially on customary land disputes. Through this Guide, we shall be working towards a streamlined customary land administration system that links formal and informal dispute resolution systems.

The overall objective of this intervention is to strengthen the capacity of LCCs to deliver people-centred dispute resolution services that take into account the principles of natural justice and best practices. I thank the Ministry of Lands, Housing and Urban Development for their input to this process.

The Development and publication of this Trainers Manual has been funded by Trocaire through LANDnet Uganda. I hope the LCCs will put the concepts embedded in this Guide to its best use and ensure fairness, professionalism in the discharge of their legal jurisdiction over matters of customary land.

**Ben Kumumanya**

**Permanent Secretary**

**Ministry of Local Government**

**May, 2019**

## Acknowledgments

This Guide was developed by an independent consultant with supervision of LANDnet Uganda. LANDnet staff developed the ideas, structure, reviewed early drafts and worked tirelessly to support the development of this guide.

In this process, LANDnet Uganda was privileged to consult a section of stakeholders who provided invaluable input that enriched the Guide. In a special way, LANDnet appreciates the Ministry of Local Government for the technical support during the development of this Guide. We are grateful to the Ministry of Lands, Housing and Urban Development for its technical contributions towards the completion of this Guide. LANDnet Uganda acknowledges the support of Justice Centres Uganda, Uganda Law Society and Avocats San Frontiers, which institutions peer reviewed the initial structure and draft of the LCC Guide.

Lastly, we thank our Development Partner Trocaire, not only for the financial support that made the entire development and production of this Guide possible, but for the continuous capacity development of LANDnet in the execution of its mandate.

The final edits and production of this Guide was done by LANDnet Uganda.

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## List of Acronyms

LCs- Local Councils

LCC - Local Council Court

NRA- National Resistance Army

RCs- Resistance Councils





## About LANDnet Uganda

LANDnet Uganda is a Non-Governmental Organization engaged in research, capacity development and policy advocacy on land, gender, agriculture and natural resources management. LANDnet offers capacity development to transform and empower individuals, leaders, organizations and societies. LANDnet's capacity development approach seeks to enhance the skills of Ministries, Departments and Agencies as well as Non- state actors in developing, implementing and monitoring advocacy and community empowerment programs on land governance.

It further seeks to increase the integration of gender in land governance policy frameworks and practice at central and local government levels and fostering a coalition of individuals and institutions working collaboratively to address land governance challenges.

This is evidenced by organised trainings that have strengthened the capacity of public institutions to effectively deliver services that would enhance in particular women's land rights, trainings on Land Administration for Land Managers from Ministerial Zonal Offices, District Land Boards, Area Land Committee Members, and Civil Society. LANDnet has also built the capacity of young professionals through its mentorship programme, in land governance in order to address the void in the land sector.

# Background

## Historical Background of LCCs

Local Councils (LCs), initially called Resistance Councils (RCs) were established in the 1980s by the National Resistance Movement/Army (NRA) while in the liberation struggle to among other things ensure security and settle disputes in some of the areas they had liberated. When the NRM/A captured power in 1986, RCs were expanded countrywide and their existence formalized by the Resistance Council Committees Statute (1987). The RCs were elected from Village (RC I), Parish (RC II), Sub-county (RC III), County/Municipality (RC IV) up to the district (RC V) level. The judicial function of RCs was provided for by the Resistance Council Committees (Judicial Powers) Statute of 1988.

Upon the passing of the Constitution in 1995, and the Local Governments Act in 1997, the title Resistance Council (RC) was changed to Local Councils (LCs).

## Legal Framework for LCCs

1. **The Constitution (1995):** Recognizes the Local government system and specifically, under Article 129 (1) (d) empowers Parliament to make laws that establish other courts besides the mainstream courts.

Article 126 (1) provides that all judicial power, exercised by the various courts in Uganda is derived from the people and shall conform to norms, values and aspirations of the people. Under article 127, Parliament is mandated to make laws for the participation of the people in the administration of justice by the courts.

It therefore follows that the LCCs are an avenue for the people of Uganda to participate in the administration of justice since they are the ones who elect the members who sit on these courts.

2. **Local Government Act, Cap 243:** This Act establishes Local Councils and provides for the different levels (district, sub-county, parish and village) as well as their composition.
3. **Local Council Courts Act, 2006:** This Act creates LCCs and gives them powers to handle customary land disputes among other cases.
4. **Local Council Courts Regulations, Statutory Instruments No.51/2007:** The regulations provide details on how LCCs operate when exercising their mandate.
5. **Magistrate Courts Act, Cap 16:** This Act establishes Magistrate courts which have a supervisory role over LCCs and handle appeals from LCCs.

# Introduction to Customary Tenure

The objective of the chapter is to enhance the LCCs understanding of the laws and policy that govern customary tenure in Uganda.

## Introduction to Customary Tenure

### Key Facts

1. Customary tenure is a form of land ownership following the customary norms and values of a particular community or group.
2. This means that it's special to every community even when they may be similar with other groups.
3. It's important to note that some customary norms keep changing and evolving with time.
4. Customary land can be owned by community, clan, family or individual.
5. Customary tenure is governed by both customs and traditions as well as statutory law like the Constitution and the Land Act.
6. Over 80% of the land in Uganda is held customarily .
7. Most of the land under customary tenure is unregistered.
8. In most cases, traditional boundary marks are used for demarcation. These include sisal, trees, shrubs etc.
9. Both men and women have rights to control, access, manage and use customary land.

The Land Act in section 3 (1) lists the following characteristics of customary tenure;

- a) Applicable to a specific area
- b) Governed by rules generally accepted as binding and authoritative
- c) Applicable to persons acquiring land in a particular area
- d) Characterised by customary regulation
- e) Providing for communal ownership and use of land
- f) The land is owned in perpetuity (for life)

## Legal and Policy Framework for Customary Land in Uganda

### The Constitution of the Republic of Uganda

In Uganda, customary tenure became formally recognized in 1995 by the Constitution. Article 237 (3) (a) of the Constitution states as follows;

*Land in Uganda shall be owned in accordance with the following land tenure systems—*

- (a) **customary;**

- (b) *freehold*
- (c) *mailo*
- (d) *leasehold*

### **Land Act, Cap 227**

The Land Act was passed by Parliament in 1998. It provides for the tenure, ownership and Management of land in Uganda. On customary land, it reiterates the same position in Constitution and states in section 3 (1) as follows;

#### **2. Land Ownership**

***Subject to article 237 of the Constitution, all land in Uganda shall vest in the citizens of Uganda and shall be owned in accordance with the following tenure systems;***

- i. *customary;***
- ii. *freehold***
- iii. *mailo***
- iv. *leasehold***

## **Uganda National Land Policy**

The Uganda National Land Policy was developed in 2013 by the Ministry of Lands, Housing and Urban Development to expound the role of land in national development, land ownership, management and control over land. On customary tenure the Policy appeals to the State to recognize customary tenure as being equal to other tenure systems.

## **Rights under Customary Tenure**

An owner of customary land has the following rights;

1. To give others the permission to use and derive benefits from his/her land for a particular period of time.
2. To use land as security for borrowing. However, for family land, the spouse (wife/husband) of the land owner has to give consent.
3. To give away land to other people like children, friends, and relatives through a will or gifts while still alive.
4. To acquire a certificate of customary ownership as an individual or a group of people like family and clan. However, not having this certificate does not take away his or her rights as the owner of the land.
5. To subdivide, rent out or sell his/her land or part of it.
6. Right to seek legal help in case of any disputes.
7. Right to put boundary marks.
8. Right to enjoyment without interference from others (quiet possession).

# Nature of Customary Land Disputes

The Objective of the Chapter is to describe what a dispute is and the nature of customary land disputes.

## Customary Land Disputes

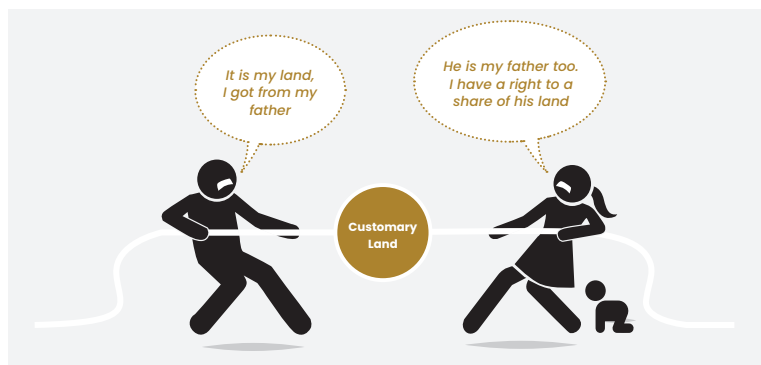
In Uganda, disputes over land especially land held customarily have increased because of increasing population, big government projects, increased investments that require large chunks of land, poor documentation, urbanisation, discovery of important minerals etc.

A customary land dispute refers to a disagreement between two or more parties claiming the same rights over the same piece of customary land.

Land disputes involving customary lands in Uganda have several dimensions, notably; land administration, land ownership, secondary and derived rights and land boundaries.

There are several forms of land disputes which may arise in a given community setting, which can be resolved by the Local Council Courts. They include;

1. Boundary disputes between individuals, families, and communities etc
2. Entering someone's land without permission (trespass on land)
3. Inheritance-related issues
4. Land ownership disputes
5. Community versus individual interests over land
6. Clan versus clan interests over land
7. Disputes over customary land arising out of divorce or separation



### NOTE:

Traditional authorities have a role in resolving customary land disputes. At the start of any case, LCCs may advise parties to try to resolve the matter using the clan or traditional structures.

# Administration of LCCs

The objective of the chapter is to explain the composition, qualifications, jurisdiction, allowances, fees and fines of LCCs.

## Membership

Section 4 of the LCC Act establishes the composition of LCCs as follows;

### 1. **Village and Parish level:**

LCC I and II shall consist of all members of the executive committee of the village or parish. Under section 47(2) of the Local Government Act, the executive committee at the parish and village administrative unit shall consist of the following;

- (a) a chairperson;
- (b) a vice chairperson who shall also be secretary for children welfare;
- (c) a general secretary;
- (d) a secretary for information, education and mobilisation;
- (e) a secretary for security;
- (f) a secretary for finance;
- (g) a secretary for production and environmental protection;
- (h) secretary for youths;
- (i) secretary for women and also the public health; and
- (j) secretary for persons with disabilities affairs.

**At least one-third (3) of the executive committee members at the parish or village level shall be women.**

### 2. **Town, Division or Sub-county level:**

LCC III shall consist of FIVE members appointed by the town council, division council or sub-county council on the recommendation of the respective executive committee.

The 5 members shall elect their chairperson and secretary.

**At least two members of the town, division or sub-county local council must be women.**







COURT	GEOGRAPHICAL JURISDICTION	No. OF MEMBERS	MINIMUM No. OF WOMEN
<b>LCC I</b>	● Village ● Cell	<b>10</b>	<b>3</b>
<b>LCC II</b>	● Parish ● Ward	<b>10</b>	<b>3</b>
<b>LCC III</b>	● Sub-County ● Town ● Division	<b>5</b>	<b>2</b>

## Quorum (Section 8 (4))

The word Quorum means the minimum number of LCC members required to hear a case before it. This number must be maintained throughout the court proceeding.

If there is no quorum, the Chairperson must postpone and give a new date for the court to hear the case at another time when all the members are present.

Under the law, an LCC cannot hear a case unless it has reached quorum. There are different numbers expected of the different courts as explained below;

COURT	QUORUM	GENDER DISTRIBUTION	
		Male	Female
<b>LCC I</b> (Village/Cell)	<b>5</b>		
<b>LCC II</b> (Parish/Ward)	<b>5</b>		
<b>LCC III</b> (Sub-county/Town/Division)	<b>3</b>		

## Qualifications of Members

To be a member of the **sub-county, town or division LC III**, the person should fulfill the following requirements;

- be a resident of the area of jurisdiction of the council for which the court is appointed;
- be a person of high moral character and proven integrity;
- be knowledgeable in the common local language of the community in question and in English;
- not be a member of a local council, a member of Parliament or a member of a statutory body;
- not be a member of another local council court.

## Jurisdiction

Jurisdiction means the right or power of a political or legal body to exercise its authority over a territory or subject matter. In this context, it means the extent of the power to make legal decisions and judgments by the LCCs. There are two types of jurisdictions namely; Territorial and Legal jurisdiction

### Territorial Jurisdiction (Section 9)

Territorial jurisdiction refers to the authority or power an LCC has to handle cases within a specific geographical area. For example, if a customary land dispute arose from village A, the LCC of village B cannot handle that matter.

### Legal Jurisdiction (Section 10 (1))

This refers to the authority given by law to a court to try certain types of cases. Under the Act, LCCs have powers to handle cases of civil nature or between individuals governed only by customary law. These are specified in the Third Schedule and include;

- a. **disputes in respect of land held under customary tenure;**
- b. disputes concerning marriage, marital status, separation, divorce or the parentage of children;
- c. disputes relating to the identity of a customary heir. A customary heir means a person recognized by the rites and customs of the tribe or community of a deceased person as being the customary heir of that person
- d. Customary bailment.

### Facilitation

#### Allowances – (Section 41 (2), Regulation 12 (1))

The Second schedule provides the allowances for members and secretary of Local Council Court of a town, division or sub county shall be Shs 10,000 per sitting.

### Fees and Fines

A person who is bringing in a complaint shall pay fees to the Local council court where the case is being heard.

If the matter is on appeal, the fees is paid to the court where the appeal has been filed.

The fees payable is specified in the Third schedule of the LCC Regulations of 2007 as shown below.

Item	Matter	Shillings
1.	For any amount claimed for any debt or breach of contract that is between 0-20,000/=	500/=
2.	For any amount claimed for any debt or breach of contract that is more than 20,000/= but less than 100,000/=	1,500/=
3.	For any amount claimed for any debt or breach of contract that is more than 100,000/= but less than 500,000/=	2,500/=
4.	For any amount claimed for any debt or breach of contract that is more than 500,000/= but less than 1,000,000/=	3,000/=
5.	For any amount claimed for any debt or breach of contract exceeding 1,000,000/= but not more than 2,000,000/=	4,000/=



6.	For any claim relating to assaults or assault and battery, conversion, damage to property and trespass.	<b>1,500/=</b>
7.	For any claim relating to damage to crops	<b>500/=</b>
8.	For any claim relating to trespass by animals	<b>1,000/=</b>
9.	In case of disputes relating to land under customary tenure.	<b>1,500/=</b>
10.	For disputes concerning marriage, marital status, separation, divorce or the parentage of children.	<b>1,500/=</b>
11.	In case of disputes relating to identity of a customary heir.	<b>1,500/=</b>
<b>Appeals</b>		
1.	In case of an appeal in respect of any matter from the village local council court to a parish local council court.	<b>2,000/=</b>
2.	For an appeal from a parish local council court to a town. Division, sub county local council court.	<b>2,500/=</b>
3.	In case of an appeal from the town, division or sub county local council court to the Chief Magistrate.	<b>3,000/=</b>
4.	For certified copies of every page of the documents of the proceedings.	<b>200/=</b>

**NOTE:**

1. **For matters whose appeal goes beyond the Chief Magistrate, the fees applicable shall be those of that Court.**

## LCC Proceedings

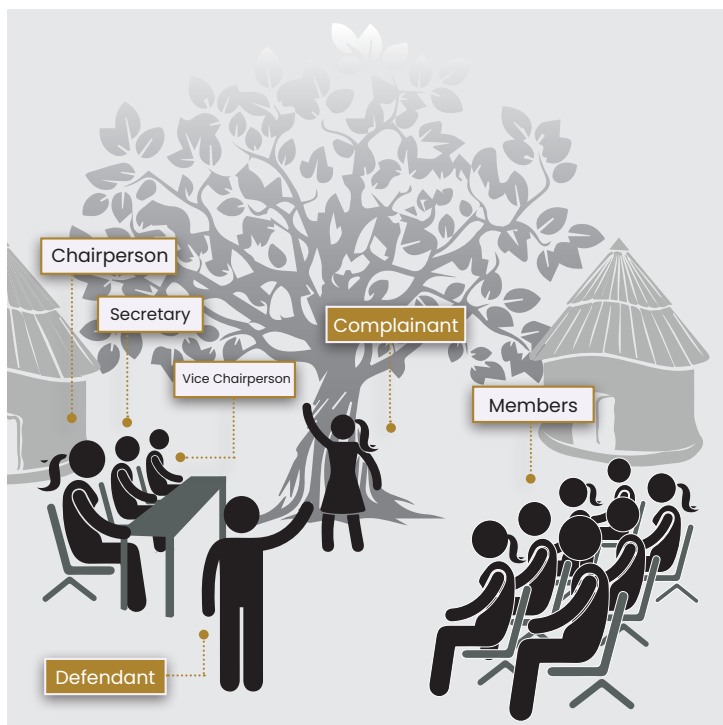
The objective of this chapter is to enable LCCs to familiarize with the procedures when handling customary land disputes.

### Parties in Customary Land Disputes

1. **Claimant/complainant:** A person or people who bring or report a case against another person in the Local Council Court. This can be one or more persons.

A claimant/complainant may be represented to appear before the LCC by a person known as a **nominee**. This is usually the case where the party is mentally or physically unable to appear in person.

2. **Defendant:** A person or people against whom a case has been brought.
3. **Witness:** A person who is able to prove any of the facts presented before the LCC by either the Complainant or defendant. The person must have seen or heard the facts.



# THE TRIAL PROCESS



## Importance of trial procedures

1. Trial procedures are important in order to ensure that there is transparency and consistency in how cases are handled.
2. Local council courts shall hear every case before it in a quick and efficient way.
3. The court process should be simpler and less complicated than those in the ordinary Court process.
4. LCC members are expected to focus on resolving cases speedily and effectively and not dwell too much on rules and procedures.
5. The simplicity of the procedure in LCCs is intended to improve accessibility and trust of the Court by the local communities.

## How to report a customary land dispute

A customary land dispute may be reported by anyone who has an interest in the land within the area governed by a particular Local Council and whose issues are those that can be decided by a Local Council Court.

An interest may include the right to occupy, the right to pass through another's land, the right to use or own, interest over land by virtue of marriage, an interest over land used as security for borrowing as a result of money lent to another etc.

Section 14 of the Act and Regulation 29 of the Regulations governs how to report a customary land dispute and states the following;



### 1 REPORT TO THE LCC

A complainant begins by telling the Chairperson of the LCC about their claim against a defendant and the help they would like from the court. This can be done either by word of mouth or in writing. This is what becomes the statement of claim



### 2 SIGN THE STATEMENT OF CLAIM

This claim has to be signed by the claimant and if the claimant can't write, the Chairperson/ secretary or any other person appointed by the Local Council Court must write down the claim, read it out to the claimant who must then sign it together with the chairperson. Signing also includes use of a thumb print



### 3 FILING THE STATEMENT OF CLAIM

The statement of claim is then filed and a date for the hearing of the case fixed and the court shall, be convened by the Chairperson for the purpose

## **Contents of the claim (Section 14 LCC Act, Regulation 29)**

Before you file a customary land claim, it should contain the following;

1. Full names, age, gender and village, parish and sub-county of the claimant or complainant;
2. If the claimant is an organisation or institution, the name of the officer authorised to claim on behalf of the organisation or institution and physical address.
3. The facts(problem) and the remedy( solution) being sought;
4. The monetary value of the claim where it applies;
5. Names and addresses of possible witnesses; and
6. Any other information relevant to the claim or complaint.

In addition to the above, before considering the claim, the court where necessary requires the claimant to give further information and documents relating to the claim or complaint. In the case of land this may be copies of a rental or sale agreement and a Certificate of customary Ownership.

**Abwongo Village**

**Kamunyu Sub-county**

**Kumi District**

**10th May 2019**

insert the address  
of Complainant

**To the Chairperson LC I**

**Abwongo Village**

**Kamunyu Sub-county**

**Kumi District**

insert the address of LCC

Dear Sir/Madam

insert the name of the Defendant

**REF: COMPLAINT AGAINST MR. ZAKARIA LOCHOM**

My name is Lokello Ambrose, a 33 year old female resident of (insert name of village, parish and sub-county).

insert the date the complaint happened

On 2nd May 2019, my neighbour, Mr Zakaria Lochom was clearing his land for the planting season. His land is near mine and we have a boundary of a small path. However, Mr Zakaria Lochom exceeded the boundary. The land he encroached on my land is about 10 footsteps. When I complained to him, he said the land was his.

Everybody in the village knows that this has been the boundary which separates our land since we were born. The clan leader Yafesi Akol knows it and even my other neighbours Maria Atim, Mohammed Odeke and Paulo Omoding and relatives. I will bring them to give evidence for me.

insert the names of witnesses

I am therefore seeking your help so that the boundary issue is resolved so that I can cultivate on all my land because he has now reduced it. I want the original boundary to be respected.

I will be very happy to for your help.

Yours faithfully,

*Lambrose*

**Lokello Ambrose**

insert the signature and  
name of Complainant

## Payment of fees

Upon commencing a customary land claim with the LCC, the complainant is required to pay court fees. The fee is usually paid to the Treasurer of the Local Council Court.

The fee in the case of disputes relating to customary land is specified in the Third Schedule to the Regulations.

In exceptional cases, where the claimant is unable to raise the fees, the court may exempt them from paying the fees if the court satisfies itself that they cannot afford to.

### NOTE;

**The Treasurer of the LCC should provide receipts for any payment received.**

## Duties of LCC when it receives a complaint

1. The Secretary of the Local Council Court shall make enough copies of the claim or complaint for use by the Court and the parties.
2. The Secretary shall put the date, stamp and sign each of the copies made.

## Rejection of a complaint

The court may refuse to file or handle a claim or complaint in the following circumstances;

- a. the claim or complaint does not have any serious purpose or value or does not have any grounds and has been brought purely to annoy the defendant;
- b. the court has no legal powers to hear the matter (jurisdiction); or
- c. the same claim or complaint is pending before another court.

## Notice to defendant

1. The Chairperson of the LCC shall ensure that the claim is served to the defendant once the secretary has filed it.
2. The summons should instruct the defendant to attend the court at the date, time and place specified for the hearing of the case.
- 3.. The summons shall be in the format set out in Form A in the Fourth Schedule to the LCC regulations.

## Regulations 35(2) and 40(2)

### FORM A

#### SUMMONS AND HEARING NOTICE

In the Local Council Court of Abwongo Village

insert name of the village

Case No 015 of 2019

insert case number and year

insert the name of Complainant

Lokello Ambrose .....Claimant or Complainant

Versus

Zakaria Lochom .....Defendant

insert the name of Defendant

To:

Zakaria Lochom

Abwongo Village, Kanyumu Parish

0772 123456

insert the name and address of the defendant

Whereas the above named complainant/claimant has instituted a suit against you

You are hereby required to appear in this court on the 15th day of May 2019 at 3:00 p.m and to bring your witnesses with you.

insert the the date and time appearing in court

If no appearance is made by you or a person authorised by law to act for you, the case may be heard and decided in your absence.

Dated this 5th day of May 2019

insert date when summon was prepared

*Otemapa..*

**Papurasi Otema**  
**Chairperson**

insert the signature, name and stamp of Chairperson



#### NOTE;

One of the most fundamental principles of Natural Justice is the right to a fair hearing. This right requires that a person accused of any offence must be informed immediately in a language that the person understands of the nature of claim against them and should be given adequate time to prepare their defence. This has been recognised by the 1995 Constitution of Uganda under Article 28 and Section 24 of the Local Council Courts Act.

### Statement of defence

1. Upon receiving the summons and statement of claim, the defendant may choose to respond to the allegations against him/her in a document known as **statement of defence**.
2. The statement may be oral or written.
3. It may either admit or deny the complaint or claim.
4. The statement of defence must be filed within **FIVE** days from the date the defendant received the summons.
5. Where a defendant makes an oral statement of defence, the secretary of the Court must write down the statement.
6. The court may accept late filing of a written statement of defence if the defendant shows that there were reasonable grounds for the delay.
7. When the defendant has filed the statement of defence, the LCC must serve it to the claimant or complainant within five days after it has been filed.

### Service to the defendant (Section 36)

Generally, service means delivery of legal documents to parties in a suit.

- a) Service of summons, a notice of the statement of claim and any other document must be made by delivering to the defendant a **duplicate (photocopy)** of the signed and stamped copy of that document.
- b) Service to the defendant must be **personal**. Even where there is more than one defendant, each one of them must be served **personally**.
- c) In case it is not possible to serve the defendant with the documents personally, the person serving has to get permission from the court to serve the defendant in the following ways;
  - i. by leaving the duplicate copy for him or her with an adult member of the claimant or complainant or defendant's family or with any other adult person ordinarily residing with them;

- ii. by attaching the duplicate copy to some prominent part of the house or homestead in which the person summoned ordinarily resides upon doing this, the summons or notice shall be deemed to have been duly served.

The above in (i) and (ii) is also referred to as substituted service.

1. For service to be complete, the claimant/server must prove that the service has been done by making sure that a person served with a notice, summons or other document acknowledges receipt by signing on the copy of the notice, summons or other document.
2. Where a person served cannot read or write, he or she shall acknowledge receipt by affixing a thumb print on the document.
3. Where the server opted to use substituted service, they must return the original to the court stating how and where he or she affixed the copy, the circumstances under which it was done, and the name(s) and address(es) of the person, if any, who witnessed the affixing.

## Fixing a date

- a) Before fixing a date for hearing of the case, the following need to be done;
  - i. A claim/complaint has been reported in Court by a claimant
  - ii. The statement of claim has been filed by the Secretary
  - iii. The defendant has filed a defence
- b) When the date for the hearing of the case is fixed, the Court must on that date be convened by the Chairperson to sit and hear it.
- c) The time and place of the sitting of a court shall be determined by the Chairperson; except that the time shall be between 8.00a.m and 6.00p.m.

## Notice of hearings

- a) Notice of hearing must be given to both the claimant and defendant.
- b) The notice is given when the court has received both the claim or complaint and a written statement of defence.
- c) It is also given after the court has fixed a hearing date.
- d) The notice of hearing shall be in the format set out in Form A in the Fourth Schedule to the LCC Regulations.

**FORM A**

**SUMMONS AND HEARING NOTICE**

**In the Local Council Court of Abwongo Village**

insert name of  
the village

**Case No 015 of 2019**

insert case number and  
year

**Lokello Ambrose ..... Claimant or Complainant**

insert the name  
of Complainant

**Versus**

**Zakaria Lochom ..... Defendant**

insert the name of Defendant

To:

**Zakaria Lochom**

**Abwongo Village, Kanyumu Parish**

**0772 200250**

insert the name and address of the  
defendant

WHEREAS the above named complainant/claimant has instituted a suit against you.

YOU are hereby required to appear in this court on the 15th day of May 2019 at 9:00 a.m and to bring your witnesses with you.

insert the time for appearing in court

insert the date for  
appearing in court

IF no appearance is made by you or a person authorised by law to act for you, the case may be heard and decided in your absence.

DATED this 5th day of May 2019

insert date when summon was prepared



*Otemapa..*

**Papurasi Otema  
Chairperson**

insert the signature, name  
and stamp of Chairperson

# Trial Procedures

## Preliminaries

### 1. Conflict of interest

Conflict of interest is a situation in which someone cannot make a fair decision because they will be affected by the result. In order to ensure that both parties get a fair decision, a LCC member must declare an interest in the case if any exists. For example a case involving a family member, a court member.

Section 24 of the LCC Act demands that in exercising its jurisdiction, the LCC

- a) shall be guided by the principle of impartiality (neutrality)
- b) Shall operate without fear or favour
- c) shall follow the rules of natural justice,
- d) Ensure that any member of the local council court who directly or indirectly has an interest of whatever nature, in the issue in dispute is disqualified from hearing the case.

### 2. Language use

- a) The proceedings of the LCC and the record of those proceedings must be in the language widely spoken in the area of the court's jurisdiction.
- b) Where the proceedings are recorded in a local language, they must be translated into English and both the vernacular copy and the translated copy shall be filed by the secretary.
- c) The Court also has the duty to make sure both the claimant and defendant are able to follow the entire trial.
- d) Where any of the parties does not understand the language being used, the court must provide an interpreter.
- e) It is however required that the record of proceedings in a town, division or sub-county court must be in **English**.

### 3. Legal advise

Unlike in other courts, lawyers are not permitted to operate in LCCs except in cases involving violation of by-laws or cases involving children (see Regulation 23 of the LCC Regulations)

### 4. Limitations

Some of the limitations of the Local Council Court are found in the


following sections of the LCC Act;

- a) Section 38 provides for prohibition from handling a case already determined in a former or another case.
- b) Section 39 provides for prohibition from dealing with cases where suit or matter is already pending before another court.

## Court Process

1. One of the advantages of the Local Court System over the other courts is that in conducting hearings, it is expected to be as informal as possible and offer guidance to the parties.
2. To start the process, the Chairperson makes an opening statement explaining the goals of the court proceeding and to set the ground rules.
3. The court must make clear to all parties/representatives that the court will concentrate on the substance of the claim and without too much regard to rules and procedures.
4. The court informs the Plaintiff/ complainant that he/she has the task of proving his/her case.

In order to maintain order in proceedings, the trial procedure for civil suits including customary land matters is laid out in Regulation 41 of the LCC Regulations.

CHECKLIST		
(a)	Before the hearing, decide what language may be used except that in a town, division and sub-county court where the language shall be English	
(b)	Before the hearing, determine and announce the hours of the day when the hearing will take place. This must be between 8:00a.m and 6:00p.m.	
(c)	Exclude any member of the court who has a conflict of interest	
(d)	Once the proceedings have started, the case shall be heard as quickly as possible.	
(e)	conduct the hearing in public, except in cases involving children, with due regard to order and fairness to all parties	

(f)	provide an interpreter where one of the parties does not understand the language of the court. The interpreter shall swear an interpreter's oath	
(g)	Allow an applicant or his/her representative to the court permission to appear in person	
(h)	Allow the complainant or claimant to state his or her case first and then be questioned on any aspect of it to give further information, followed by the evidence of his or her witnesses;	
(i)	Inform the complainant or claimant that she or he has the task of proving his or her case;	
(j)	Allow the defendant to state his or her defence in the matter and then be questioned on any aspect of it to give further information, followed by the evidence of his or her witnesses;	
(k)	Grant more time to the parties, or to any of them and may from time to time adjourn the hearing of the proceedings;	
(l)	Visit the place where the suit arose from and where necessary make notes;	
(m)	During the hearing, write down the evidence of the parties and each of their witnesses; which shall be done by the secretary and signed by the chairperson;	
(n)	Try to reach an agreement (consensus) on all decisions. However, where that is not possible, then a majority decision may be reached. Where there is an equality of votes on any matter, the chairperson shall have a casting (deciding) vote	

## Opening statement by Chairperson

- The Chairperson should make an opening statement explaining the nature of the court proceedings and communicate the ground rules.
- He/she will emphasize that the court will concentrate on the substance of the claim and without too much regard to rules and procedures.
- The Chairperson must also inform the Complainant that he/she has the task of providing evidence.

## Presentation by parties

### 1 COMPLAINANT STATES HIS/HER CASE

The Complainant has the right to narrate his/her case first explaining his/her side of the story.

### 2 COURT QUESTIONS COMPLAINANT

The Complainant may be questioned by the court on any aspect of the case.

### 3 COMPLAINANT PRESENTS WITNESSES

The Complainant may then present his/her witnesses and any physical evidence to support their case.

### 4 DEFENDANT STATES HIS/HER CASE

The Defendant has the right to state his/her defence, explaining his/her version of what happened.

### 5 DEFENDANT QUESTIONED BY COURT

The Defendant may also be questioned by the court on any aspect of the defence.

### 6 DEFENDANT PRESENTS WITNESSES

The Defendant may then present his/her witnesses and any evidence in the matter.

### 7 EXAMINING THE DEFENDANT'S WITNESSES

The court, as well as the Plaintiff (through the Court) should have an opportunity to question the witnesses and physical evidence.

## Presentation by Witnesses

Section 20 of the LCC Act provides for witness summons and requires that before the date fixed for the hearing of a case;

1. Summons shall be served on any person who will be a witness in the case.
2. Service to witnesses must be personal unless it is not possible to do so.
3. The Chairperson of the Court may also cause a witness to be summoned orally by informing him or her that he or she is summoned. Where this happens, the person who orally informs the summoned person shall be accompanied by a witness for that purpose.
4. Every person who is summoned as a witness shall acknowledge by signing or affixing a thumb print, in recognition of the receipt of the summons at the back of the original copy;
5. If he or she refuses to do so, the person who has presented service of the summons must record the refusal in writing. This may be through a formal letter.
6. The witness summons must be as set out in Form B in the Fourth Schedule to this Act.

FORM B

insert name of the village

In the Local Council Court of **Abwongo Village**

Case No **015** of **2019**

insert case number and year

**Lokello Ambrose** ----- **Claimant or Complainant**

insert the name  
of Complainant

**Versus**

**Zakaria Lochom** ----- **Defendant**

insert the name  
of Defendant

To:

**Zakaria Lochom**

**Abwongo Village, Kanyumu Parish**

**0771 234567**

insert the name and address of  
witness

Your attendance is required as a witness on behalf of the claimant in the above suit.

You are hereby required to appear before this Court on the **15th** day of **May 2019**  
at **9:00 a.m** and to bring with you

insert the the date for  
appearing in court

- insert the  
the time for  
appearing in  
court
- i. **Sale agreement**
  - ii. **Copy of the will**

DATED this **5th** day of **May 2019**

insert date when summon was prepared



*Otemapa..*

**Papurasi Otema**  
**Chairperson**

insert the signature, name  
and stamp of Chairperson



## Failure of Witness to appear

1. Where, without good reason, a witness does not appear in the Local Council Court, the Chairperson may issue a dering the Police force to bring him or her before the court at a time and place specified in the summons in order to give evidence
2. This should only happen where there is proof that the witness was served properly and at a reasonable time prior to the hearing date.
3. After giving their testimony, the witness will be discharged or released.

It is also not enough to just appear before the LCC and refuse to be of any help.

- a) Any witness who without lawful excuse, refuses to give evidence before the local council court or refuses or willfully fails to produce any document in his or her possession when requested to do so by the local council court
- b) OR gives before a local council court evidence which he or she knows to be false, commits an offence and is liable on conviction, to a fine not exceeding one currency point or imprisonment not exceeding ten days or both.

A currency point is equivalent to shs 20,000

insert name of the village  
In the Local Council Court of Abwongo Parish

Case No 015 of 2019  
insert case number and year

Zakaria Lochom.....Claimant

insert the name  
of Complainant

**Versus**

Lokello Ambrose.....Defendant

insert the name  
of Defendant

TO: O/C Abwongo Police Post

insert the name  
of Police post

**WARRANT FOR THE ARREST OF A WITNESS IN THE ABOVE STATED CASE.**

YOU ARE COMMANDED to arrest and bring before this court (Name of witness to be arrested)..... a witness who has been served with summons to appear in this case and has failed to do so.

YOU ARE FURTHER COMMANDED to detain this witness until they have presented their testimony before the Court.

DATED this 5th day of May 2019.

insert date when warrant was prepared

*Otemapa..*

**Papurasi Otema**

**Chairperson**

insert the signature, name  
and stamp of Chairperson  
of LCC court

## Failure of claimant to appear

Regulation 42 of the LCC Regulations provides for the procedure on non-appearance of the claimant or complainant.

- Where the claimant does not appear on the hearing date yet he or she has been served, the court will proceed with the case.
- The defendant will be asked whether he/she admits the case or part of it.
- Where the defendant admits the case or part of it, the court may give judgment for the claim or part of it.
- Where the defendant does not admit the claim or complaint, the court may dismiss the claim or complaint.

### Non-appearance of a defendant

- Where the defendant has been duly served but does not appear on the date fixed for the hearing, the court will proceed to hear the evidence of the claimant or complainant or their witnesses.
- If court is satisfied that the claimant or complainant has established his or her claim in whole or in part, it shall give judgment for the claimant or complainant accordingly.

### Non-appearance of both parties

- Where on the date fixed for the hearing none of the parties appears before the Court, the court may dismiss the claim or complaint.

## Principles of Natural Justice

1. Natural justice means fairness, equity and equality.
2. The principles of natural justice concern procedural fairness and ensure a fair decision is reached by an independent and neutral decision maker.
3. Principles of natural justice can be explained in using the following rules;
  - a) The first rule is against bias: Bias means having a pre-determined feeling for or against something or someone. It may be personal, monetary or even on a subject matter.
  - b) The second rule calls upon LCCs to "listen to the other side": This is also known as the right of fair hearing. It includes the right to the evidence against a defendant, the right to be given a chance to respond to the accusations.
  - c) The third rule calls for a reasoned decision. This means that the

judgments made by the LCC should be based on the law of fairness not emotions or relations.

3. Maintaining procedural fairness protects the rights of individuals and enhances public confidence in the process.
4. The LCC Act in Section 24 also mandates the court in carrying out its duties to ensure;
  - a) that each party is given an opportunity to be heard;
  - b) that each party is given notice of the proceedings and of the case against him or her;
  - c) that each party is accorded enough time to call witnesses and to bring such evidence as he or she requires to support his or her case; and
  - d) that any member of the local council court who directly or indirectly has an interest of whatever nature, in the issue in dispute is disqualified from hearing the case.

## Judgments/Decisions

1. A judgment is a decision by a court or tribunal that resolves the case and determines the rights and obligations of the parties. A judgment is the final part of a court case.
2. It resolves all the disagreements and ends the complaint, since it is regarded as the court's official decision of the law on the matter before it. It awards remedies for a claim

## Notice of decision

The law requires that the court should inform the claimant and defendant when it will give its judgment on their case. This is important because the parties need to be aware of the outcome of their case to enable them to implement it.

Regulation 51 of the LCC Regulations requires the following;

- 1) The notice to both parties should indicate the date and time at which the court shall give its judgment or decision.
- 2) The judgment must be given within five days from the date after completion of the hearing.

## Making of decision (Reg 52)

In making its decision, the judgment should be;

- 1) made by the Chairperson and the members of the court **who were**

**present** throughout the proceedings.

- 2) arrived at by agreement (consensus) or where this is not possible, it shall be determined by the majority votes.
- 3) written by the Chairperson or any other member under the direction of the chairperson.

**NOTE:**

**Where the parties reach an agreement that fully or partially resolves the claim or complaint, the court must record the agreement reached as a consent judgment, and the parties to the agreement must sign it.**

## Contents of a Judgment

For a judgment to be legally acceptable, it must contain the following;

- (a) the name of the court e.g. *"In the LC I Court of Abwongo Village"*
- (b) the serial number of the case e.g. *"Case No. 15 of 2019"*
- (c) the names of the parties e.g.

*"Lokello Ambrose --- Claimant or Complainant*

*Versus*

*Zakaria Lochom ---- Defendant"*

- (d) brief particulars of the claim or complaint e.g. *"this a boundary dispute between Lokello and Lochom on land located in Abwongo village..."*
- (e) a summary of the evidence of all the witnesses and the reasons for accepting or rejecting the evidence;
- (f) the judgment or decision and reasons for the judgment or decision e.g. *"based on the evidence produced by the complainant and his witnesses, we conclude that the land belongs to him and the defendant should leave that land immediately "*
- (g) the relief or remedy, if any, granted to the parties e.g. *"the court therefore declares the complainant as the rightful owner of the land"*
- (h) an order as to costs e.g. *"the complainant has spent 50,000/= for transport and meals during the trial of this case. We therefore order the defendant to pay the same amount to the complainant who has won the case"*

**NOTE:**

**Having the Judgment in a particular format also helps the parties and higher Courts in case of an appeal**

## Delivery of decision

- After informing the parties on when and where the judgment will be made, the Court shall deliver its judgment on the date specified in the notice.
- Where a party does not attend after he or she has been properly summoned, the court shall still deliver its judgment or decision in the absence of that party.

A judgment or decision of a court shall be delivered in the following manner—

- a) The judgment or decision shall be read to the parties by the Chairperson or any other person nominated by the Chairperson;
- b) The chairperson after delivering a judgment or decision shall sign and date the judgment or decision and it must also be countersigned by the secretary, and if possible, all the members of the court who were present throughout the proceedings; and
- c) Immediately after delivering the judgment or decision, the court shall inform the parties of their right to appeal to another court if any of them is not happy with the judgment.
- d) Copies of the judgment should be given to the parties

## IN SUMMARY



## Right of appeal

A complainant or defendant who is not happy with the judgment or decision of the LC court has a right to appeal against that judgment or decision.

However, under the law, there is no right of appeal if the judgment or decision passed or made was a result of the consent of the parties. For example, if Lokello and Lochom agreed to resolve their case and request the LCC to recognize their agreement, then none of them can appeal.

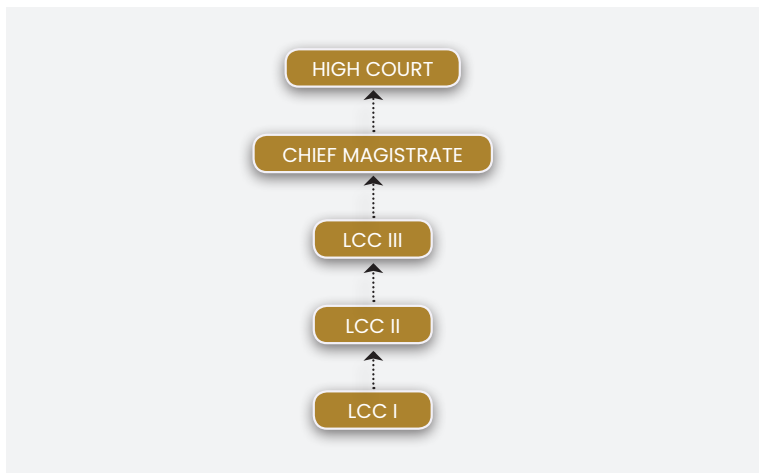
## Appeals

1. An appeal is where a higher court reviews the judgment of a lower court
2. It means that the complainant or the defendant is requesting that the decision in their case be looked at again by a higher court. In other words, they are arguing that something went wrong with the first decision.
3. When giving judgment, the first Court should notify the parties of their right to appeal the decision if they are not happy with the judgment.
4. Generally, in cases of appeal, the appellate court will only look at the evidence already submitted by both parties from the lower court and make an independent decision on whether the law has been applied correctly and whether the proper procedure was followed by the lower court.

## Hierarchy of Appeals.

Under the LCC Regulations, an appeal lies from—

- (a) a judgment or decision of a village local council court to a parish court;
- (b) a judgment or decision of a parish court to a town, division or sub-county court;
- (c) a judgment or decision of a town, division or sub-county court to a Chief Magistrate's court;
- (d) the decrees and orders on appeal by the Chief Magistrate, with the permission of the Chief Magistrate or of the High court to the High court.



## Timelines for appeal

Regulation 61 of the LCC Regulations provides for an appeal to be filed within **fourteen days** after the judgment date.

This means that once judgment has been read in an LC court, the notice for appeal should be filed

Please Note that the 14 days start running on the day a judgment is read by an LC Court.

Similarly, an appeal from a Chief Magistrate's court shall be lodged in the High court within fourteen days after the date on which leave to appeal is granted.

## Lodging of appeal

An appeal must be presented in a Memorandum of Appeal signed by the person appealing (appellant), clearly outlining the grounds of appeal.

An appellant must state in a notice of appeal whether he or she intends to appeal against—

- a) the whole judgment or decision; or
- b) part of the judgment or decision, and if so specify the part; or
- c) against conviction or sentence.

**In the case of an appeal by a child, the appeal shall be lodged by an adult who is a next-friend or a guardian.**

1. A next-friend means a person who represents another person who is unable to maintain a suit on his or her own behalf, like children, the terminally sick or people with mental disability.
2. A guardian is a person appointed by court to protect the interests of a child.

**It is advisable that when filing an appeal to the magistrate's court the appellant is guided by a lawyer.**

The memorandum of appeal shall be as set out in Form E in the Fourth Schedule to these Regulations.



FORM E

Regulation 61(4)

MEMORANDUM OF APPEAL

insert name of the village

In the Local Council Court of **Abwongo Parish**

Case No **02 of 2019**

insert case number and year

**Zakaria Lochom** ----- **Appellant**

insert the name of Appellant

**Versus**

**Lokello Ambrose** ----- **Respondent**

insert the name of Respondent

Appeal from a judgment/decree/order of the Court of LC 1 at **ABWONGO VILLAGE** dated **15th May 2019** in Case No. **015 of 2019**

The above named appellant appeals to the Court of **ABWONGO PARISH** against the whole or part of the above mentioned decision on the following grounds namely;

1. **The LC 1 Court was ignored the evidence I gave**
2. **Some court members are relatives of the defendant/respondent and were biased**

insert the grounds of appeal

It is proposed to ask the Court for an order that: **the decision of the LC 1 Court is cancelled and the land is given back to the appellant**

insert the order or remedy you are seeking

*Zochom*

**Zacharia Lochom**

insert the name and signature of the appellant

**Appellant**

Lodged with the Chairperson of the Appellate Court at **ABWONGO PARISH** on the **25th** day of **MAY 2019**

insert the date when it was filed

insert the name of the appellate court

*Nadia Ajok*

**Nadia Ajok,  
Chairperson LC 2  
Abwongo Parish**

insert the name and signature of the chairperson of the appellate court

## Notice of Memorandum of Appeal

After receiving the Memorandum of Appeal, the appellate court (court where the appeal has been filed) must serve the respondent with a Notice of the Memorandum of Appeal to the respondent. The purpose of this is to notify the respondent that an appeal against the judgment he/she won has been brought before the court. This enables the respondent to prepare for the appeal trial.

The Notice of Memorandum of Appeal should be in the manner set out in Form F in the Fourth Schedule to the LCC Regulations.

**FORM F**

**Regulation 61(7)**

**NOTICE OF MEMORANDUM OF APPEAL**

insert name of  
the village

**In the Local Council Court of Abwongo Parish**

**Case No 02 of 2019**

insert case number  
and year

**Zakaria Lochom ----- Appellant**

insert the name  
of Appellant

**Versus**

**Lokello Ambrose ----- Respondent**

insert the name  
of Respondent

TAKE NOTICE that **ZAKARIA LOCHOM** being dissatisfied with the decision of the Court **ABWONGO VILLAGE** given on **15th** day of **May 2019** intends to appeal to this Court against the whole of the decision or the following parts of the decision of that Court; namely—

insert the date when the  
judgment was given

1. xxxxxxxxxx
2. xxxxxxxxxx

insert the  
grounds of  
appeal

Dated this ..... day of **MAY 2019**.

insert the date  
of the notice

*Nadia Ajok*

**Nadia Ajok,  
Chairperson LC 2  
Abwongo Parish**

insert the name and signa-  
ture of the chairperson of  
the appellate court

## Service of notice of appeal on persons affected

- a) An intended appellant shall, within seven days after lodging a notice of appeal, serve copies of the notice of appeal on all persons directly affected by the appeal.
- b) An intended respondent shall be presumed to be served with a copy of the notice of appeal when the copy is delivered at the home address of the intended respondent.

## Fees applicable (Regulation 65, Third Schedule)

1. A person instituting a case or filing an appeal under these Regulations shall pay to the court where the case is being instituted or where the appeal is being filed, the fee specified in the Third Schedule to these Regulations.

### Third Schedule

1.	In case of an appeal in respect of any matter from the village local council court to a parish local council court.	<b>2,000/=</b>
2.	For an appeal from a parish local council court to a town. division, sub-county local council court.	<b>2,500/=</b>
3.	In case of an appeal from the town, division or sub-county local council court to the 9Chief Magistrate.	<b>3,000/=</b>
4.	For certified copies of every page of the documents of the proceedings.	<b>200/=</b>

2. A court may, under special circumstances, exempt a person from paying the fees if the court satisfies itself that the claimant or appellant has no means of raising the fees.

## Procedures on appeal

1

### **APPELLATE COURT CALLS FOR RECORD OF PROCEEDINGS FROM LOWER COURT**

An appellate court shall call for the record of proceedings of the case from the lower court which handled the case. For example, the LC 2 Court will request LC 1 court to submit

2

### **APPELLATE NOT TO HEAR THE CASE AFRESH**

An appellate court shall not hear an appeal afresh but shall evaluate the evidence on record and decide whether the trial court arrived at the correct decision or not.

3

### **PARTIES MAY REQUEST TO CALL FOR ADDITIONAL EVIDENCE**

A party to an appeal may request the appellate court to call additional evidence if that evidence was not accessible at that time or during the trial. e.g if a Will, sale agreement of Certificate of Customary Ownership has been discovered

4

### **COURT MAY CALL FOR ADDITIONAL EVIDENCE**

The court may, on its own without any request being made by any party to an appeal, call witnesses or additional evidence if it is of the opinion that it is in the interest of justice to do so.

5

### **COURT MAY HEAR THE CASE AFRESH**

Notwithstanding sub-regulation (2), where an appellate court is satisfied that the trial in the lower court was badly handled, such that evidence on its record would not be of any advantage, the appellate court may, on its own motion or on application of a party to the appeal, hear the case afresh

## Record of proceedings

1. It is compulsory for a parish, town, division, sub-county local council court to keep records of its proceedings in writing (Section 22 of the LCC Act)
2. A village local council court is also expected to keep records of all court proceedings in writing and where necessary they may choose a person outside of the council court for the purpose of recording the proceedings.

A person co-opted under Section 22(2) shall have no voting powers in court decisions.

3. The law also requires that records kept by Local Council Courts must include the following particulars and documents;
  - a) the serial number of the case;
  - b) the statement of claim;
  - c) the date when witness summons were filed;
  - d) the date of hearing of the case;
  - e) the names and addresses of the claimant and his or her witnesses;
  - f) the names and addresses of the defendant and his or her witnesses;
  - g) a brief description of the case;
  - h) the documentary exhibits, if any;
  - i) the judgment or final orders of the court and the date of the judgment or final orders;
  - j) the date of payment of the judgment debt;
  - k) the particulars of execution of the judgment, if any.
4. At the hearing of a case in a town, division or sub-county local council court whether sitting as an original or appellate court, a summary of the evidence given by each person shall be recorded separately.

## Powers of an appellate court

The powers of an appellate Court are clearly spelt out in regulation 64 of the LCC Regulations and are as follows;

- 1) After an appeal is heard, the appellate court may either allow or dismiss the appeal.
- 2) An appeal may only be dismissed where the appellate court is of the view that the decision of the lower court was correct.
- 3) Where the appellate court is of the view that the decision of the lower court was not correct, the court shall allow the appeal and may—
  - (a) reverse the judgment or decision of the lower court;
  - (b) vary the judgment or decision or part of the judgment or decision;
  - (c) increase or reduce the amount of compensation awarded or fine imposed by the lower court;
  - (d) in case of community service, reduce or increase the hours or days, or change the nature of work to be performed by the offender;
  - (e) substitute an order for—
    - (i) reconciliation (restoring the relationship between parties)
    - (ii) declaration (announce its position on a particular issue before it)
    - (iii) compensation (monetary or material payment to the successful party for loss or inconvenience suffered in the trial)
    - (iv) restitution (putting the successful party to the position he/she was before the trial)
    - (v) costs (compensation for expenses incurred by the successful party in the trial like transport, meals, etc)
    - (vi) apology;
    - (vii) attachment and sale; (This is enforceable with consent from the Chief Magistrate)
    - (viii) fine (money paid as a punishment)

## Remedies

- a) A Legal remedy is the means by which a court of law enforces a right, imposes a penalty, or makes some other court order to impose its will.
- b) It is also the way by which a Plaintiff may enforce his/her right and be compensated by a Defendant for a loss or damage through a court of law.

## Examples of different remedies on customary land

### Declaration

This is a judgment by the LCC which clarifies the respective rights and obligations of the parties to the case, without actually making any order eg. *"We declare the complainant, Zakaria Lochom to be the lawful owner of the disputed land."*

### Compensation

Monetary or material payment to the successful party for loss or inconvenience suffered in the trial eg. *"We order the defendant, Ambrose Lokello to pay the defendant Zakaria Lochom sh 100,000 for the loss of income from the use of his land when the defendant encroached on it"*

### Restitution

Putting the successful party to the position he/she was before the trial eg. *"We order the defendant to stop using the piece of land he encroached and maintain the original boundary"*

### Costs

Compensation for expenses incurred by the successful party in the trial like transport, meals, eg. *"We order the defendant to pay sh 50,000 to the complainant for the expenses involved in this case"*



## Office Practice

To provide LCCs with an understanding of office ethics and practices while conducting their mandate.

### Court Ethics for LCCs

- a) When carrying out their mandate, LCCs are bound by the international and national laws of Uganda which promote the respect of the fundamental rights and freedoms of people.
- b) It is essential that the LCC acts independently and ensuring that principles of natural justice are practised while handling matters more so in a timely and speedy manner thus maintaining public confidence in the LCC.

### Independence

- a) Members of the LCC are elected by the community in which they live.
- b) It is therefore important that they act independently on issues concerning the local community rather than on the basis of a political views or their social relationships. Members of the LCC should exemplify this independence at individual and institutional level.
- c) In exercising their judicial role, they should assess the facts provided by the parties in accordance with their understanding of the law and free from any influence, inducement, pressure, threat or interference by anyone or for any reason.
- d) A member of the LCC is supposed to reject any attempt by anyone to influence their decision while handling a land matter or decision except when the matter requires professional guidance eg. from magistrate, surveyor etc.

### Impartiality

- a) This is a principle of justice that all parties in a dispute should be treated equally before, during and after the case is handled. The LCC should make a decision based on evidence and information rather than on the basis of bias or preferring the benefit to one person over another for improper reasons.
- b) It is important for the LCC to ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the complainant and the community in the impartiality of the Council members and the LCC eg. drinking in the same bar with one of the parties to the case.
- c) This means that any member of the LCC handling the case, should avoid being in personal association/contact with the complainant or

defendant while the case is still being handled, where such contact/ association might reasonably give rise to suspicion, favouritism or impartiality.

- d) In case of partiality of any member of the LCC, that person should disqualify himself or herself from participating in the proceedings especially where he or she has personal knowledge of the disputed facts concerning the case or one of the parties is a family member or has interest in the final result of the case.

## Integrity

- a) This is one of the top attributes of a great leader. Integrity is the practice of being consistent with one's actions, honest and observing ethical principles and values not only when making a decision but also during the process of coming to a decision. It is a deep commitment to do the right thing for the right reason, regardless of the circumstances.
- b) It is therefore important that the LCC members, respect and uphold the laws of Uganda; be of an upright character and ensure that his or her conduct is reasonable, fair-minded and of a knowledgeable person.
- c) A member of LCC shall exhibit and promote high standards of judicial and personal integrity while performing their duties.

## Propriety

- a) This requires the LCC to always conform to generally accepted standards of behaviour or morals.
- b) The members of the LCC should always conduct himself or herself in a manner consistent with the dignity of the office, and for that purpose must freely and willingly accept appropriate personal restrictions and shall not use the office to advance his or her private interests, or the private interests of a member of the family or of anyone else.

## Equality

- a) This is provided for in the Constitution that provides that all persons are entitled to equal protection of the law and equal treatment when they appear before an administrative body or court.
- b) When handling a dispute, it is important that LCC should avoid using words or conducting themselves in a manner that biases or prejudice towards any person or group on basis of unjust discrimination. Women, children, persons with disability and others should not be discriminated.

## Competence

Members of the LCC should ensure that they are always knowledgeable of the subject matter and attain skills in handling the cases.

## Record Keeping

- a) It's important for LCCs to establish a way of keeping their records and numbering the various documents they receive or produce.
- b) All complaints, exhibits, witness statements, statements of defence, records of proceedings and judgments constitute the case file.
- c) The files can be arranged in different ways. For example, it can be alphabetical (letters A-Z), numeric (1,2,3,4,5 etc) and alphanumeric (a combination of letters and figures)
- d) It is important for LCCs to keep records safely until they hand over office.
- e) The records should be kept at the village headquarters/office.

## Communication

The Chairperson of the LCC communicates on behalf of the Court.

## Court Calendar

- a) The court should always publish a calendar showing clearly when the court will be sitting during the year and when it will not. For example, the calendar will show that Court will not convene during the Christmas break or other national public holidays and specify dates when they will resume work.
- b) Preferably, the calendar should be shared at the beginning of the year on the noticeboard found at the place the court usually sits to hear cases. It should also be updated frequently by the Secretary to the court whenever there are any changes that must be communicated.

## Notice Boards

- a) This refers to surfaces or places intended for posting public messages.
- b) It is important and good practice for all Local Council Courts to have notice boards where they will post important messages such as the Court Calendar, Cause lists among other things. It could be in a tree, market, church, mosque and all places where the public can access
- c) In order to ensure that communication is effectively done, the notices posted should be in both the language widely spoken in spoken in that area as well as English.

## Cause lists

- a) Cause lists are list of cases to be heard by the court in the near future.
- b) The cause lists contain information such as the court station (where the court will hear the case from), the case number, the names of the council members who will hear the case and the quorum (where applicable), the time of mention or hearing, the names of the parties etc.
- c) The cause list may also contain various abbreviations that guide the reader on the type of case where they have been serialised (civil, land, family dispute, debt collection, etc) involved.
- d) The cause list is silent about what a case is exactly about. Depending on how busy the Local Council court, the cause lists may be published daily, weekly or monthly.

*Dear LCCs,*

*Kindly ensure that justice  
is delivered in customary  
land matters*





Customary tenure forms approximately 80% of the land in Uganda. Although predominantly unregistered, it is land held in perpetuity with all the tenets equated to freehold tenure. As such, mechanisms for both its administration and resolution of disputes require the same rigour and tenacity as is applied to Freehold, leasehold and *Mailo* tenure. The LC Courts are the courts of first instance on matters of customary land.

Given the election of Local Councils I and II in 2018, there is a gap in capacitating them to play their role effectively. This Guide is developed to support the comprehensive tooling and skilling of Local Council Courts (LCCs) in Uganda to deliver justice over customary lands.

It contains standard legal texts and procedures provided in the different laws, notably the Constitution of the Republic of Uganda (1995), the Local Council Courts Act (2006), the Local Council Courts Regulations (Statutory Instrument No. 51/2007), the Land Act, Cap 227 and the Magistrates Courts Act, Cap 16.

Additionally, the Guide encompasses basic office practice principles and guidelines (record keeping, templates, judgments etc.) which will enhance the efficiency of these Courts.