

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

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

Advantages to having no papers

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

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

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

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

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

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

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

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

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

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

Disadvantages to having no papers

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

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

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

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

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

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

