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MINISTRY OF WATER, LANDS AND ENVIRONMENT  
LAND TENURE REFORM PROJECT

**GENDER MONITORING BASELINE SURVEY FOR THE  
LAND SECTOR STRATEGIC PLAN  
IN 20 DISTRICTS**

By  
Associates for Development  
&  
Centre for Basic Research

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***Gender Monitoring Baseline Survey for the Land Sector Strategic Plan (LSSP)***

This report is compiled and written under contract with the Ministry of Water, Lands and Environment. Margaret Rugadya, the Lead Consultant and Herbert Kamusiime of Associates for Development, undertook data collection and interpretation of results with input from Robert Opio, Eddie Nsamba-Gayiiya and Mubarak Mabuya. Frank Muhereza, of Centre for Basic Research and Richard Kibombo designed the data collection instruments. Data entry and statistical analysis was undertaken by Herbert Kamusiime and Richard Kibombo. The conclusions of this study are drawn by Margaret Rugadya and Herbert Kamusiime.

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**ACRONYMS**

AfD	Associates for Development
CHH	Child Headed Household
CSO	Civil Society Organizations
CBO	Community Based Organization
EPRC	Economic Policy Research Centre
LC	Local Council (in Uganda there are Five Levels V, IV, III, II, & I)
LSSP	Land Sector Strategic Plan
DFCU	Development Finance Company of Uganda
FHH	Female Headed Household
HIV/AIDS	Human Immune Virus / Acquired Immuno Deficiency Syndrome
HFCU	Housing Finance Company
MHH	Male Headed Household
M & E	Monitoring and Evaluation
MWLE	Ministry of Water, Lands and Environment
MISR	Makerere Institute of Social Research
MFI	Micro Finance Institutions
NGO	Non Governmental Organizations
PPA	Participatory Poverty Assessment
PEAP	Poverty Eradication Action Plan
PMA	Plan for Modernisation of Agriculture
NAADS	National Agricultural Advisory Services
UPPAP	Uganda Participatory Poverty Assessment Programme
PRSC	Poverty Reduction Support Credit
RTA	Registration of Titles Act



## EXECUTIVE SUMMARY

To establish the baseline for gender and land in the Land Sector Strategic Plan, this study commenced with analysis of existing studies, which were found to be mainly geared towards securing an input in policy and legislation since in the recent past, active policy and law reform has been taking place on land especially around the concept of co-ownership of land by spouses, hence a limitation in itself as gender-specific information regarding land ownership, accessibility and control was inevitably lacking. Two significant findings; one on the performance of district land tribunals<sup>1</sup> and land ownership trends on registered land emerged<sup>2</sup>. This is followed by an evaluation of various international instruments that set obligatory actions, rules and standards for the government in management and use of land as a resource for development emphasising the participation of women and discrimination faced by women. All these resolutions and conventions reaffirm the equal rights of women and men recognize that adequate remedies to deal with discrimination against women may require different treatment of women, based on a consideration of women's specific socio-economic context.

From the late 1990s, Uganda adopted various enabling policies and laws geared specifically towards promoting women's empowerment and active role in the development of their families and communities. National policies / laws on land and gender are diverse and scattered in various sectors in which the land sub sector has a stake. These policies give insights into measures that government has undertaken to enhance women's control over productive resources and to adhere to the constitutional mandate of affirmative action in favour of women. It is the finding of this study that though remarkable progress has been registered in law and policy at national level, the challenge is the absence of political will especially on matters that directly touch on gender and productive resources use and ownership.

The Uganda Constitution is one of the most progressive on gender rights South of the Sahara, however, classic examples such as the failure to secure co-ownership of land for spouses in legislation on land and the summary shelving of the draft Domestic Relations Bill, 2005 on flimsy grounds of insufficient consultations are a blow to the seeming positive environment. Despite the policies, plans, and programmes being put in place, the basic problem, however, is with the implementation which is dogged by a host of problems such as gender-insensitive leaders and individuals in charge of implementing projects thus execution of gender blind development projects.

In this cross-sectional study, a blend of quantitative and qualitative methods using structured tools was used to capture data at household, community and national level. A total of 3,779 interviews (of which 54% were female) from 2,227 households, representing a sample coverage rate of 88.5% were used. A total of 227 key informants were involved in the study. Data was extracted from records in the decentralized land management and administration offices of 13 of the 20 study districts. Data management and analysis was done using SPSS and MS Excel; this sought to highlight regional differences between households and sex (females and males).

In this survey, land was rated highest (53%) in importance amongst all household assets followed by housing (24%). Comparatively more males (55%) than females (51%) rated land higher while more females (26%) than males (22%) rated a house as of higher

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<sup>1</sup> Undertaken by the Law Justice and Order Sector in 2003

<sup>2</sup> Undertaken by MISR, in 2004

importance in the assets portfolio. It was found that, the average size of land holdings was 2 acres per household. More FHHs (84.25%) than MHHs (76.6%) were found with parcels of land of less than 2 acres; while more MHH (23.5%) than FHHs (15.8%) were with parcels of land that are 2 acres or more. More females (82%) than males (73%) were found holding parcels less than 2 acres while more males (27%) than females (18%) found with parcels of two acres or more. On average 56.4% of the respondents cultivate 75% or more of their principle parcel of land all year round. A bigger proportion of MHHs (57.1%) than FHHs (52.8%) cultivates 75% or more of their principle land parcels. More males (57.8%) than females (55.1%) reported a 75% or more cultivation level on their principle parcel of land all year round. 'Land based income sources' (Livestock/ Livestock product sales; Crop/ Crop Product Sales and Rent from land/ housing) account for 64% of all incomes sources listed by respondents. Amongst FHH the rating is 62.4% while in MHH its 64.1%; between females and males its 63.6% and 63.9% respectively.

The 2004 study of patterns and trends in land registration and ownership in Uganda<sup>3</sup> for the period 1980-2002, indicated that male land ownership pre-dominates in all regions with an overall 63% and this monopoly is most predominant in the northern region at 78%. Under mailo tenure the predominance of ownership was at 60%, while leasehold is at 66%. The national-wide women land ownership with registered land is at 16%, in the central region it is at 18% and it is least in the northern region at 7%. Spousal land co-ownership was found to be slightly over 3%, this figure excluded mailo land in all other districts and in the central region which account for over 60% of this tenure. The rate at which women transferred land to men was 59% compared to the rate of transfer to fellow women at 24%. This study also revealed that there was a vibrant land market where women involvement in land transactions is more prevalent in the central region at 35% followed by the eastern region at 25%. In the northern region, women's involvement on registered land transition steadily rose from 2% in the period 1980-1985 to 22% in the period 1998-2002 and in the western region at 23%.

In this survey, the overall the main method of acquiring land was indicated as 'gift and/or inheritance from husbands' family rated at 47.4%. Interestingly, the overall rating for purchase nearly marched inheritance at 42.3%. Purchases of land were highest in the central region at 61.3%, closely followed by the western region at 42.8%. Outstanding also was the rating for purchase of 22.2% in the northern region. However, the rating for just settled was highest in the northern region at 5.9%. The survey found an overall approval rating for spouses to co-own land at 61.4%; and the disapproval rating was 24.6%, while those who did not know and/ or were not sure were 14%. More females (66.5%) compared to males (55.5%) were in support of support co-ownership. Amongst those disapproving there were twice more males (35%) than females (15.5%) while among with no clear opinion and/ or did not know the proportion of women (18.0%) was twice that of men (9.4%).

Results showed 45.3% of all land parcels included in the survey did not have any document to show ownership of land. More parcels of land held by FHH (47.5%) than MHH (44.6%) had no documents at all to show ownership. Both categories of households held less than 5% of their parcels under title. Parcels with rights ascertained through a will at 9.2%. Amongst parcels with documentary evidence, 68.4% had this evidence exclusively in the names of husbands. Parcels that had documentary evidence in both spouses' names were 5.7%. Amongst all parcels with documentary evidence held by females, only 21% had them exclusively in their names. Survey results show that 60.3% of all parcels with

<sup>3</sup> undertaken by Makerere Institute of Social Research -MISR

documentary evidence to ownership have this evidence in the custody of husbands. Only 7% of the parcels have the documentary evidence in the custody of wives.

Of the 1,374 wives included in the survey, 9.8% had ever been threatened with eviction. Amongst these most (13.5%) were from the northern region. According to results (66.7%) of wives rated their spouses as persons who threaten them with eviction. Husbands' relatives came next with a rating of 21.5%. The rating for abusive husbands' relatives was highest in the northern region (31%) and least in the western region (13.8%). Ranking highest amongst causes of threatened eviction was disagreements over ownership of land (22.5%), followed by competing interests due to polygamy (20.6%) while competing inheritance interests were scored at 14.7%. Interestingly drunkenness was rated at 19.6% as a cause of eviction threats. Eviction threats as a disincentive to invest in long term developments on land was rated (52.7%) and in the short term, it was said to discourage increased cultivation at (34.5%); and at times the risk of one losing land altogether because of violence was (15.5%). The survey found a positive correlation between the occurrence of eviction threats and the incidence of violence at the level of 34.6%.

The most outstanding effects of HIV/AIDS with regard to land were having less time and labour to farm rated at 26.3%, scaling back of area under cultivation (15%), sale of land to finance health (11.3%) and sale of land to finance sustenance rated at 3.8%. Less time and labour to farm was rated higher amongst females (30.2%) than amongst males (21.1%). Sale of land to finance distress (either health and/or sustenance) was rated at 13.9% by females and at 16.2% by males. Households that have gone through the full HIV/AIDS cycle tend to lose 1 to 2.1 acres of land in sales aimed at financing health. With regard to sustenance, overall an average of 1 to 1.4 acres is lost in sales. Scale back of farming activities is 1 to 1.35 acres. Males in the northern and western regions were worst affected by distress sales of land (on average lose over 2 acres to health financing) while sustenance sales most affect females in northern Uganda who incur losses of up to 3 acres. Scale backs are most prominent in the eastern and central regions with an average of 1.75 acres.

A situation analysis for the Land Sector institutions was carried out in October 2003 by the Ministry of Lands, Water and Environment (MWLE) in all the 56 districts of the country established that the District Land Management offices received land applications for processing of certificate titles, of which about 6% were for women; lease offers were also issued, of which about 5% were to women<sup>4</sup>. However, survey results from 14 District Land Boards show that for the period (2003-2004) a total of 1,631 applications for land were received. The proportion of applications from women singly applying for land was 12%. Of all joint urban land applications, 35% were women-women applications while 65% were between women-men. For rural joint applications, 38% were between women-women while 62% between women-men. Registration of land ownership is more sought after by women in the urban compared to rural land. Findings also point to more equitable land rights distribution in the urban setting amongst persons seeking to register land compared to those in the rural.

According to the 2002 census, the agricultural sector employed relatively higher proportions of women (83%) than men (71%). Most households (68%) depended on subsistence farming for a livelihood. According to the Census, the agricultural sector accounted for 77% of the total employment. In addition, 74% of the households had an agricultural holding and subsistence farming was the main source of livelihood for 68% of all households in the country. The national adult literacy rate was 64% with females having

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<sup>4</sup> Blackden, 2005

a lower rate (54%) than males (75%). In this survey, land under high value perennial crops is controlled 44.9% by husbands as opposed to 9.4% control by wives. This sharply contrasts with annual crops of low value where wives control over 45% compared to the husbands' 5.8% control level. It is even more peculiar that wives have control over land that holds low income perennial crops at 28.8%, compared with the husbands' control of 6.9%.

According to results most respondents (44.7%) do not practice any soil conservation. This proportion was highest in the western region (67.5%), followed by the central and northern region both with ratings over 56%. Practice of seasonal soil conservation measures had a rating of 38.8%, with all regions attesting at a rating of over 40% while permanent soil conservation measures had an overall rating of 11.1%. Between spouses the responsibility for ensuring sustainable use of land was more or less evenly shared. In all regions the rating for 'both of us' was over 45% while the ratings for individual responsibility were in all instances less than 30%, although more male spouses (25.9%) than females (17.7%) claimed it was their responsibility.

Information dissemination results show that radio programmes were found to be the most common at 37.7%. This is most common in the western and central regions at 57.3% and 45.7% respectively. Seminars and/or workshops had an overall rating of 7.9%. Overall, the proportion of respondents that has not accessed information on gender and land rights is still high at 52.6%, and is mainly in the northern and eastern region at 64.4% and 65.3% respectively. Out of the 37.5% respondents who access information through radio, 34.5% are female while 41.5% are male. Seminars are also more or less evenly common between men and women, (6.2 females and 9.9% males showed having attended). The most peculiar finding there is hardly any dissemination accessed through literature.

The study shows a rating of only 16.8% for known sensitization initiatives (paralegals, CBOs/ NGOs) in the education of people on gender and land rights. Surprisingly, government or line ministries are not mentioned as sources of such initiatives. A large proportion of the respondents 59.7% claimed that in spite being aware of such initiatives none had taken place in their areas while 23.6% simply did not know about such initiatives. The results emphasize that at least 58% of the respondent population has not been reached by sensitization initiatives at any level. The survey also investigated what is known by respondents in actual terms about gender and land rights, with the intent of showing the level of understanding and conceptualization of gender and land rights. Overall, 53.7% of the respondents (females 74.4% and males 64.0%) claimed they did not know what gender and land rights were all about.

In terms of land transactions, the survey found the proportion of respondents who had been involved in land purchases to be 12% while those who had sold land was 5.7%. Overall, fewer females were involved in land transactions compared to males. With regard to those who had sold land, 5.1% were female while 7 were male. On the other hand, amongst those who had bought land 10.3% were female while males were 14.7%. Looking at who had contributed most to the purchase of land between female and male respondents; results show that overall single contributions i.e. 'my self' rank highest (37.6%) amongst both females and males. However, more than twice the number of males (51.4%) than females (21.2%) attests to this. Only 8% of the male respondents attested to their wives contributing, a higher proportion of the females (41.3%) attested for their husbands. The intended use of land acquired was indicated by most respondents was expansion of agriculture (51.9%) although slightly more male respondents (55.4%) attested to this compared to 47.5% females. The distinct finding was the ratings of land as a secure

investment (22% females and 17% males) and as a means of accumulating wealth (16.5% females and 15.7% males).

With regard to sales, results show the underlying factor to be distress financial needs (65% females and 63% males) followed by sale of land to raise investment capital (23% males and 8.8% females). Sale of land due to default of loan (6.6% females and 4.9% males) and sale of land as a preemptive measure to probable loss due to land conflicts was rated at only (3.3% females and 2.9% males). In purchases, 17.4% of the parcels were titled, of these 52.3% were purchased by women. Titled parcels purchased from female holders were 40%. Interestingly non titled parcels that were purchased from female holders were 22.2% of all the parcels purchased in the same period. In sales, the proportion of titled parcels sold was 10.1%, of these 52.9% were sold by women. Titled parcels sold to female holders were only 3.5% while non titled parcels that were sold to female holders were 25.5%. Amongst those who had engaged in land sales, 28.1% claimed they did not consult any body while 18.6% who claimed it was a decision jointly by spouses. However, slightly more (29.1%) males than females (24.7%) claimed they obtained consent of their spouses before transacting in land. Community key informant (LCs) revealed that in most cases (50%) married persons obtained consent from each other before transacting in land.

Results show that 94.9% of the respondents had not used their land to access credit. Interestingly amongst those who had used land to access credit 4% indicated use of non titled land compared to 1.2% who had used titled land. Slightly fewer females (1%) than males (1.4%) had used formal title to access credit. The same scenario was observed for non titled land, with females (3.6%) against males (4.4%). The survey found very few instances (6.2%) of foreclosure due to failure in loan repayment either where all or part of the parcel had been lost.

The prevalence of land disputes was at a level of 13.9% in the two years preceding the survey. Parcels held by FHHs had a higher prevalence (19%) than those held by MHHs (15.9%). The highest prevalence was found on parcels held by FHHs in the central (26%) and eastern (21.1%) regions. At a community level, results show that in the year preceding the survey (2004), each of the survey communities (n=227 villages) experienced at least 3 land disputes of which 2 were reported by women. In the northern region out of every 4 disputes that were reported, 2 were by women; a scenario similar to the central region. In the eastern and western regions for every 3 land disputes reported, 1 was reported by a woman. Synthesis of the causes of the various land disputes revealed trespass and/or extension of boundaries to be the most pronounced cause of disputes on 43.5% of parcels; as clarified by 51.8% of all parcels actually having disputes involving neighbors. Interestingly both female and male respondents attested to land use disagreements as fuelling land disputes on 11.4% of the parcels included in the survey.

Results also show that amongst parcels with disputes held by women, 25.2% had had disputes involving husbands' relatives while 49.4% had involved neighbors. The prevalence of violence in land disputes within households was at a level of 22.5%; higher on parcels held by females 23.7% than those held by males 21.3%. Within regions, the rate was found highest on parcels held by females in the northern region (27.3%) and least on parcels held by males in the central region (17.7%). In this survey, land tribunal records also showed alarming levels of violence in land disputes. Overall, the rate was 73.7%, highest in the northern region at 79.7% and lowest in the eastern region at 16.6%. The highest levels of violent cases involving women were recorded in the northern region (27.4%), while all the other regions recorded violence involving women at rates below 3%.

‘One stop dispute resolution’ was found to have occurred in over 50% of the disputes that had been resolved in the two years preceding the survey. ‘Multiple option dispute resolution’ was reported in 40% of the cases in the same period. The most frequented resolution options were village and parish local councils rated by both females and males at over 50%. While resolving land disputes within family and/ or through the clan was rated at over 20% by both females and males. In general more resolved disputes were attested for by males (68%) than females (61%); while, more pending land disputes were attested for by females (36%) than males (27%). Case withdrawals were 4% though it was not established whether these were due to frustration with dispute resolution options available.

The national average (median) duration of land disputes was found to be 2 months. This duration was found highest in FHH across regions with the central and eastern regions indicating 5 months while northern and western showed 3 months. Across regions the highest duration amongst MHHs was 3 months in the central region and least 1.5 months in the northern region while the central and eastern regions averaged (median) 2 months. The average (median) household expenditure on land dispute resolution was found to be 15,000/= over the course of the land dispute (2 two months). On average FHH spend 12,500/= while MHHs spend 18,188/= over the course of the dispute. Comparing expenditure on land dispute resolution shows that households spend 5.4% of their annual income on dispute resolution (i.e. 65% of their monthly income during the months when the dispute is ongoing). FHH spend 9.3% of their annual income on dispute resolution while MHHs spend 5.9% of their annual incomes. The average (median) time taken by female complainants to have their disputes resolved is 3months while for the males it is 2 months although the males spend two times more (26,000/=) per dispute per parcel than females (11,250/=).

A study of the performances of the land tribunals by the Justice Law and Order Sector in Uganda<sup>5</sup> shows that there are four times more cases brought to the tribunals by men than by women. Many women and some poor men who are unable to access and afford tribunals have sought to resolve disputes at other fora or simply given up fighting for their rights. From 13 land tribunals a total of 1,250 cases were reported in the year preceding the survey (2003-2004). The highest cases were reported in the eastern region from 5 districts (412 cases), followed by the northern region from 3 districts (361 cases) while the west (3 districts) and the central (2 districts) reported 226 and 251 cases. Analysis of averages (means) shows an outstanding concentration of disputes in the northern and central regions at 120 and 125 cases per district respectively. Again these two regions record the highest concentration of cases involving women at a level of 47 and 45 cases per district in the respective regions in the year preceding the survey. Desegregation of the cases involving women shows ratings of those involving their spouses’ relatives to be 15% and their spouses themselves to be 11%. With respect to cases resolved, results show below average rates of dispute resolution across regions from the 13 land tribunals with the lowest rate pertaining in the central region (4.4%) and the highest in the northern region (37.5%). Comparatively the rate of dispute resolution for cases involving women was highest in the western region at (41.5%) and least in the central region at 9.1%.

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<sup>5</sup> in March 2002 conducted a study on “Gender and Access to Justice in Uganda”

## 1. INTRODUCTION

Addressing gender inequality in land management has become increasingly important because of the social justice and human rights concerns and for the economic efficiency and sustainability. Gender and land rights is a very sensitive one particularly so because it involves relinquishing powers and privileges by the holders of those rights to those who do not possess these rights. Women's important contribution to development is not matched by their equal benefits and control over the economic, social and political processes. As the most productive workers on the land, there is no justification for women's invisibility, rights of control, ownership and/or disposal should accompany their user rights, hence the need to address the existing relations between women and men.

To increase the security of property rights, legal and institutional issues need to be tackled in tandem or evolve jointly, with reference to the broader social and economic environment within which land rights are embedded. On the legal side, the definition of property rights to land and the way in which people can acquire them must be clear and equitable, in line with practice on the ground. Rights must be sufficiently long-term and risks of losing them to discretionary bureaucratic behavior must be eliminated. On the institutional side, procedures need to be formulated, institutions need to be accessible, and services should be provided effectively and at low cost. All this implies that beyond the formulated general principles, practical implementation of any measures to increase the security of tenure has to start with in-depth analysis of the current situation.

### 1.1 WHY THE BASELINE SURVEY

In Uganda, the pursuit of women's land rights stems in part from the recognition that, women have played a central role in agriculture and food production. It is therefore imperative in the land sector, which is the key natural resource base for agricultural production to assess the extent to which progressive and responsive measures have been undertaken to promote the following goals and principles:

- *Equity*: There is a strong case for improving women's rights over land for equity reasons to satisfy social justice. Recognizing gender in land reform is important not only to redress the historical imbalances and social injustices suffered by women with regard to access and ownership of land, but also to address the wider economic considerations such as efficiency—given the fact that agricultural production is predominantly done by women.
- *Equality*: Equal rights and equal opportunities for men and women are among the fundamental human rights enumerated the 1995 Uganda Constitution. In Article 33, inequalities of land access and ownership within the household play an important underlying role in shaping the face of poverty in Uganda. The equality in land tenure relations would ensure that women/ wives are involved in making decisions concerning land management. The existing gender inequality in relation to access, use and control of land is a major factor contributing to household poverty in Uganda.
- *Human Rights*: With regard to land, women's rights are generally restricted to access while men are more likely to have ownership rights. It is important, that an explicit legal framework to protect human rights of women is provided. Failure to do so is contradictory to its international obligations, an abuse of women's human rights and a perpetuation of gender inequalities. Without secure rights to land, women's ability and incentives to participate in income-expanding economic activities are reduced. However, an exclusive focus on women which ignores men's major share and control of resources and decision-making is unlikely to give sustainable results in development, as much as lack of recognition of women's and men's roles.

- *Good Governance:* Experience shows that sector wide and national planning that do not take into account gender-specific differences in a society is likely to be less effective, because it tends to reach mainly male members of the society in question. Secondly, the gender division of labor and resources is responsible for the imbalance in property ownership. Recognition of gender land rights ensures the participation of men and women in all development processes at all stages.
- *Poverty Eradication:* Eradication of poverty is the main objective of Uganda's national development strategy. Land rights are a key development issue, crucial to poverty eradication. For rural women, evidence shows that inequality of access to key productive assets is a fundamental determinant of poverty and social disadvantage<sup>6</sup>. Without secure rights to land, women's ability and incentive to participate in income expanding economic activities is reduced, since they are not able to control income from farming activities and to make decisions on land use.
- *Sustainable Natural Resource Management:* Women are the primary agents in managing natural resources (such as water, firewood, etc.) and thus pivotal to the development of strategies for protecting the environment and ensuring sustainable development.

An influential account on how gender should be a major component of land reform was provided by Bina Agarwal<sup>7</sup> in 1994. She identified four main reasons why women should not simply own land but, equally important, be in a position to exercise control over it:

- *Welfare:* women's access to land will improve both their own and their husbands' poverty standing because of the perceived correlation between an improvement in women's position in relation to land and an improvement in household food security and child nutrition.
- *Efficiency:* giving women rights to land will increase agricultural productivity because women will invest more in their land and the knowledge pool will be increased;
- *Equity:* recognizing women's rights in land is necessary for justice for women, and
- *Empowerment:* having land rights will empower women and strengthen their ability to fight for equality, dignity and additional economic rights.

In a keynote address to a 1997 conference on 'Gender Policy Research and Land Development' in South Africa, Agarwal summarized her argument in favour of independent rights for women as follows:

"By land rights I mean claims that are not just legally, but also socially recognized and which are enforceable by an external legitimizing authority...in making a case for women having rights in land, I mean effective and independent rights...And by 'independent rights' I mean rights independent of male ownership and control...in other words, I am talking about joint titles with husbands which have several disadvantages for women."

In making her case, Agarwal drew on the welfare, efficiency, equity and empowerment arguments to argue that all approaches are best served by programmes that extend independent rights to women rather than programmes that continue to locate them within restrictive and in egalitarian family and household structures. She is often been challenged that "co-ownership is better than no ownership at all".

The World Bank developed principle gender-focused actions in the Poverty Reduction Support Credit (PRSC4) Policy Result Matrix. In pillar III, "secure land tenure across

<sup>6</sup> Ovonji Odida, Muhereza, Eturu, Wily 2000; Gender Land rights and Development, Ministry of Water, Land and Environment

<sup>7</sup> Bina Agarwal, 2005 in her book, A Field of One's Own



categories of land users including communities, and greater access to and control of land by women” is a major outcome indicator. The Ministry of Water, Lands and Environment was in turn required to develop gender responsive evaluation tools for LSSP to provide baseline assessment of women’s land rights, including awareness level as part of the overall action to respond to equality and equity in the land sector. This baseline survey is a response to that requirement. Now that the baseline has been established, MWLE will develop and test methods of tracking the implementation of the provisions of the Land Act concerning family security of occupancy, and will conduct further information campaigns to raise awareness of women’s land rights among key stakeholders. The baseline data collected will facilitate periodic monitoring and evaluation of the impact of the public information campaigns<sup>8</sup>.

## 1.2 DEFINITION

The theory of gender was introduced in the normative phases of contemporary western feminism (so-called second wave feminism) in the early 1970s. “Gender” as a concept was coined to distinguish it from sex. Whereas sex is derived from biological and physiological differences between men and women, gender refers to the social and cultural construction that shapes feminine and masculine identities. In other words, sex is determined through *physical* assessment; gender refers to the *social* consequences for the individual of that assessment. Simply put, gender refers to the economic, social and cultural attributes and opportunities associated with being male or female. “Gender relations” refers to the interaction between men and women as they carry out their different roles in society. Such relations are a reflection of the roles/activities that men and women are engaged in *and* the relative value/meaning attached to those roles/activities.

The social and cultural construction of gender roles has profound implications for women and men. It is significant for the type of work and amount of time men and women spend doing it. For example, women are engaged in production, home maintenance and community work, while men are predominantly in production activities. Moreover, men are remunerated for their work while women’s work is gratuitous. Men predominate in the powerful public sphere, while women are relegated to the private domestic arena.<sup>9</sup> The social construction also affects the sharing of and access to resources especially land, benefits and control over them determined are by gender relations. Most development programmes that attempt to address the plight of women place emphasis on their “practical needs,” paying scant attention to their “strategic interests.”<sup>10</sup>

*Practical gender needs* are those that relate to the carrying out of functions on the basis of accepted patterns of the division of labor. They include improved *access* to clean water, health services, education, credit facilities and roads. For women, practical gender needs relate to fulfilling their concrete productive, reproductive and community managing roles and responsibilities. While practical gender needs are related to existing gender roles. *Strategic gender interests* challenge those roles in favor of equity for women. Strategic gender interests begin with the assumption that women are subordinate to men as a consequence of social and institutional discrimination against women. They entail eliminating institutional sexism by attempts to transform women’s position within a structurally unequal set of social relations.<sup>11</sup>

<sup>8</sup> Blackden et al, 2005: 42

<sup>9</sup> The divide denotes the ideological division of life into apparently opposing spheres of public and private activities, and public and private responsibilities. Such ideology places men in the public (politics and business) sphere and women in the private (home and family) sphere. The public sphere is accorded more importance and prestige.

<sup>10</sup> Also see Moser and Levy (1986)

<sup>11</sup> An example to illustrate the institutional nature of sexism can be found in the household rules and practices that appear to be non-negotiable. Under the institutional arena of the household, wives shoulder all domestic chores while husbands

Addressing Ugandan women's strategic interests is contingent upon women themselves organizing to demand and promote for change. It will not come from the patriarchal state machinery nor should it take the form of a top-down policy imposed by any development agency. Ugandan women need to be empowered both materially and ideologically in order to overcome their disenfranchisement.<sup>12</sup> They have to unlearn and deconstruct deeply rooted beliefs and consciousness<sup>13</sup>. Resources for Ugandan women constitute a complex and broad concept that goes beyond a laundry list of assets that would not go far in empowering them. More important than simply availing them land, for example, are the institutional and ideological factors that inhibit women's access to and control over the resource.

### 1.3 METHODOLOGY

This was a cross-sectional study to collect baseline data on gender variables of interest to the land sector at this particular time, in order to articulate its contribution to the national poverty reduction strategies based on the Land Sector Strategic Plan (LSSP), which is the sector wide approach for implementing land reforms in Uganda. The LSSP has a developed monitoring and evaluation framework, which directly links reforms and activities in the land sector to the Poverty Eradication Action Plan (PEAP). This framework is utilized to respond to monitoring and evaluation needs, and information and data. The sequential components in undertaking the baseline survey were as follows:

#### 1.3.1 Extraction of Gender Component

Extraction of the gender component from the LSSP Monitoring and Evaluation (M&E) framework was the first step undertaken in analyzing the gender information needs for monitoring and evaluation. The purpose of the extraction was:

- (a) To provide the guidelines on information needs for effective Monitoring and Evaluation, which were to be derived from existing secondary sources of information and the gaps and filled from primary information through the baseline survey.
- (b) Secondly, it provided the framework for crafting data collection instruments; and, focusing data collection, cleaning and analysis.

#### 1.3.2 Review of Secondary Information

The review of secondary information was undertaken at three levels basing on the objectives of the baseline as outlined in the terms of reference.

- (a) Policies and laws were reviewed to set the context and basis for understanding and analyzing gender in the land sector. The review examined the policy, legal and regulatory framework for gender in Uganda; as well as the set parameters for gender mainstreaming and incorporation in monitoring and evaluation by sectors. Emphasis however, was laid on the land sector.
- (b) Review of several studies on gender and land was undertaken, both qualitative and quantitative aspects were studied. With regard to the qualitative perspective, conclusions and recommendation were reviewed for validity in the context of scale. Relevance of these studies in responding to monitoring and evaluation needs in the

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enjoy the title, 'head of household' and overall control of the household wealth. It is sexist because it based on biased norms, rules and procedures – i.e., biased against the wife and in favor of the husband.

<sup>12</sup> "Empowerment" as used here does not connote the conventional notion of dominance or "power over"; rather, we adopt a feminist meaning of empowerment, which perceives the concept as a process involving the use of power as competence or a "power to."

<sup>13</sup> Kabeer 1994: 91

land sector was sought and highlighted. This review also served as a basis for the need for empirical clarification in the baseline survey.

- (c) Available statistical information was reviewed to establish existing empirical baseline data on gender and land.

### 1.3.3 Primary Data Collection

The baseline survey was designed as multi-tier cross-sectional study to collect baseline data on gender variables specified in the LSSP M&E framework. The sequential components (tiers) in undertaking the baseline survey were as follows<sup>14</sup>:

- (a) Extraction of the gender component from the LSSP M&E framework
- (b) Review of Secondary Information; on policy and legislative framework, on studies previously undertaken on gender and land, and existing statistical information mainly from Uganda Bureau of Statistics and other sources (See Annex 1).
- (c) Based on gaps identified and information needs determined from review of LSSP M&E framework and secondary information conduct primary data collection in 20 Districts.
- (d) Process both primary and secondary information (qualitative and quantitative) into a comprehensive gender report for the land sector.

These sequential components involved key methodology issues presented in the subsequent sections.

#### Selection of Survey Districts

The twenty (20) study districts were purposively selected using the following criteria agreed with the Ministry of Water, Lands and Environment.

- Regional representation and existence of an operational land office
- Ability to fulfill the conditions of the urban and rural divide as per UBOS parameters
- Coverage of tenure types and Agro-ecological zones
- Peculiar land reform issues like fragmentation, conduct of systematic demarcation
- EPRC Poverty trends and coverage by NAADS Programme

Out of the twenty pre-selected study districts, two were substituted. Soroti district was replaced with Kumi and Gulu with Apac. At the time of field work the security situation in Gulu district was deemed unsuitable for a household survey while for Soroti suspicion by the local authorities on the intent of the study made the work of the field team impossible, owing to an earlier fatal incident involving the systematic demarcation team from MWLE. Consultations with the Ministry resulted in the substitution. The districts included in the study are shown in Map 1 below.

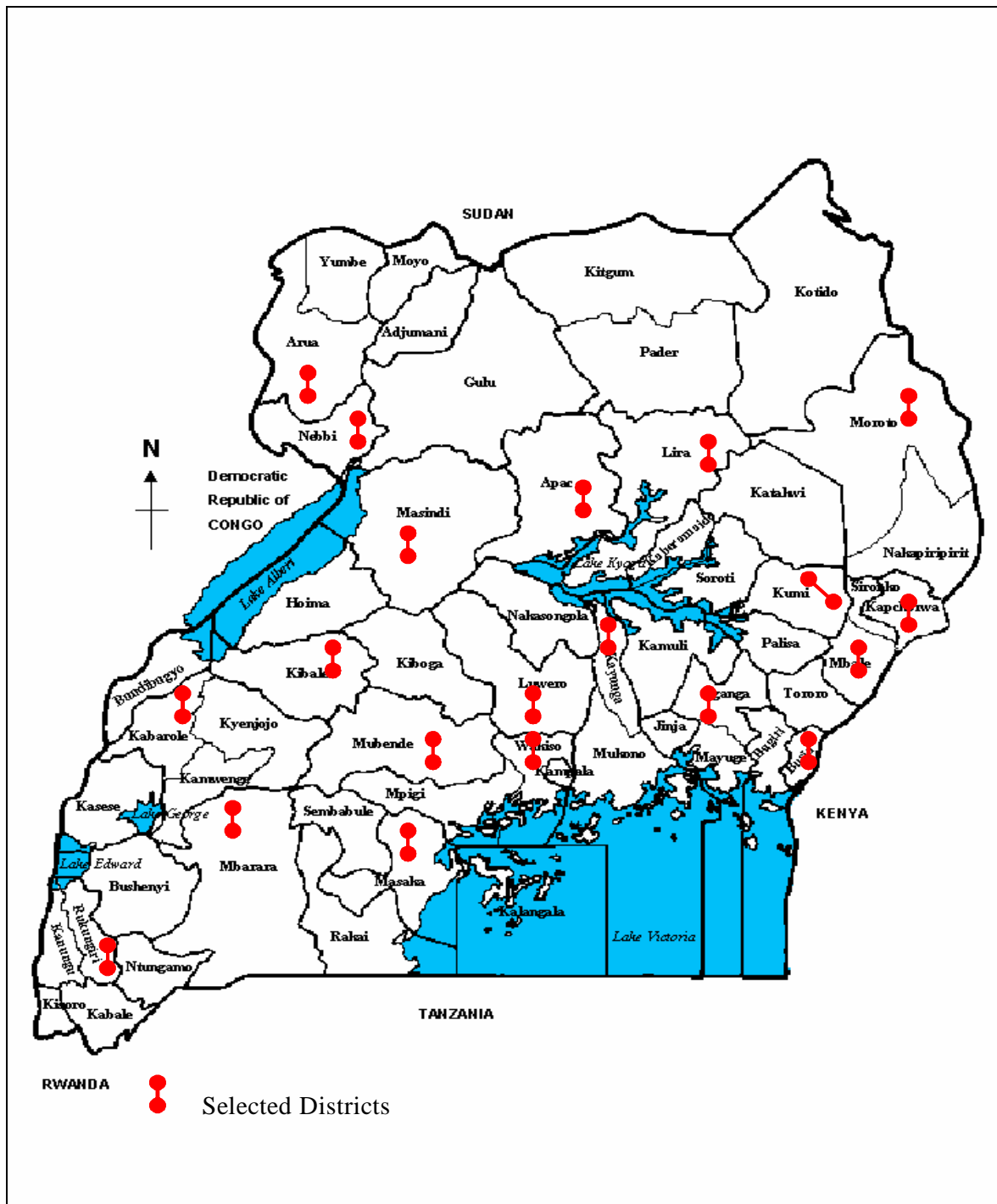
#### Selection and Coverage of Study Communities

The study set out to cover a total of 40 pre-selected sub counties; of which 20 were rural and 20 urban. The returns indicate coverage of 42 sub counties owing to parish substitution and suitable respondent identification arising from language problems in the course of interview in Kumi and Moroto districts. A total of 142 parishes were covered; from these the total number of villages was 265. The selection of study parishes and villages was random.

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<sup>14</sup> Inception Report for the Commencement of the Gender Baseline Survey: AFD/MWLE, April 2005

### Map 1: Baseline Survey Districts



**Table 1.1: Survey Respondents by District and Sex**

Survey Districts	Respondents Sex				Group Total	
	Female		Male		Count	Row %
	Count	Row %	Count	Row %		
1. Arua	85	50	85	50	170	100
2. Busia	120	60	80	40	200	100
3. Apac	92	47	102	53	194	100
4. Iganga	113	58	81	42	194	100
5. Kabarole	112	58	82	42	194	100
6. Kapchorwa	94	51	89	49	183	100
7. Kayunga	115	60	77	40	192	100
8. Kibale	94	48	100	52	194	100
9. Lira	96	55	77	45	173	100
10. Luweero	116	61	75	39	191	100
11. Masaka	111	59	77	41	188	100
12. Masindi	96	52	87	48	183	100
13. Mbale	109	56	85	44	194	100
14. Mbarara	109	55	88	45	197	100
15. Moroto	68	39	106	61	174	100
16. Mubende	121	62	75	38	196	100
17. Nebbi	83	43	109	57	192	100
18. Rukungiri	109	58	80	42	189	100
19. Kumi	100	52	94	48	194	100
20. Wakiso	112	60	75	40	187	100
Group Total	2,055	54	1,724	46	3,779	100

*Source: Household Survey**Selection and Coverage of Survey Households and Respondents*

Once a village was selected randomly, the data collection team approached the local authorities for assistance in compiling a complete listing of all households. This listing constituted the sampling frame for that particular village. On recommendation of the inception review team no stratification was done to the sampling frame. Rather, systematic random sampling was done to select eight households per village. The target respondents were household heads, but in households which had couples, both husband and wife were interviewed; whenever found.

The sample size was determined using the statistical derivation  $n=Z^2 (Pq/d^2)$  applicable whenever the study population exceeds 10,000 subjects as was the case in this study of 20 districts. It should be noted that:

$n$  =sample size

$Z$  = standard normal deviate normally set at 1.96 for sample surveys

$P$  =proportion of sample with a particular characteristic under study

(Since  $P$  is not known empirically as was the case since this was a baseline survey, then a statistically inferred 0.5 is used)

$q$ =Probabilistic derivative which is equivalent to  $1.0-P$

$d$ =the degree of accuracy

(Since this was a baseline survey, the research team felt an error margin of 1.5% or an accuracy rate in excess of 98% would render the results plausible; in addition, for socio-economic surveys error margins that are less than 5% are permissible)

Hence, the sample size was calculated as:

$$n = \frac{1.96 \times 1.96 \times 0.5 (1.0 - 0.5)}{0.015 \times 0.015} = 4,268$$

Field returns showed a coverage level of 3,779 interviews, indicating a sample coverage rate of 88.5%. Of the above interviews covered, 54% (2,055) were of females and 46% (1,724)

were of males from a total of 2, 227 households. Of these households, 20 (1%) were CHH, 17% (655) were FHH and 82% (1, 552) were MHH. The coverage and distribution of respondents by district is depicted in Table 1.1 above.

#### Profile of the Survey Respondents

The household survey yielded a total of 3,779 respondents; of whom, the oldest was 98 years and the youngest 16 years with an average age of 41 years. Between females and males the average age (Median) was 36 and 40 years respectively. The distribution of respondents also showed that 1,425 (38%) were wives, 1,552 (41%) were husbands and 485 (13%) were either widows or widowers while 85 (2%) and 66 (2%) were divorced and/ or separated females. The distribution by respondent category by district is depicted in Table 1.2 in the annex.

Further desegregation of the survey respondents revealed 1,095 wives attesting to monogamous marital unions while husbands attesting to the same were 1,255. The level of cohabitation in the sample was rated at 130 cases of which 68 were mentioned by wives and 62 by husbands. The total number of respondents who were not married was 742 largely constituted by widows. On average, most wives included in the survey had spent 14 years in marriage while husbands had spent 16 years. Most widows had had an experience of marriage of about 21 years (median). The average household size amongst female-headed households was shown to be 5 persons while amongst male-headed households it was found to be 7 persons. The data also reveals that there was an even distribution between Catholics (39.5%) and Protestants (39.9%) in the study sample; Muslims constituted about 10.5% of the sample as depicted in Table 1.3.

**Table 1.3: Distribution of Respondents by Religion and Sex**

		Respondents Sex				Group Total	
		Female		Male		n	Col %
		n	Col %	n	Col %		
Distribution of Respondents by Religion	Muslim	221	10.8	177	10.3	398	10.5
	Protestant	776	37.8	718	41.6	1494	39.5
	Pentecostal	156	7.6	94	5.5	250	6.6
	Catholic	848	41.3	659	38.2	1507	39.9
	Seventh Day Adventist	18	0.9	13	0.8	31	0.8
	Others	36	1.8	63	3.7	99	2.6
Group Total		2055	100.0	1724	100.0	3,779	100.0

*Source: Household Survey*

**Table 1.4: Distribution of Respondents by Occupation and Sex**

		Respondents Sex				Group Total	
		Female		Male		n	Col %
		n	Col %	n	Col %		
Distribution of Respondents By Main Occupation	House work	210	10.2	109	6.3	319	8.4
	Farming	1466	71.3	1028	59.6	2494	66.0
	Business	190	9.2	155	9.0	345	9.1
	Casual/menial work	52	2.5	124	7.2	176	4.7
	Professional salaried	82	4.0	178	10.3	260	6.9
	Professional non salaried	21	1.0	39	2.3	60	1.6
	Semi skilled salaried	7	0.3	32	1.9	39	1.0
	Semi skilled non salaried	19	0.9	49	2.8	68	1.8
	Student	4	0.2	4	0.2	8	0.2
Group Total		2,055	100.0	1,724	100.0	3,779	100.0

*Source: Household Survey*

Out of the 3,779 respondents, 2,494 (66%) indicated that their main occupation was farming. Interestingly, of the 319 respondents who claimed that their main occupation was housework, 109 were male and 210 were female. Whereas this is an interesting distribution, it is probable that some respondents classified farming as housework. The full result by occupation and sex of the respondent is depicted in Table 1.4 above.

Most respondents (35.2%) included in the survey attained their highest level of education as upper primary (p.5-p.7) while those indicating that they had never been to school were 19.5% with female respondents contributing a proportion twice (26%) that of males (11.8%). The distribution is shown in Table 1.5 below.

**Table 1.5: Distribution of Respondents by Education Level and Sex**

		Respondents Sex				Group Total	
		Female		Male		n	Col %
		n	Col %	n	Col %		
Distribution of Respondents by Highest level of Education	Never been to school	534	26.0	203	11.8	737	19.5
	p1-p2 (Lower Primary)	364	17.7	263	15.3	627	16.6
	p5-p7 (Upper Primary)	719	35.0	612	35.5	1331	35.2
	O-level	311	15.1	423	24.5	734	19.4
	A-level	32	1.6	70	4.1	102	2.7
	University	15	0.7	38	2.2	53	1.4
	Other tertiary Institutions	80	3.9	115	6.7	195	5.2
Group Total		2055	100.0	1724	100.0	3779	100.0

*Source: Household Survey*

#### Profile of Local Council Key Informants

The survey covered a total of 227 Key Informants from local councils 1 and 2 i.e. an average of 12 Key informants from each district, representing the survey communities. Of these 182 were male while 45 were female. The distribution by region is shown in Table 1.6.

**Table 1.6: Distribution of Local Council Key Informants by Region**

Position on Local Council	Regions				Total
	North	East	Central	West	Count
	Count	Count	Count	Count	
Chairperson/Vice chairperson	34	46	44	44	168
Executive Secretary/ General Secretary/ Treasurer	4	2	6	8	20
Secretary for Women's Affairs/ Youth Affairs	2	3	6	2	13
Secretary for Mobilization/ Defense /Information	3	6	3	6	18
Secretary for Env'tal Protection/ Production/ Rehabilitation	1	3	2	2	8
<b>Group Total</b>	<b>44</b>	<b>60</b>	<b>61</b>	<b>61</b>	<b>227</b>

*Source: Household Survey*

### **1.3.4 Data Management and Analysis**

The guiding factor in data analysis and management was the need to correlate field data and respond to the gender Monitoring and Evaluation baseline framework and the Terms of Reference for the assignment. The survey team ensured reliability and validity of the data by ensuring that:

- Survey tools and sampling strategy were pre-tested and discussed with the Ministry.
- Regional survey teams had supervisors whose only task was to review questionnaires brought in by enumerators and carry out selective verification.

- The regional survey teams exchanged questionnaires for purposes of cleaning and checking consistency.

Data was coded and captured directly into SPSS owing to the sample size. SPSS was used as the data analysis package as well. Analysis and eventual extraction of Tables presented in this report was based on regions, with details on specific districts being brought out to emphasize striking findings.



## 2. REVIEW OF LITERATURE

In Uganda, women have been advocating for rights to own, co-own and control land and property. Despite some measure of success, there still are factors that limit women's access to land and property, even when positive legislation exists. One constraint has been lack of information and data. While traditionally women merely had access to land through men relatives, social rules guarded against exclusion of women from land. Colonial influences such as individualization of land tenure and changing gender relations contributed to an erosion of the traditional protection mechanisms. Women's position became more vulnerable. As the feminization of poverty grows, women also face increasing constraints in obtaining access to affordable and adequate housing.<sup>15</sup>

In the current context of rapid social change and economic crisis, the institution of marriage is increasingly unstable and the rights in land that women acquire through marriage are vulnerable to forfeiture or erosion of various kinds. Women's vulnerability becomes most exposed during times of crisis – when the household break up either through marital conflict leading to divorce or separation, or upon the death of a husband. This indicates the importance of policies that will strengthen women's rights in marriage and inheritance, as well as secure rights to common property and any property that they bring into or acquire themselves during marriage. Security of marriage thus becomes a major requirement for security of tenure. When the household is in crisis-through death of the husband, or separation or divorce-then women's structural vulnerability becomes more significant.

Land is no longer a relatively abundant, non-market resource. It is bounded, finite and has a price. Increasingly under these conditions, lineage land becomes imbued with concepts of individual ownership, under the control of men. For women living under customary systems of tenure, marriage remains the primary means through which they obtain access to land on which to live and grow food or cash crops. Jean Davison comments:

While most women-as-wives had, and still have, access to some land, unmarried women, who are prevented from inheriting property in most patrilineal societies, have little access to land. They must depend on fathers or brothers to provide them with land or seek wage work elsewhere<sup>16</sup>.

Payment of bride price continues to placing women in a disadvantaged position when it comes to ownership of land. Because the argument by men is that they paid pride price to acquire their wives. This in itself equates them to any property acquired<sup>17</sup>. Women's weak economic and social position hinders their independent access to private freehold land and very little private land is owned directly by women. In a few countries, there are still legislative barriers to married women owning land in their own right, because they are regarded as legal minors. However not all women are landless or poor, nor should women's particular disabilities be read to imply that there are no poor men with strong interests in land as a source of livelihood as well.

Women are discriminated against in terms of the robustness of their rights in land and this can create severe hardships for them and for those who depend on them. Their rights in land are secondary rights, derived through their membership in households and secured primarily through their domestic and productive labour; they are often not rewarded fully

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<sup>15</sup> Benschop, 2002: vii

<sup>16</sup> Davison, 1998, Writing about "Agriculture, women and land" in sub-Saharan Africa

<sup>17</sup> EASSI, 2003: 22; Margaret Rugadya:2004; Irene Ovonji,1999

for their contribution. Furthermore, their productivity is constrained by the many demands on their time and energy that they have to manage, as well as by their poverty.

## 2.1 RECOMMENDATIONS OF OTHER STUDIES

Majority of the studies on gender and land in Uganda are geared towards securing an input in policy and legislation as an end in itself hence it is tilted towards specific advocacy agenda especially around the concept of co-ownership of land by spouses and debates around it. Little is done in terms of academic circles beyond the articulation of the concept of gender on land resources and in terms of actions that are needed to understand the status of genders in relation to land resources. It is clear that there is absence of gender-specific information regarding land ownership, accessibility and control. This part of the report, evaluates and recognizes various recommendations of different studies on land and gender, with a view to presenting what is known, what is unknown, what is assumed and what is probable.

### 2.1.1 Gender and Poverty

The findings of the Uganda Participatory Poverty Assessment Process/Second Participatory Poverty Assessment (UPPAP/PPA2), present three critical messages for Uganda. The first, and most important, is that there is a marked gender gap in control over resources and decision-making power, to the detriment of women. The second is that the labour burdens of men and women differ significantly, again to the detriment of women, who are “overburdened,” especially when account is taken of the disproportionate responsibility they bear for “meeting family needs.” The third is that the implications of these gender-based differences are far-reaching and intertwined in complex and multi-dimensional ways that affect virtually every aspects of life<sup>18</sup>.

The UPPAP/PPA2 notes that poor people, particularly women, are disadvantaged by insecure land tenure arrangements, inadequate understanding of land rights, and by lack of information and access to advice. Lack of control over productive resources by women remains one of the root causes of poverty. Women explained that they lack control over land, the crops their labour produces from it, livestock, and other productive resources. Yet they are responsible for meeting family needs. They complained bitterly of men wasting time and family resources drinking. Women are “overburdened” and this affects their productivity. Gender is a number one poverty issue. Gender inequality emerges from PPA2 as one of the main reasons for persistent poverty. Women’s lack of decision-making power over land and other household assets, cash incomes, and when and how often to have children-is a direct cause of welfare problems like poor nutrition and health, excessive fertility, high infant mortality, overwork among women and drunkenness among men<sup>19</sup>.

According to the East Africa Sub-regional Support Initiative<sup>20</sup>, the cycle of insecurity in food production and poverty is likely to increase unless the following are done:

- Those involved in production must have access to and control over land and other land related resources.
- Guarantee gender-sensitive trans-generation and intergeneration rights.
- Efficient economic governance
- Reform based on empirical reality.

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<sup>18</sup> Blackden 2005: v

<sup>19</sup> Uganda UPPAP/PPA2

<sup>20</sup> Study conducted in 2002

However, this study had limitations, given the unit of analysis which was based on the sex of the household head, notably that it does not say much about the poverty status of men and women in different types of household. Nonetheless, some insights into the gender dimensions of poverty can be drawn from headship-based analysis. For example, it appears that divorced, widowed and married female-headed households (FHH) are particularly prone to being poor at one point in time, with divorced FHH in particular more likely to move into poverty and married FHH more likely to be chronically poor. This should not be interpreted to say that the poverty status of women in male headed households (MHH) is necessarily any better, in absence of more detailed intra-households analysis. Household structure and composition are important factors in determining the poverty status of the household.

Drawing on the 1999<sup>21</sup>, “Land Act Implementation Study” that looked at the technical, fiscal and socio-economic implications of the Land Act, Adams (2000) discusses the major difficulties of implementing so radical a shift both in tenure relations and in land administration systems and the likely economic impact of the more secure forms of customary tenure. The conclusion is that ‘it would be unrealistic to expect the Land Act 98 to generate major economic benefits over the short to medium terms, either in the farm or non- farm sector’. While Adams hails the report as ‘a major step forward in equitable tenure reform’, the 1999 assessment is that the Act is ‘unlikely to have major impacts on farm production through improved tenure security’ that is because:

“The available evidence in Uganda did not indicate a clear-cut relationship between tenure security and farm investment. While some longer -term investments in farming had been inhibited on some farms, it was not clear whether the problem was wide spread. Nor was there evidence of widespread lack of investment in customary tenure areas stemming from uncertainty relating to land rights. Where some evidence of possible constraints of this nature was identified, there was no reason to suppose that, on its own the Land Act could be expected to lead to the necessary strengthening of these rights. If it led ultimately to speedier dispute resettlement, it might have some positive production impact, but it was unlikely to be large enough to be reflected in the country’s agricultural growth rate. One unexpected short-term impact...was it had itself created new uncertainties as to the allocation of rights over some urban and rural land”<sup>22</sup>

However, the study did conclude that there were likely to be potential welfare benefits in the forms of an ‘enhanced well-being’ and a reduction in land disputes in the future because of defined rights holders and plot boundaries. It is glaring that Adams does not specifically consider what the implications might have been had women’s rights been more strongly secured. What is of particular interest in this regard, however, is that the commercial banks are reportedly unhappy about the family consent requirement as a condition for transferring land, as that is seen to have an ‘adverse impact on the value of land as collateral’.

Reducing the barriers to women’s control over land is crucial for policy against poverty. The barriers against women’s possession and control of land have perpetuated poverty through discrimination within households that do not pool income from assets, or do not distribute that income equally. The risk of poverty and the physical well being of a woman and her children depends on whether she has direct control over land and productive resources not just access mediated through male family members. Denying Women who are predominantly the managers of land, control and ownership rights because they are women is expensive. It is estimated that household output could be increased by 10 – 20% by

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<sup>21</sup> Conducted under the auspices of the Ministry of Water, Land and Environment, 1999

<sup>22</sup> Adams, 2000:92

reallocating currently used agricultural inputs of which land is core, more evenly between men and women. The same household income, if controlled by the woman would improve the children's health, nutrition and education<sup>23</sup>.

### 2.1.2 Land Ownership and Security of Tenure

The debate on women and access to land has tended to focus on women's access to arable land<sup>24</sup>. This is logical given that most women (more than 70% in Uganda) live in rural areas. However, this has tended to play down the importance of advocating for land in other tenure areas such as land for housing, industrial use or for large-scale farming. Strategies to acquire some of these land tenure regimes for women have not been articulated. Izumi Kaori<sup>25</sup> explains that assumptions fail to appreciate the power and social relationships between and amongst the different people and how they determine their interest and access to land. Such assumptions do not take into account the manipulative role played by those in power in perpetuating and safeguarding their interests whether traditional chiefs, the colonial masters or the post-colonial elite.

In other areas, it is argued that women's land rights and access depend on their ability to negotiate, manipulate rules and norms and to straddle different institutions. However, failure to consider the patriarchal power influencing women's participation and presentation in the political economy of land is fatal. The land debate has focused on women's access in the communal land tenure system rather than the other tenure regimes, largely because that is where most women are located. With respect to other tenure regimes where market forces are expected to intervene, there has been skepticism because the free market is not gender neutral and women generally have poor social economic status.

The question that is often asked is "if the western- inspired land tenure system, do not secure equal access to land for both genders, what will?" Usually formalizing land tenure leaves women in a worse position than before. In her study<sup>26</sup>, Kulata-Basangwa revealed that although more women are getting to own land in their own right, the percentage is still very low compared to that of men. Women tend to own small parcels of land. These findings reveal that the economic activity in any given area is a variable in determining the number of women who own land.

"Where the economic activities are exclusively done by male like fishing and timber harvest in Buvuma, no woman, as per register, owns land. In Namagamba where women (the tillers of the land) are engaged in the farming of food crops some of which are sold on a small-scale basis to traders, the percentage of women owning land is highest. And in Ddundu, where some of the residents are in formal employment in the neighboring towns, slightly fewer women own land".

A situation analysis for the Land Sector institutions was carried out in October 2003 by the Ministry of Lands, Water and Environment (MWLE) in all the 56 districts of the country to assess the state of the Land Sector institutions, their constraints and make recommendations. The analysis established that the District Land Management offices received land applications for processing of certificate titles, of which about 6% were for women; lease offers were also issued, of which about 5% were to women<sup>27</sup>.

<sup>23</sup> IFAD; "The challenge of ending rural poverty": Rural Poverty Report 2001, Oxford University Press.2001 Pg. 85

<sup>24</sup> Margaret Rugadya, et al, 2003, Assessing Gains and Losses in Women's Land Rights

<sup>25</sup> 1999: 10-11

<sup>26</sup> Gender and Land Law Reform in Mukono District in Uganda: Prospects under the Land Act, 2000

<sup>27</sup> Blackden et al, 2003: 32

Ssebina-Zziwa<sup>28</sup> describes how men's rights such as those in land, have become redefined increasingly in market terms and separated from their traditional responsibilities for lineage wives and children; marriage itself has become more transient for many men and women, leading to the creation of extraordinary complex family networks. In her analysis, the "patriarchal contract" under which women were "rewarded with rights in return for conformity to existing power relations" is no longer working, meaning that property relations need to be established through the intervention of the State to regulate marriage, inheritance and women's rights under the law. For most poor-rural women, marriage is the main way through which they access land, given the instability of many modern marriages that has already been described, securing joint rights for women in household land to which they already have access certainly seems to be the first priority for improving their security in relationship to land.

While the call for separate and independent rights in land for women has resonated strongly with many gender activists, there is also a body of literature, which is critical or skeptical of this approach in the context of much of rural sub-Saharan Africa. This body of work tends to emphasize the importance to women of their kin and other networks, the value of common property resources, and the complexity of household relationships. It also draws attention to women's 'time famine' as well as their difficulties in mobilizing additional labour resources, with all the attendant negative implication for women's 'own account' farming. However, this need not be "an either" / "or" debate, what is appropriate is for land reform to cater for a range of outcomes, attuned to a variety of needs and circumstances on the ground, including recognition of women's rights to acquire land independently outside of marriage<sup>29</sup>.

The position of women with regard to land and property ownership is further weakened by both conflicts and ensuing reconstruction process in societies where their access to land and property is already precarious. The usual imbalance in power relations between men and women are sustained and even deepened through the conflict, up to the stage of reconstruction. Breakdown in social stability and in law and order leaves a social economic vacuum in which the subordinate position of women, their social support systems and their access to land and property are compromised by traditional and customary laws<sup>30</sup>.

Legal principles underlying property rights, which are best on title, vest ownership of land in a person, in whom it is registered. Yet, in other jurisdictions some concepts have been formulated to ensure that the law does not promote inequity. Legal regime discriminates against women and perpetuates women's subordinate position in society. In laws of marriage, divorce and inheritance there is no gender equality. In Uganda, women only get a life interest in their deceased husband's property and are not allowed to control this property. This is clearly in contradiction with article 21, clause 2 of Uganda's very gender sensitive Constitution, which prohibits discrimination on the grounds of a person's sex, the woman is always in a subordinate position<sup>31</sup>.

Land is usually bequeathed to a male heir, and the heir has the right to decide the use of the land. A widow may retain the right of access to all the land after the death of her husband if the husband left a will in favour of his wife. She cannot sell or transfer the land ownership however, unless the title is in her. The customary norm or ideal is that widows enjoy continued lifetime rights in their marital land (both residential and fields), which passes onto

<sup>28</sup> In her study on Succession rituals and Inheritance in Uganda, 1998

<sup>29</sup> Walker, 2003: 47

<sup>30</sup> Chaloka Beyani 1998:1

<sup>31</sup> EASSI, 2002:16

the male heirs after their death. In practice, this ideal is not necessarily adhered to. It appears that as land acquires a value, also because of increased pressure on land, widows are more vulnerable to being forced off the land by their in-laws, or by their sons. Widowhood presents one of the crisis moments in a woman's life when her structural vulnerability and her dependence on her male relatives, natal and marital, becomes exposed<sup>32</sup>.

### 2.1.3 Consent to Land Transactions

To ensure security of occupancy, the Land Act Cap. 227 provides for written spousal agreements (consent) or approval in case of sale land. This places a statutory caveat on the sale, exchange, transfer, pledge, mortgage or lease on any piece of land on which the family home is, and from which the family derives subsistence. It is a statutory requirement, which has not been fully applied, whether one is aware or not, therefore it's not sufficient to provide absolute tenure security with regard to access and use of land. Its effectiveness is diminished in two important respects. One is that, land registration is not common. The second is that spousal consent is problematic in a context where consent assumes equal rights of spouses and balanced power relations within marriages, which is largely non-existent in many households in Uganda<sup>33</sup>.

Even then consent can be coerced 'as long as the women do not complain', in the climate of violence, or the threat of violence, the likelihood of women "complaining" is greatly diminished. Decisions in access and ownership of land have in some cases caused domestic violence, yet because of the poor domestic status of women, they are forced to endure abusive relationships. Put differently, a statutory curtailment of transactions on land is not the same as a guarantee of women's land rights.

Consequently, women's ownership and control of land is of paramount importance to development at household, community and national level. This is not only based on the important role they play in agricultural production but also because ownership and control of land which is essential for women to live with dignity. Having women's names on certificates of title to land not only protects them from relatives and in-laws who would grab the land, a common practice in Uganda, but also enable them to have access to credit<sup>34</sup>. Financial institutions in Uganda hardly give credit without security, and land as evidenced by a certificate of title is one of the most recognized and accepted forms of security. It can therefore, be said that land tenure insecurity among the women is severe and is linked to low incentives to produce, perpetuating poverty and food insecurity<sup>35</sup>.

### 2.1.4 Gender and Agriculture

Agriculture in Uganda is mainly on smallholder farms, which depends on family labour mainly provided by women and children. Women provide 70% of agricultural labour and 60% of labour for cash crops. It has been found that "security of tenure is often the key to having control over major decisions such as what crop to grow, what techniques to use and the decision as to what to consume and what to sell". While women play an important part in agricultural production, especially the food sub sector, their role as producers and agents of change in the much-needed rural transformation has been severely constrained by their meager share in the means of production, land, capital, credit and technology, and by their marginalization in production<sup>36</sup>.

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<sup>32</sup> Sebina-Zziwa's, 1998

<sup>33</sup> Margaret Rugadya, 2004

<sup>34</sup> Herbert Kamusiime and Margaret Rugadya, 2005, Assessing the Outcomes of Systematic Demarcation,

<sup>35</sup> Joan Bosworth; 2003, Pg.11 Country Case Study – Uganda: "In Land Policy and Administration" World Bank Institute, 2003.

<sup>36</sup> Nzioki, 2001:1

Yet, despite the importance of women's role in food production and household reproduction, women farmers are severely disadvantaged when it comes to access to credit and extension services. A study by UNIFEM<sup>37</sup> concludes that:

“In Africa women receive less than 10% of the credit to small farmers and 1% of the total credit to agriculture.’ Women farmers are less likely to receive extension support from agricultural officials. An important implication of these constraints for land reform policy is that the allocation of land to women on its own, without due attention being paid to the ‘competing claims’ on their time or exacerbate their economic problems”.

### 2.1.5 Gender and Urbanisation

More work is required to integrate a gendered account of urbanization into the analysis of land reform policy across the region. Historically, urbanization developed along the male migrant labour system, with female urbanization taking place on a far smaller scale. The way in which the migrant labour system developed and its impact on rural society was both profoundly gendered<sup>38</sup> and this continues to resonate in rural societies today. A recent study on migration patterns between rural and peri-urban areas in Malawi concludes that ‘frequent rural-urban migration rarely leads to permanent urbanization’ but has profound implications for tenure systems, gender relations and the role and status of traditional societies. In the peri-urban areas studied, complex layers of land rights and permutations of customary tenure have emerged, as newcomers have settled on land that is still identified in terms of its ‘true owner’ within the lineages that constituted the original ‘rural’ village, before it became absorbed into the urban complex<sup>39</sup>.

As compared to rural areas, women in cities and towns tend to have access to land and housing; market rules applying in urban areas allow any person who can afford it to buy immovable property. However, even in the cities, women more often than not “own” shacks or structures in informal settlements or rent a house or room, rather than owning a house officially registered in their name. One of the reasons could be that many men still own in the rural areas, which they can use as collateral, while the majority of women do not own land<sup>40</sup>.

### 2.1.6 Gender and HIV/AIDS

The economic and social costs of HIV/AIDS are truly colossal. The epidemic, if unchecked, could transform the developmental performance of many countries. Not simply in terms of national economic growth rates, but also in terms of broader human development indicators that more accurately reflect improvements in the standard of living. No sector of the economy is immune to the impacts of the epidemic, and all social strata will be affected. Rugadya and Kamusiime<sup>41</sup> in a recent study on HIV/AIDS and land reform in Uganda, argue that the challenge of HIV/AIDS is closely associated with the wider challenges to development such as poverty, food and livelihood security and gender inequality. In effect, HIV/AIDS tends to exacerbate existing development problems through catalytic effects and systematic impact, therefore considering HIV/AIDS in the land sector needs to be not only systematic, but also innovative. In responding to HIV/AIDS, three issues emerge for the land sector;

<sup>37</sup> Meinzen-Dick et al, 1997, C. Walker, 2002: 25

<sup>38</sup> Walker, 1990

<sup>39</sup> Walker et.al: 26

<sup>40</sup> Margaret Rugadya, 2006: Situation Analysis for Slum Upgrading in Kampala

<sup>41</sup> Rugadya and Kamusiime, 2006, Creativity or Innovation: Responding to HIV/AIDS in the Land sector, 2006, Associates for Development.

“declining acreage/ land available for agricultural production due to grabbing, sales and conflicts as household endeavor to cope with the effects of HIV/AIDS; declining quality of land due to poor management regimes, prompted by limited time allocation and labour allotted to farming practices, as farmers devote time to HIV/AIDS effects and patients. In land administration, HIV/AIDS has implications on sustainability, effectiveness and the ability to cope with increased demands for land services. The internal capacity of land administration institution is affected as more staff become infected and affected. Most notably, as infection rates increase, so will absenteeism and staff productivity decreases”<sup>42</sup>

HIV/AIDS is affecting women in particularly severe ways, not only in terms of infection rates, but also in terms of responsibility, which is generally a primary one, for taking care of the sick and for looking after the orphaned children of other family members. Apart from emotional burdens this imposes, this is exacerbating the problems associated with women’s labour/time famine. Coping with the pandemic puts further pressure on the amount of time women can devote to productive work, including in agriculture, as well as further limiting their ability to participate in social and community networks-at a time when such networks assume even greater importance- and community affairs including those relating to land reform<sup>43</sup>. Most studies agree that marriage as an institution and family structures are becoming increasingly unstable; HIV/AIDS can only be expected to exacerbate the problems.

Another study looks at the impact of HIV/AIDS on mainly female micro-finance clients in Kenya and Uganda, found that there was a clear sequence of ‘asset liquidation’ among AIDS caregivers in order to cope with the economic impact of illness, hospitalization and death of the family member with AIDS, and the care of orphans (including payment of school fees) - first liquidating any might have, then business income, then household assets, then productive assets and finally, the disposal of land<sup>44</sup>. Land disposal is, however, seen as a last resort- but it is a potential option, and the consequences for people driven to that point are disastrous in terms of the loss of their economic base.

### **2.1.7 Land Administration and Dispute Resolution**

The Justice Law and Order Sector in Uganda<sup>45</sup>, relevant findings to the resolution of disputes in land related cases. The study shows that there are four times more cases brought to the tribunals by men than by women. Many women and some poor men who are unable to access and afford tribunals have sought to resolve disputes at other fora or simply given up fighting for their rights. In a strict legal sense, the concept of justice derives from law itself as one of its attributes. Justice in that sense refers to standards of rights set or defined by (substantive and procedural) law and enforced by specific institutions (justice delivery systems), with the state bearing primary responsibility for the protection of those rights. In order to acquire its legitimacy and the force of law, it is important that legal (de jure) justice does to large extent mirror social ideals and aspirations of rights for all people. In essence, the two forms of justice should be mutually reinforcing, with the role of law being to strengthen the promotion and protection of social rights and therefore social justice from which the former derives its legitimacy.

Whereas the body of substantive law is rather broad and diverse, law enforcement institutions are standard and provide the site for how individuals, groups and communities

<sup>42</sup> Margaret Rugadya, 2005 “Assessing the effect of HIV/AIDS on land reform and agricultural productivity in Uganda”, Associates for Development, Kampala.

<sup>43</sup> Walker, et al: 30

<sup>44</sup> Kabbuho et al: ii

<sup>45</sup> in March 2002 conducted a study on “Gender and Access to Justice in Uganda”



experience the enforcement of substantive law. The study considered access to justice at three main levels

- Physical access – how close the users are to law enforcement agencies
- Access in financial terms – how affordable legal services are to the users
- Access in technical terms – how comfortable users are with the legal language and procedural requirements. This also relates to the treatment of users by the law enforcement personnel as well as their representation by experts in law and its techniques and their ability to use them i.e. cost.

In Uganda, women's low status and general lack of power and control over decision-making is widespread. Legal constraints range from the immediate, such as the foreign language of the court system, to the structural, such as institutional bias in administration of justice. Analysis of the legal system shows that there exist inequalities due to discriminatory laws and gaps related to laws that are not gender responsive. Thus, *de facto*, inequality is often not addressed by existing legislation that on the surface may appear to be gender neutral. Such gender neutral laws include, in particular property and land laws, which *prima-facie* may not appear to be discriminatory but in effect enable *de facto* discrimination against females to continue by failing to cater for women's gendered realities and experiences.

Enforcement of the law can also perpetuate subordination of women. Thus, even where positive legislation exists that protects the rights of women these laws are not always implemented. Poor implementation is often due to negative attitudes and gender bias, emanating from socio-cultural norms and beliefs, which may be found in the general public or in the law enforcement agents leading to biased interpretation or administration of the law.

## 2.2 LEGISLATIVE REVIEW

There are various international instruments to which Uganda is a party that provide a basis for regulation of land. These International Instruments set the rules and standards that should be observed by the member states. These Conventions that emphasise the participation of women particularly in sustainable development of land are critical for the advancement of women in Uganda.

### Definitions

It is pertinent that the legal definitions of land be explored. Land has been defined by the Interpretation Act to include messuages, tenements, hereditaments, houses and holdings of any tenure and land covered by water<sup>46</sup>. For purposes of the Town and Country Planning Act, Land is defined to include land covered with water, corporeal as well as incorporeal hereditaments of every tenure or description and any interests in them and also an undivided share of land<sup>47</sup>. The Registration of titles Act also defines land to include messuages, tenement and hereditaments corporeal or incorporeal; and in every certificate of title transfer and lease issues or made under this Act, land also includes all easements and appurtenances appertaining to the land described therein or reputed to be part of that land or appurtenant to it<sup>48</sup>.

The Limitation Act defines the extent to which land can be interpreted and defines it to include corporeal hereditaments and rent charges, and any legal or equitable estate or interest in them, including an interest in the proceeds of the sale of land held on trust for

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<sup>46</sup> S. 2 (11) Cap 3 Vo. I

<sup>47</sup> S. 1 Cap 246

<sup>48</sup> S.1 Cap 230

sale. It does not include incorporeal hereditaments. Rent charge means any annuity or periodical sum of money charged upon or payable out of land except interest on a mortgage of land<sup>49</sup>. Whereas the Registration of titles Act (RTA) applies only to registered land, thus land brought under the operation of the RTA, the Limitation Act applies to land registered under the RTA and that, which is not<sup>50</sup>.

In law, therefore, land is defined by inclusion, thus, describing what it is and excluding that which it is not. It is from this legal definition that the debate over gender relations in property rights is hinged. Although there are a few variations in these definitions, especially as relates to hereditaments, the context and the parent law must be taken into account if meaning is to be derived. Usually, the test is that the more recent legislation supercedes the former for purposes of interpretation of legislative provisions. These definitions broaden the understanding of land and give a clear picture of what rights an owner of land possesses and consequently may confer

### 2.2.1 Review of International Instruments

Uganda has international commitments as a state, which requires the government to ensure gender equality and equity in law and in fact. Real commitment to the standards set in international treaties which Uganda has ratified, requires concrete measures including law reform, to address factors causing inequality. This applies to all sectors – social, economic, and political – in which women suffer such discrimination. Article 123 of the 1995 Uganda Constitution mandates the president or any person authorized by him/her to make treaties conventions, agreements or other arrangements with international bodies or organizations. Consequently, the Ratification of Treaties Act<sup>51</sup> in Section 2 empowers cabinet to ratify treaties that are not of an armistice, neutrality or peace nature and where the Attorney General has certified that implementation of such treaty requires the amendment of the constitution. In such cases, the treaties are ratified by resolution of parliament. Once ratified, the treaty is binding to Uganda and the Ugandan Government is bound to fulfil its obligations under that treaty. Uganda is also bound to domesticate the provisions of that treaty for implementation.

#### Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

It is envisaged by this Convention that for rural women to participate in and benefit from development, their right to participate in the elaboration and implementation of development planning at all levels, and their right to participate in all community activities must be sustained. Article 14, further requires states to take into account the particular problems faced by rural women and the significant role they play in economic survival of their families. These articles require governments to take all appropriate measures in all fields of political, social, economic and cultural life, including legislation to ensure the application of the provisions of the Convention to women especially in rural areas.

Up to 1979, women's rights to land were implicitly recognized as human rights. In 1979, the landmark Convention on the Elimination of All Forms of Discrimination against Women was adopted. This Convention has formed the basis for an increasing focus on the continuing violations of women's human rights and on the need to adopt specific portions that explicitly recognize and enforce women's human rights as equal with those of men. Uganda ratified it in July, 1985. Women's equal rights to security of tenure (whether through purchase, co-ownership, lease rent, occupancy right or inheritance) regarding land, housing and property are now firmly anchored in human rights law.

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<sup>49</sup> S.1 Cap 80 Vol.4

<sup>50</sup> Section 29

<sup>51</sup> Cap 20 Vol. 8

CEDAW is not yet fully implemented; efforts aimed at reforming laws related to marriage, divorce, inheritance and succession under the Domestic Relations Bill 2005, are seen as part of government's endeavour to fulfil the aspirations of this convention. However such progress has been hampered by consistent failure to move legislation from "Bills" to "Acts" or "Statutes", given the sensitive nature of the subjects being handled and their inherent ability to re-arrange the power-gender and property relations at households and in communities, which has met stiff resistance from different sections of society in Uganda. However, the National Gender Policy<sup>52</sup> exists to guide Ministries, Departments and Agencies in streamlining and engaging gender concerns in development efforts.

*The African Convention on the Conservation of Nature and Natural Resources (Algiers, 15 September 1968)*

The objective of this convention is the taking of individual and joint action for the conservation, utilisation and development of soil, water, flora and faunal resources for the present and future welfare of mankind, from an economic, nutritional, scientific, educational, cultural and aesthetic point of view. The fundamental principle of the Convention is that the contracting states undertake to adopt the measures to ensure conservation, utilisation and development of soil, water, flora and faunal resources in accordance with scientific principles and with due regard to the best interests of the people. In Uganda, there has been a positive response to this convention by the environment and natural resource sector, where progressive policies and laws<sup>53</sup> have been made and implemented.

*The Rio Declaration on Environment and Development (Rio de Janeiro, 1992)*

The declaration recognises the centrality of human beings to concerns for sustainable development<sup>54</sup>. At the national level, each individual should have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in the decision-making process, including access to judicial and administrative proceedings, including redress and remedy<sup>55</sup>. The National Environment Management Authority Secretariat has put considerable effort in ensuring the achievement of these principles, however little consideration had been given to differentiate gender role and the participation of women.

*The United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, 1994*

The objective of this Convention is to combat desertification and mitigate the effects of drought in countries experiencing serious drought and/or desertification, particularly in Africa, through effective action at all levels, supported by international co-operation and partnership arrangements, in the framework of an integrated approach which is consistent with Agenda 21, with a view to contributing to the achievement of sustainable development in affected areas. A national steering group<sup>56</sup> involving key stakeholders is in place to ensure that relevant sectors, undertake their work with regard for principles and objectives outlined in this convention.

*United Nations Conference on Environment and Development - Agenda 21 (Rio de Janeiro 14th June 1992)*

Agenda 21 provides for the integrated approach to the planning and management of limited resources of which land is part, combating deforestation, managing fragile ecosystems by

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<sup>52</sup> First drafted in 1997, currently under revision in 2005

<sup>53</sup> NEMA Policy (1995) and Statute 1998, Draft Land use policy, National Planning Authority Act (2005), The Building Regulations, The national policy for conservation of wetlands, the Poverty Eradication Action Plan, 2004, etc.

<sup>54</sup> In principle 1, entitlement to a healthy and productive life in harmony with nature is recognised

<sup>55</sup> Principle 4 and Principle 10

<sup>56</sup> to promote improved productivity of land, and the rehabilitation, conservation and sustainable management of land and water resources leading to improved living conditions, in particular, at the community level

combating desertification and drought, sustainable mountain development, and promoting sustainable agriculture and rural development<sup>57</sup>. Urban dimension of Agenda 21 which outlines key policies, principles, strategies and commitments for achieving sustainable development that meets the needs of the poor and recognizes the limits of development to meet global need<sup>58</sup>. Agenda 21 has been significant in tenure of land and housing in Uganda, where significant observations of have taken place. The Ministry of Housing and Ministry of Water, Lands and Environment steer the interests of this convention.

*The Universal Declaration on Human Rights (UDHR), adopted in 1948*

Stipulates that everyone is entitled to the rights and freedoms laid down in the Declaration, without discrimination, such as on the ground of sex, entitles women and men to equal rights before and during marriage and at its dissolution, recognizes every person's right to own property alone as well as in association with others and stipulates that "no one shall be arbitrarily deprived of his property", confirms the right to an adequate standard of living including housing<sup>59</sup>.

The Uganda Constitution 1995 fully adopts the principles of this declaration, in its Bill of Rights and National Development Objectives. In article 26, the right to property is protected, in articles 31 to 36, discrimination on grounds of sex, race and in marriage are all outlawed. This declaration is the foundation upon which the system for protection and promotion of human rights has been built in Uganda. In addition, it is explicitly recognized that human rights of women and of the girl-child are an inalienable, integral and an indivisible part of human rights.

*The UN Millennium Declaration was adopted On September 13, 2000*

MDGs reflect many of the social and other development goals which address the essential dimensions of poverty and their effects on people's lives by attacking issues related to poverty reduction, health, gender equality, education and environmental sustainability. While resolving to fully respect and uphold the Universal Declaration of Human Rights, several additional objectives are added. One of the fundamental values considered essential to international relations, listed in paragraph 6, is gender equality: "The equal rights and opportunity of women and men must be assured."<sup>60</sup> The Member States resolved to promote gender and the empowerment of women.

Uganda's performance against the MDG's, is measured within the realm of the Poverty Eradication Action Plan (PEAP), which is Uganda's PRSP framework, which projects that poverty should fall to 28% by 2013 and to 26% by 2015 for all Ugandans<sup>61</sup>. The Plan for Modernization of Agriculture, endeavor to measure the development and economic growth in terms of the principles laid out in this declaration, annual reports of Uganda's performance against these goals has been put across and shows a slight change in the status of women's rights on land<sup>62</sup>. These reports recognize that women's rights in land and property are significant for poverty eradication.

*The International Covenant on Civil and Political Rights (ICCPR) 1966*

Stipulates that the rights recognized in this covenant are to be respected and ensured without discrimination of any kind, such as race, color, sex language, religion, political or

<sup>57</sup> promotion of education, public awareness and training, an area linked to all areas especially meeting the needs of capacity building, data and information, science and the role of major groups

<sup>58</sup> Draft National Housing Policy, 2003

<sup>59</sup> Article 2; Article 6; Article 17; Article 25

<sup>60</sup> Under Paragraph 19,

<sup>61</sup> PEAP, 2004, Page 221-222

<sup>62</sup> UPPAP II, 2004 Study for the preparation of PEAP IV, Ministry of Finance and Economic Planning

other opinion, national or social origin, property, birth or other status, requires States Parties to ensure the equal right of men and women to enjoy all rights laid down in it; confirms that all persons shall be equal before the courts and tribunals<sup>63</sup>. Under part IV of the covenant, a Human Rights Committee was established. This committee monitors the implementation of the covenant by the States, through its reports and through general comments, specifically interprets as “all human beings should enjoy the rights provided for in the covenant, on an equal basis and in their totality. The full effect of this provision is impaired whenever any person is denied the full and equal enjoyment of any right. Consequently States should ensure to men and women equally the enjoyment of all rights provided by the covenant.” In Uganda, the Human Rights Commission was set up.

*The Beijing Declaration and the Platform for Action (PFA) 1995 and the Beijing +5 Conference, June 2000*

Governments and the international community agreed to a common development agenda with gender equality and women’s empowerment as underlying principles<sup>64</sup>. Convinced that: poverty eradication requires full and equal involvement and participation of women and men as agents and beneficiaries of people-centered sustainable development, and requires equal opportunities for women to do so; The full participation of women in the design, implementation, and monitoring of gender-sensitive policies and programmes is essential to the empowerment and advancement of women<sup>65</sup>;

The participation and contribution of women groups, networks and other NGOs and CBOs and other actors of civil society, in cooperation with Governments while fully respecting their autonomy, is important to the effective implementation and follow up of the Platform for Action. The Beijing +5 agenda is a Political Declaration with Further Actions and Initiatives to implement the Beijing Declaration and Platform for Action, including an overview of achievements in and obstacles to the implementation of the Platform for Action. They follow the 12 critical areas for priority action<sup>66</sup>. This agenda has been actively followed up by the Ministry of Gender and Social Development, National Council for Women and the National Association of Women Organizations in Uganda.

*The UN Conference on Human Settlements (Habitat II) June 1996*

The declaration states that Governments will ensure and enhance: gender equality in policies and programmes related to shelter and sustainable human settlements development; access to land and credit<sup>67</sup>. Habitat Agenda is a global call for action, which sets out approaches and strategies towards achievement of sustainable development of the World’s cities, towns and villages. It has two goals of adequate shelter for all and sustainable human settlement in an urbanizing world.

*The Declaration on Cities and other Human Settlement in the New Millennium 2001*

Of the various gaps and obstacles that are recognized in this Declaration, the following are relevant for this study:

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<sup>63</sup> Article 2 (1), (Article 3);

<sup>64</sup> More specifically in the Beijing Declaration the participating governments: reaffirm their commitments to; The equal rights and inherent human dignity of women and men (Pars.8 and 36); Ensure the full implementation of women’s and girl’s human rights as an inalienable, integral and indivisible part of all human rights and fundamental freedoms (Par. 9); (Par.20)

<sup>65</sup> Par.16; par.19

<sup>66</sup> Recognition of gender dimensions of poverty; gender inequalities and disparities in economic power sharing; unequal access to and control over capital, particularly land, credit and access to labour markets. etc

<sup>67</sup> Among the Goals and Principles of the Habitat Agenda are listed: equitable human settlements are realized when: all people, without discrimination of any kind, have equal access to housing and equal access to economic resources (including the right to inheritance, the ownership of land and other property Par. 27); they provide equal opportunity for participation in public decision-making and equal access to mechanism that ensure that rights are not violated (Par.27).

“The majority of the people living in poverty still lack legal security of tenure for their dwellings; Political will, public information and awareness rising are insufficient; Many women still do not participate fully on the basis of equality in all spheres of society, while at the same time they suffer to a greater extent the effects of poverty”<sup>68</sup>

Governments committed to under actions that promote full and equal participation of women in policy formulation and implementation; greater security of tenure for the poor and vulnerable and to enable better access to information and good practices, including awareness of legal rights and remedies in case of violation; continue legislative and administrative and social reforms to give women “full and equal access to economic resources, include. the right to inherit and own land and other property, credit, natural resources and appropriate technologies”, and the “right to security of tenure and to enter into contractual agreements” and; strengthen institutional frameworks in order to extend micro-credit to those living in poverty, particularly the women, without collateral or security.<sup>69</sup>

#### Other Resolutions of the UN relating to Gender and Land

Since 1997, six resolutions on women’s (equal) rights to land, and poverty have been adopted by three different inter- governmental UN bodies:

1. Resolution 1997/19 on “Women and the right to adequate housing and to land, housing and property”, adopted by the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities;
2. Resolution 1998/15 on “Women and the rights to land, housing and property and adequate housing”, adopted by the same Sub-Commission;
3. Resolution 42/1 on “Human rights and land rights discrimination”, adopted by the Commission on the status of women;
4. Resolution 1999/15 on “Women and the right to development” by the Sub-Commission on the Promotion and Protection of Human Rights;
5. Resolution 2000/3 on “Women’s equal ownership of, access to and control over land and the equal rights to own property and to adequate housing”, adopted by the Commission on Human rights;
6. Resolution 2001/34 on “Women’s equal ownership of, access to and control over land and the equal rights to own property and adequate housing”, adopted by the commission on Human rights on 23 April 2001;
7. Resolution 2002/49 on “Women’s equal ownership of, access to and control over land and the equal rights to own property and to adequate housing”, adopted by the Commission on Human Rights on 23 April 2002.

All these resolutions express concern about discrimination faced by women with respect to acquiring and securing land and property, whether this discrimination originates from gender-biased laws, policies and/or traditions. They reaffirm the equal rights of women and men recognize that adequate remedies to deal with discrimination against women may require different treatment of women, based on a consideration of women’s specific socio-economic context. Governments are urged to amend and/or repeal laws and policies which inhibit women’s equal rights to land, property and housing, deny women security of tenure and equal access to loans and to encourage transformation of customs and traditions which deny women these rights.

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<sup>68</sup> Paragraphs 17, 20

<sup>69</sup> Paragraphs 37, 49, 32, 44, 64

## 2.2.2 Review of National Policies

In the late 1990s, the Government of Uganda adopted various enabling policies geared specifically towards promoting women's empowerment and active role in the development of their families and communities. National policies on land and gender are diverse and scattered in various sectors in which the land sub sector has a stake. These policies give insights into measures that government has undertaken to enhance women's control over productive resources and to adhere to the constitutional mandate of affirmative action in favour of women. Despite the policies, plans, and programmes being put in place, the basic problem, however, is with the implementation which is dogged by a host of problems such as gender-insensitive leaders and individuals in charge of implementing projects thus execution of gender blind development projects.

### The National Gender Policy, 2005

The National Gender policy, was initially adopted in 1997, and revised in 2005. It emphasizes the mainstreaming of gender concerns in the national development process in order to improve the social, legal/civic, political, economic and cultural conditions of people in Uganda in particular Women. It addresses the necessity of equal participation of women and men in economic, political, civic and social development. It notes the gender disparity in access to and control over economically significant resources and benefits and promotes the recognition and value of women's roles and contributions as agents of change and beneficiaries of the development process. The National Action Plan for Women implements the objectives and goals of the gender policy, one of its strategic actions to assist women improve household nutrition, achieve food security and improve household incomes through agricultural production and fishing, promoting women's access, control and ownership of resources of which land is inclusive.

Despite numerous efforts to mainstream gender in the national development process, the overall level of gender responsiveness still remains low because of inadequate capacity among sectors and local government planners and implementers to apply gender analysis skills to the policy making process<sup>70</sup>; limited gender awareness among communities, bureaucratic resistance to gender mainstreaming among decision makers, and weak support among others. As a result, the poor and vulnerable remain subject to abuse<sup>71</sup>.

### Draft National Housing Policy, 2005

Since the 1970's and 1980's, several policies have been pursued in the housing sector. Initially emphasis was on provision of housing to low-income people and the amelioration of housing conditions in slum areas, under this policy government designed low and middle income housing programme. In 1979, Government outlined a National Human Settlement Policy<sup>72</sup> to improve access to infrastructure and services and upgrading schemes for spontaneous settlements, and to provide sufficient residential land and plots in urban areas. In 1992, the National Shelter Strategy (NSS) was adopted as a means of formulating viable shelter strategies which are conducive to full mobilization of local resources and to strengthen policy making. NSS adopted the "enabling approach" as its major policy under which Government operated to identify and remove bottlenecks, by encouraging private sector participation. However, due to changes in national development ideology and other policies NSS policy objectives were rendered irrelevant; within this a draft National Housing Policy has been developed.

<sup>70</sup> a fact that is acknowledged by the 2005 version that has devised strategies of how to deal with this shortcoming

<sup>71</sup> The National Report on Istanbul +5, 2001, MoWHC

<sup>72</sup> Eddie Nsamba-Gayiiya, 2000

The goal of the draft policy is “well integrated sustainable human settlements, where all have adequate shelter with secure tenure, enjoy a healthy and safe environment with basic infrastructure services”. The draft advances several principles among which the principle of equality and sustainability, is in part elaborated as enhancing the role of the role of women in construction and to address the issue of discrimination against women in land ownership and involvement in construction activities; and to promote effective, efficient gender-aware land use planning and to adopt a combined strategy of legislation, education and awareness programmes to protect women’

### Vision 2025

Is a strategic Framework for National Development developed in 1999 as an opportunity for the country to plan for its development within a long-term framework. It recognizes that despite all the policy and legislation in place, there is still unequal access to and control of resources by men and women. While women play a significant role in the development process, often times they lag behind their male counterparts in as far as development benefits are concerned. The result is that poverty and its derivatives, like diseases, impact on women more adversely than men. Poverty is particularly acute for women living in rural households, those headed by women have a higher risk of poverty because they normally have less incomes, smaller land holdings, inferior access to services like agricultural extension, lack information, and have less access to credit and labour markets.

Women are most dependent on the environment and natural resources through their daily chores like land cultivation. While women spend more time using land, they have less control and ownership of it. There are negative cultural practices against women, conservatism and resistance to positive change towards gender equity. It recommends that one of the strategies to redress gender imbalances in social service delivery is to develop and enforce regulations that give women equitable access to and ownership of land and housing<sup>73</sup>.

### The Poverty Eradication Action Plan IV(PEAP)

Poverty Eradication Action Plan (PEAP 2004/2008) is accepted as Uganda Poverty Reduction Strategy Paper (PRSP) developed as a national strategy for reducing poverty and placing poverty at centre of the development agenda. Uganda’s broad development goals are laid out in the PEAP 2004, which establishes the need to eliminate mass poverty, targeting a reduction of 10% by 2017. The Action Plan influences resource allocation and mobilization, and aims to transform Uganda into a middle-income country. Gender is one of the cross-cutting issues raised under all pillars, especially in addressing intra-household relations for agricultural productivity, levels of incomes and its distribution across genders, review and reform of discriminatory legalization, the need to strengthen women’s land rights and usage of services by genders across the sectors.

In pillar one on economic management, the PEAP aims to boost growth from 6.5% to 7% over the medium term. In pillar two, on production, competitiveness and incomes, the PEAP makes commitment to women’s land rights which are limited by the inequitable legal structure<sup>74</sup> and by traditional practice. Data show that female-headed households have less land than male-headed households. Though widows have quite high land holdings per adult equivalent, they tend to lose these assets over time as their male children grow up. However, the lack of a gap in income poverty suggests that women-headed households are not able to

<sup>73</sup> Republic of Uganda, 1995 Vision 2025, Pg. 3, 36, 120, 124

<sup>74</sup> Women have limited rights to consent on the disposal of certain land assets, a presumptive share of 25% of their deceased husbands’ land, and usually no rights to a share of the household’s assets in the event of divorce (though they retain land they own in their own right).



compensate for their lack of land. If women had full ownership of the land they farmed, they would be in a better position to retain control of the incomes.<sup>75</sup> Women do not always share in the benefits of production, even though they may have done most of the work.<sup>76</sup> PEAP notes, further, that in many parts of the country, women are unable to own or inherit land due to restrictive practices under customary tenure.

The PEAP also identifies policy and legal reform as one of the priority action areas for the land sub sector. In addition to the legal reforms already achieved, there is a strong case for strengthening women's land rights to link land reform to poverty reduction strategies and improving access to land for the poor. None of these actions will work if they are perceived as 'anti-male'. Government will therefore continue to consult widely on the more contentious issues in order to achieve greater consensus. PEAP IV is progressive and directly reflects the Millennium Development Goals (MDGs) it tackles the different aspects of human development that directly impact on women, this commitment emulates the principles of equality and equity in development<sup>77</sup>.

*The Plan for Modernization of Agriculture, 2002 (PMA)*

Plan for Modernization of Agriculture (PMA) and National Agricultural Advisory Services (NAADS) is grounded in the ideology of transforming Uganda's agriculture from a largely subsistence to a commercial sector that blends in well with global trends in agriculture trade while ensuring food security and economic prosperity for the poor. It advocates for focused public interventions in those areas where a clear public sector role is identified to avoid duplication between different agents, and to ensure that the needs of poor small-scale farmers are fully addressed. It amplifies the importance of credit, adoption of new technologies, developing market infrastructure and implementation of the land law. Private investors are considered key stakeholders with the role of assisting farmers to orient from subsistence to commercialized farming.

The PMA recognizes the role of women in agriculture and their special category among the poor and thus aims to ensure that all programmes are gender focused and gender responsive. It is noted that reforms in land geared towards enhancing women's access and ownership are a catalyst for production and food security. PMA asserts that enabling a household to increase its incomes largely depends on the extent to which land issues (ownership, use and access) are addresses for meaningful agricultural transformation. Since Uganda primarily relies on agricultural production and women form the core labour, it is understood that secure women's rights in land can be a strategic tool for poverty reduction.

The PMA, argues that improvement in land management and administration would contribute to agricultural modernization by –

- enhancing food security
- releasing the production capacity of land users
- facilitating and enhancing efficiency in that sector, and
- contributing to the sustainable management of natural resources

While these policy instruments acknowledge that an overall land policy framework is essential for the sustainable management of discreet sub-sectors, they offer no clear strategies for intra-sectoral integration and co-ordination.

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<sup>75</sup> see Chapter 6, of the PEAP

<sup>76</sup> Harmsworth, J. (1991), "The impact of the tobacco industry on rural development and farming systems in Arua, Uganda" in Haswell, M. and D.Hunt, eds., Rural households in emerging societies: technology and change in sub-Saharan Africa, Berg, Oxford

<sup>77</sup> PEAP, 2004

### The Land Sector Strategic Plan (LSSP)

A Land Strategic Plan 2001-2011 is the operational, institutional and financial framework for the implementation of sector wide reforms and land management including the implementation of the Land Act. It is intended to guide government, the private sector and civil society in the management and use of Uganda's land resources. It is an integrated approach to the land sector, and is linked, among others, to the Poverty Eradication Action Plan, the Plan for Modernization of Agriculture and the National Gender policy. LSSP is designed to remove barriers to increased land utilization, created by unequal distribution of land access and ownership. The underlying principle is the realization that tenure insecurity and uncertainty of land rights among the vulnerable groups, especially poor women, threatens significant numbers of livelihoods. Secure property rights are linked to higher propensity to substantially invest in land.

According to the LSSP, the gender structure of land rights in Uganda varies across the country but in general is highly unequal, with women's rights generally limited to access while men are more likely to have ownership rights making women's rights to land less secure than those of their male counterparts. Evidence shows that particularly for rural women, this inequality of access to the key productive asset is a fundamental determinant of poverty and social disadvantage. Without secure rights to land, women's ability and incentives to participate in income – expanding economic activity are reduced. LSSP, therefore, emphasizes the protection of vulnerable groups – women children, the disabled so as to increase security of access to and ownership of land through certification, ease of access to justice in land cases and increased awareness of land rights. However, the Poverty Status Report<sup>78</sup> notes the need to move beyond consent to transactions on land, to more substantive interests capable of withstanding threats and shocks of tenure insecurity<sup>79</sup>.

### Decentralisation Policy

Decentralization in Uganda is based on a four-tier structure of elected local governments, the most significant being at district and sub-county level. Fiscal decentralization is critical to its success. However, the ability of the Districts to sustain themselves through fees and personal taxation has proved impossible. The Land Sector Strategic Plan links improvements in land administration and management to the potential to increase local government revenue and therefore, contribute to empowering communities to make choices concerning improvements in land management in their areas, by shifting locus of decision making away from individuals to local elected bodies.

The Constitution decentralizes the land administration function. The lead ministry for the delivery of land services is the Ministry of Water, Lands and Environment, through the Directorate of Lands. A number of branch offices around the country had been established to provide local land services (surveying, mapping, valuation and registration). However, they largely operated as a "post box" service for the headquarters since the center handles most of the services. In light of the Constitution, The ministry remains with the functions of quality assurance, policy formulation and offering of technical assistance. The Local Governments Act recognises the importance of participation of women in development and requires that 1/3 of each administrative council be comprised of women while one of the executive councillors must be a woman. On each of committees of council are women to ensure that the interests of women are taken care of and thus, fulfilling the commitments of government of ensuring good governance to the international community

<sup>78</sup> Ministry of Finance, Planning and Economic Development, 2001

<sup>79</sup> Currently Security of Occupancy on family land which is not a proprietary right is provided for, something which is less than what is aspired for.

### 2.2.3 Review of National Legislation

Uganda's legislation on land is both varied and specialized. Article 274 of the 1995 Uganda Constitution defines the sources of law applicable by the courts as the Constitution, Statutory law, customary law, equity, common law, and statutes of general application in force in England before 1902. These in the Constitution are termed "*existing law*", which should be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with this Constitution. It should be noted from the start that the laws relating to land do not expressly discriminate between men and women regarding the right to own land. The laws governing marriage, divorce or succession do not specifically mention land rights but always refer to 'property rights'.

#### Constitution of the Republic of Uganda 1995

It is heralded as one of the most gender neutral constitution with regard to property rights in Sub-Saharan Africa including land rights, both in content and language. Despite the provisions in the Interpretation Act<sup>80</sup> for grammatical variations relating to gender, generally, a commendable effort has been undertaken to ensure that both genders are represented in the language. From the outset, legislation seems to be gender sensitive and inclusive. The realities can only be unraveled in practice and not on the statute books or in the implementation of those provisions.

In objective XV<sup>81</sup> of the National Objectives and Directive Principles of State Policy, the significant role women play in society is recognized and subsequently affirmed by article 33(3) which provides that the state shall protect women and their rights, taking into account their unique status and natural maternal functions in society. The Constitution further prohibits laws, customs or traditions, which undermine the dignity, welfare or status of women in article 33(6). In article 20, it provides that all persons are equal before and under the law in all spheres of political, economic, social and cultural life and in every other respect and is guaranteed equal protection of the law. Therefore, there should be no discrimination against women regarding land and property rights due to custom or tradition. Nonetheless, discriminatory treatment against women abounds<sup>82</sup>.

In articles 26(1) and 26(2)<sup>83</sup>, the fundamental right of every person to own property individually or in association with others, in addition to protecting the right of every person not to be deprived of personal property without compensation is guaranteed. The guarantee is without bias to gender or marital status since all persons are equal before and under the law as stated in article 21(1) and (2)<sup>84</sup>. In view of this Constitutional right, no enabling legislation under this Constitution should deprive a proprietor or owner of land of his/her interest in the property. In article 31(1)<sup>85</sup> on marriage, the Constitution guarantees equal rights to both men and women at commencement, during and at its dissolution. Reinforcing this position are articles 32 and 33<sup>86</sup>, which provide for affirmative action in favour of

<sup>80</sup> Cap 3 Vol. 1 Sec. 3(2), which provides that words and expressions importing the masculine gender include females.

<sup>81</sup> Constitution of the Republic of Uganda, 1995, page 6

<sup>82</sup> Margaret Rugadya, 2004 Gender and the Land Reform Process in Uganda

<sup>83</sup> Article 26 of the Constitution provides that every person has a right to own property, either individually or in association with others

<sup>84</sup> The provisions on equality have been strengthened by the principles of affirmative action in respect to marginalized groups who have hitherto been discriminated against on the ground of sex/gender or customary considerations by society as provided for under Articles 21, 32 and 33 of the Constitution

<sup>85</sup> Under Article 31 (1) of The Constitution of the Republic of Uganda men and women above the age of eighteen years and above are accorded equal rights in marriage, during marriage and at its dissolution.

<sup>86</sup> In article 33 Women are accorded full and equal dignity of the person with men: laws, cultures, customs or traditions which are against the dignity, welfare or interest of women or which undermine their status, are prohibited by this Constitution.

women and in particular, article 32(1)<sup>87</sup> provides that the State shall take affirmative action in favour of marginalized groups based on gender or other reason created by history, tradition or custom, for the purpose of redressing existing imbalances. Article 31(2) directs Parliament to make appropriate laws for the protection of the rights of widows and widowers to inherit property of their deceased spouses.

The rights in issue are basic rights of shelter and food these arise automatic when one enters the marriage with their free consent under article 31(3). This protection equally extends to children since article 31(4) of the Constitution provides that “it is the right and duty of parents to care for and bring up their children”. However, the attestations of several women, pointing to the fact that deprivation of a home is not only through selling off of land, but also when one is chased away from her home of marriage, on assumption that they can return to their homes of birth, upon death of a spouse where they own no land.

Under Article 32(1) the State is enjoined to take affirmative action in favour of marginalized groups on the basis of gender or other reason created by history, tradition or custom, for the purpose of redressing existing imbalances. Uganda’s Parliament has special seats for Woman Members of Parliament (56 in total) Persons with Disabilities (5 in total PWD’s), Workers Representatives (5 in total), Youth Representative (4 in total) and 10 Army representatives. The enforcement of this principle in the political arena does not detract from the idea of equality whereby every citizen has an equal right to be elected in an open constituency. Affirmative action in relation to property ownership is a similar application of the principle of equity. The land sector remains dominated by men at all levels<sup>88</sup>, many people still regard land as a “man’s issue” notwithstanding the legislative changes that have introduced minimum quotas for women’s representation on various land sector decision-making bodies in order to guarantee women’s interests.

The Constitution under Article 238 – 240 establishes the land management institutions, thus the Uganda Land Commission and the District Land Boards. It also prescribes the functions for each of these institutions. While the Constitution prescribes the membership, procedure and terms of service of the Uganda Land Commission, it gives Parliament power to enact legislation prescribing the same for the District Land Boards. Article 243 provides for the establishment of Land Tribunals and streamlines the jurisdiction of these tribunals to be the determination of land disputes relating to the grant, lease, repossession, transfer or acquisition of land by individuals, the Uganda Land Commission or other authority with responsibility relating to land. The jurisdiction will also include the determination of any disputes relating to the amount of compensation to be paid for land acquired.

*The Land Act Cap.227 as amended by the Land (Amendment) Act 2004*

The main thrust of gender in land law has been the transformation of domestic land tenure relations by providing for ownership of the matrimonial home prescribing discriminatory practices in land ownership, occupation and use, and requiring spousal consent to any transaction involving family land. It is a deliberate effort under the laws relating to land to ensure the implementation of the constitutional provisions and the gender policy, even though they have not been successful as these are routinely ignored and are, in any event, non applicable to widows and divorcees.

<sup>87</sup> Article 32: ‘Notwithstanding anything in this Constitution, the State shall take affirmative action in favor of groups marginalized on the basis of gender, age, disability or any other reason created by history, tradition or custom, for the purpose of redressing imbalances which exist against thee’

<sup>88</sup> Land Sector Strategic Plan, 2002

Section 27 specifically states that any decision taken on customary tenure that denies women, children, and persons with disability access to, ownership, occupation and use of any land violates constitutional principles is invalid. Henceforth, all customary practices and norms, exercised through traditional institutions that are permitted to resolve or tackle matters related to customary tenure whether through mediation or otherwise, must not disregard the rights of access, use and ownership of land that are guaranteed in law for the groups specified<sup>89</sup>. It is pertinent to note that customary land is governed by customary norms and practices that often times disregard the protections accorded by the Constitution to the vulnerable. Where, customs prevail, areas of conflict between statutory law and customary norms are evident.

- *Doctrine of Co-ownership of matrimonial property by spouses*

Before 1882, in common law a married woman was incapable of disposing by herself any of the property she owned, the concurrence of her husband was necessary for an effective disposition to be made. All the property acquired before and during the marriage belonged to the husband<sup>90</sup>. In order to minimize the injustices and disabilities which married women were exposed to various doctrines to govern the interests of married women during the subsistence of marriage were introduced. The first doctrines was that of *separate property* then followed by that of *resulting trust*, *constructive trust*, *overriding interests* and the latest one being that of the *matrimonial home*.

On the matrimonial home and other property upon divorce, the 'One Third Rule' was spelt out as follows: when applied to periodic payments, the principle is that the husband will pay such sum as will bring the wife's income (if any) up to one-third of the spouses' joint income<sup>91</sup>. The reason for starting with a third rather than, say a half was defended by Lord Denning<sup>92</sup> that the husband was likely to have greater expenses than the wife (e.g. in having to maintain the children and pay for house keeping). In so doing the court must try to produce a position of equality so that capital assets or income is divided equally between spouses. The husband has to be given special compensation since he would be usually required to make periodic payments to the wife and children. *The rule of co-ownership as to equals shares*<sup>93</sup> allows a wife to claim one-half share in the matrimonial home upon divorce by virtue of her contribution to the purchase whereas she might be able to claim only one-third if she had no beneficial interest<sup>94</sup>.

Co-ownership is the holding concurrent interests in the same property. It may be by way of joint tenancy or tenancy in common. The rule is that if land was conveyed to two or more persons a joint tenancy of the legal estate is created unless either one of the unities was absent or words of severance were employed. The words of severance of joint tenancy include the following: 'share and share alike', 'to be divided amongst', 'equally', 'between'. The co-ownership principle gives spouses an option to either own land under

<sup>89</sup> S.4 (1) of the Act provides that a person, family or community holding land under customary tenure may acquire a certificate of customary ownership in respect of that land. The holder of a certificate of customary ownership may be a family is a legal person represented by the head of the family, female or male as the case may be.

<sup>90</sup> According to Blackstone – Commentaries on the Law of England: by marriage the husband and wife are one person in law, that is the very being or legal existence of the woman is suspended during the marriage or at least is incorporated into that of a husband under whose wing, protection and cover she performs everything. Upon this principle of a union of person in the husband and wife, depend almost all legal rights, duties, disabilities that either of them acquires by marriage

<sup>91</sup> In the case of Ackerman –v- Ackerman [1972] 2 All E.R. 430, 426

<sup>92</sup> In the case of Wachtel –v- Wachtel [1973] All E.R. 829, 839 C.A

<sup>93</sup> In the case of G -v- G [1973] 2 All E.R. 1187

<sup>94</sup> In 1981, the Matrimonial Homes and Property Bill was introduced in the House of Lords to implement the recommendations of the Law Commission. In 1973, the Law Commission First Report on Family Property (1973) of Her Majesty's Government of Great Britain recommended the introduction of a principle of co-ownership under which, in the absence of agreement to the contrary, a matrimonial home would be shared equally between husband and wife

tenancy in common or joint tenancy. Under section 56 of the Registration of Titles Act (Cap. 230) the legal presumption as to joint tenancy is stated as follows: “Two or more persons who are registered as joint proprietors of land shall be deemed to be entitled to the land as joint tenants; and in all cases where two or more persons are entitled as tenants in common to undivided shares or in any land, those persons shall in the absence of any evidence to the contrary be presumed to hold that land in equal shares”

In Uganda, the first major attempt to secure co-ownership rights<sup>95</sup> for married women was during the debate on the Land Act, arising from pressure mounted by the flurry of activities that civil society organizations<sup>96</sup> were engaged in the land reform process. Apart from fault in legislative drafting, the advocates of co-ownership were besieged by predicament of the Registration of Titles Act<sup>97</sup> and an inkling of unconstitutionality in the face of article 26 (2) which protects the right of every person not to be deprived of property without fair and adequate compensation, henceforth the concept though good collapsed in the face of its practicability and obvious unpopularity dubbed “the desire to continuously acquire land through multiple marriages by women”. To date co-ownership of land by spouses is still absent in Uganda’s statute books, even if it were present, the challenge would be finding the appropriate mechanisms for its implementation without greatly destabilizing the perception of existing social units of marriage as those where women seek to amass land as property for themselves<sup>98</sup>.

- *Concept of Family Land*

Section 38 of the Land Act Cap.227 introduces the concept of security of occupancy on family land. It confers the right of security of occupancy (defined as the right to have access to and live on, to use, to give or withhold consent to any transaction) for a spouse on family land during the subsistence of a marriage. This provision defines family land as;

- (a) Land on which is situate the ordinary residence of the family;
- (b) Land on which is situate the ordinary residence of the family and from which the family derives sustenance;
- (c) Land on which the family freely and voluntarily agrees shall be treated to qualify under paragraph (a) or (b); or
- (d) Land on which is treated as family land according to the norms, customs, traditions or religions of the family;

“ordinary residence” means the place where a person resides with some degree of continuity apart from accidental or temporary absence; and a person is ordinarily resident in a place when he or she intends to make that place his or her home for an indefinite period;

“Land from which a family derives sustenance” means –

- (a) land which the family farms; or
- (b) land which the family treats as the principal place which provides the livelihood of the family; or
- (c) land which the family freely and voluntarily agrees, shall be treated as the family’s principal place or source of income”

<sup>95</sup> Was drafted by a coalition of NGO’s, a technical team from Ministry of Water, Lands and Environment, the First Parliamentary Council spearheaded by Hon. Maria Matembe, Woman MP Mbarara District

<sup>96</sup> NGO’s intensively lobbied for Co-ownership under UWONET and Uganda Land Alliance as Network

<sup>97</sup> For all subsisting ownership certificates, the first principle enunciated in the provisions of Sections 56, 60 and 184 of the RTA is that a certificate of title is conclusive evidence of the particulars in it and that the person named therein as being the owner of interest is actually such owner. Save for certain exceptions, which are spelt out, the production of the certificate of title “shall be held in court to be an absolute bar and stopped to any action against the person named therein as the grantee, owner, proprietor or lessee of the land therein described, any rule of law or equity to the contrary notwithstanding”

<sup>98</sup> A perception that strongly emerged during the parliamentary debate on the Land Act and its subsequent amendments

This provision though progressive, requires reform of other relevant laws in order to gain from its intent and full effect, as well as coherence in implementation. In particular, section 3<sup>99</sup> of the Succession Act Cap 162 and section 59<sup>100</sup> of the Registration of Titles Act.

(i) *Consent on family land transactions*

Restrictions on dealings in family land without consent of a spouse in occupation are asserted in Section 39 of the Land Act, which aims at increasing the legal protection of women's interests. Specifically, restrictions were imposed on sale, mortgage and transfer of land upon which the family lives and derives sustenance without express consent of the resident spouse(s) and children before undertaking any transaction. This is further strengthened by providing for the lodgment of a caveat<sup>101</sup> on a certificate of title indicating the requirement for consent by the spouse claiming protection. The consent given by either spouse must be prior to the transaction, at spouse's free will and must be put in writing. The Registrar of titles or the Recorder in case of customary land and tenancy by occupancy is obliged by law not to register any transaction for which spousal consent is required. In cases where there is more than one spouse having an interest in the same piece of land, they all must consent to the transaction<sup>102</sup>.

This consent however should not be unreasonably denied. The law requires that spousal consent to a transaction on family land be given within six weeks from the date on which the application for consent is received. Where the spouse owning the land is aggrieved by denial of consent, he/she may appeal to the Land Tribunal who will require the spouse to show cause as to why consent should be withheld. The Land Tribunal has the discretion to dispense with consent. However, considering the socialization of men and women it is doubtful that consent will be given without coercion or violence either from family or community. Secondly, there is a need to amend the Registration of Titles Act specifically S.64 (2) in order for consent to gain the force of law with regard to registered land<sup>103</sup>.

(ii) *Purchaser of family land*

S. 136 RTA requires a purchaser of land from a registered proprietor to inquire or ascertain the circumstances in or the consideration for which that proprietor thereof was registered or to see the application of any purchase or consideration money. He/she will be affected by notice actual or constructive of any trust or unregistered interest, any rule of law or equity to the contrary notwithstanding, and the knowledge that any such trust or unregistered interest is in existence shall not of itself be imputed as fraud. This

<sup>99</sup> "No person shall by marriage, acquire any interest in the property of the person whom she/he marries, nor become incapable of doing any act in respect of his/her own property which he/she could have done if unmarried."

<sup>100</sup> "No certificate of title issued upon an application to bring land under this Act shall be impeached or defensible by reason or on account of any informality or irregularity in the application or in the proceedings previous to the registration of the certificate and of the entry of the certificate in the register book, and shall be conclusive evidence that the person named in the certificate as the proprietor of or having any estate or interest in or power to appoint or dispose of the land described in the certificate is the proprietor."

<sup>101</sup> S. 39(7) of the Land Act as amended provides that a spouse, not being the owner of the land (family land), may lodge a caveat on the certificate of title, certificate of occupancy or certificate of customary ownership of the person who is the owner of the land to indicate that the property is subject to the requirement of consent. This caveat is subject to the caveator's right to security of occupancy. Thus its lifespan only extends as far as the marriage subsists. In the event of separation, divorce or death, the caveat lapses.

<sup>102</sup> R. 64 of the Land Regulations, 2004 SI 100/04

<sup>103</sup> S. 64: A proprietor of registered land holds land except for fraud, subject to encumbrances notified on the folium of the register book constituted by the certificate of title. Registered land is only subject to the reservations, exceptions, covenants, conditions and powers, if any, contained in the grant of that land, and to any rights subsisting under any adverse possession of the land

provision emphasizes that a purchaser in good faith for value<sup>104</sup> is not affected by notice<sup>105</sup>.

However, with regard to family land, there is an exception. S. 39(4) of the Land Act provides that Despite the transaction being void, a purchaser in good faith for value with no notice of non-compliance to S. 39(1) has a right to claim from any person with whom he/she has entered into the transaction any money paid or any consideration given by him/her in respect of the transaction. The principles, therefore, ordinarily applying to a purchaser in good faith for value *do not apply in the case of family land*. This purchaser is entitled to recover the consideration for the land and not to take possession of the land. This ensures that family land is protected from any kind of abuse and re-emphasizes the significance and strength of the requirement for spousal consent on dealings regarding family land.

(iii) *Mortgages on family land*

Where there is a transfer of family land by the mortgagee in exercise of powers under the mortgage, the requirement for spousal consent is dispensed with Section 39(3) Land Act. This means that no consent is required when a mortgagee seeks to foreclose because consent was sought at the time the mortgage was executed. The mortgagee on any land is protected by law against any loss of his/her rights to foreclose. Any purchaser, therefore, at the sale takes the land free from all interests subsequent to the mortgage of the mortgagee who obtained the order of foreclosure, but subject to any interests prior to that mortgage. Such interests include the rights of tenants by occupancy. The purchaser is entitled as against any person, to all certificates of title relating exclusively to the mortgaged land, other than those certificates of title held by a person with an interest having priority to the mortgage.

- *Land Administration*

Land administration is a function, which entails the mobilization of institutional mechanisms and personnel for juridical, regulatory, fiscal and cadastral components development. Land administration is an important factor in the maintenance of community sovereignty. The principle of good governance as applied to the responsible stewardship of land resources has led to the growth of participatory stakeholder designed and driven structures and infrastructure operating on the basis of transparency and cost effectiveness. On gender mainstreaming the participation of women in decision making land management through membership of land sector institutions six sections of the Land Act address the principles:

- Sec 16 (4)(b) provides for Communal Land Associations and that the Officers of the Association shall be not more than 9 and not less than 3 persons and at least a third of which shall be women. Sec 22 (3) (b) & (c) provides for any person to apply to the Association individual ownership where land communally owned is held by an association. There is no restriction on either gender owning land. However, the head of the household represents the household in holding the land, and thus, the recognition of the family unit as a legal person

<sup>104</sup> In this case, a purchaser in good faith for value includes a grantee, lessee, sub-lessee, assignee, mortgagee, chargee or any person who acquires an estate or an interest or right in the land.

<sup>105</sup> Notice means constructive or actual notice. Various court decisions (precedents) have tended to hold that a prospective purchaser is duty bound to make ground inquiries. *Uganda Posts and Telecommunications –vs- Abraham Kitumba Peter S.C.C.A No. 36 of 1995 (Unreported); Katarikawe –vs- Katwiremu [1977] HCB 187* it was held as follows: “If a purchaser, despite knowledge, of the occupation of the land under a contract of sale, proceeds with a transfer of the title in his name in order to defraud the occupier this would be evidence of fraud”



- Section 47(4) where the Uganda Land Commission (a Constitutional body charged with the responsibility of holding and managing land on behalf of the Government of Uganda) has at least one female out of its five members.
- Section 57(3) requires one third of the membership of District Land Boards (minimum of 5 members) to be female.
- Section 65(2) requires Area Land Committees should have at least one female out of four members.
- Section 16(4-b) requires Communal Land Management Association are required to have at least one third female members in their managing committee
- District Land Tribunal though not a requirement of law are in practice constituted with at least one woman out of three members

These are in accordance with Constitutional provisions regarding affirmative action and provisions in the Local Governments Act. Although these have provisions for women representatives, the absence of sufficient resources has affected their operations and effectiveness further increasing the vulnerability of the poor and the poor women.

- *Dispute Resolution*

Article 243 of the Constitution provides for the establishment of land tribunals and their jurisdiction. This provision was reiterated in the Land Act Cap 227 (and subsequent amendment) which provides that land tribunals shall be established under a modified version utilizing the concept of circuiting, where by one chairperson serves more than one district, with each district having two members to work with him or her, hence eighteen circuits with 18 chairpersons, 18 secretaries and two members from each district have been set up through out the country. It is interesting to note that the law did not give an engendered requirement for the composition of the Land Tribunal as is for the land administration institutions, though in practice, women have been appointed as chairpersons and members to the District Land Tribunals. Failure to entrench the requirement in the composition of the District Land Tribunals whose jurisdiction includes determination of disputes on land; makes it difficult to oppose decisions made by a majority male tribunal. Affirmative action here would have assisted in getting women and socially vulnerable groups fair hearing.

#### *Cohabitation, Marriage, Separation and Divorce Laws*

Cohabitation is an arrangement that is not legally recognized as a marriage in Uganda. Women who are in cohabiting relationships are in a precarious legal situation because upon the death of their partners they will lose even the access rights to the land if the man's clan or relatives make a claim for it.<sup>106</sup> Whatever contribution a cohabiting woman will have made on the land whether financial, or otherwise, do not entitle her to any land rights. Because the cohabitee has no *locus standi* in court, there have been no cases brought before the courts dealing with the status of cohabitants. A cohabitee is deemed to be a mere "visitor." Hence there is no precedent to be relied upon. A cohabitee can only claim land rights if at the time the land was bought it is registered in the names of both her 'partner' and herself. As a joint registered proprietor, she can claim a right to land. The Land Act does not give people living in cohabitation any land rights akin to those available to married persons. Upon the death of one partner, the cohabitee is guaranteed none of the protections available to married persons.

There are five types of marriage recognized by the laws of Uganda; In *Church or Christian Marriage*, unless the parties have agreed before the marriage, whatever property one owns before the marriage remains his/her property. All properties acquired during the marriage

<sup>106</sup> Elizabeth Eilor, Renee Giovarelli, Land Sector Analysis, February 2002.

are jointly owned unless the parties make other plans. However, parties may acquire properties independent of each other during the marriage. Both husband and wife can make a will for properties not jointly owned and leave any or all of such property to the other or any other person; In a *Civil Marriage* the same principles that apply to the Christian or church marriages in relation to property rights apply to this form of marriage. In *Customary Marriage* governed by customary norms and practices property acquired during the marriage is presumed to belong to the husband, if the marriage fails, the wife goes away with nothing. In *Islamic Marriage* property, given to the wife i.e. “*Mahari*”, belongs to her since it was a gift before the marriage. Upon dissolution of the marriage, the wife retains the “*Mahari*” The law is silent on the way property acquired during the marriage. In *Hindu Marriage*, the law is silent on property acquired by spouses before and during marriage.

The Land Act, despite protecting spouses’ rights on family land does not protect the rights of spouses under separation. S. 38 A (5) of the Act provides that: “*Where there is legal separation, this section of security of occupancy does not apply*”. While the Divorce Act recognizes that spouses leaving in separation are still married until a decree for the dissolution of the marriage is issued by Court, the Land Act, which is the latter law, gives no protection to either spouse living in separation. The rationale behind this was to avoid spouses living apart with no intention of subsuming the marriage to be an encumbrance on family land of a marriage they no longer have high regard for. The property a wife acquires while in separation is hers. She is presumed to be single for purposes of property. A wife, in whose property the husband has acquired an interest by virtue of the marriage, may if deserted by him, apply to court for an order to protect that property against him, his creditors and any person having claims under him.

The Divorce Act Cap 249, which is applicable to marriages under the Marriage Act, the Marriage of Africans Acts and the Hindu Marriage, makes some reference to property rights of which land rights is part. At divorce, a woman’s contribution in marriage will be taken into consideration. Financial contributions and contributions through housework will be considered by the court in determining the reward granted. The Court will consider evidence of a substantial contribution. Such consideration, however, is a matter of case law as there is no written law that recognizes a wife’s contribution<sup>107</sup>. Under Islamic law, the wife takes the property in her room and the children remain with the Father.

### Succession Laws

The Constitution in Article 31 mandates Parliament to make appropriate laws for the protection of the rights of widows and widowers to inherit the property of their deceased spouses and to enjoy parental rights over their children. The Succession Act is such law that governs the manner in which the estate of a deceased person can be managed. There are two main problems with the Act as it now stands: first, the Act has been unsuccessful at providing protections to the majority of people in Uganda who continue to adhere to customary or religious practices that conflict with the provisions of the Act; and second, the Act contains provisions that are facially discriminatory resulting in differential treatment based on sex. These provisions make the succession act in need of amendment to bring it into conformity with the Constitution.

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<sup>107</sup> Two cases have dealt specifically with this matter; *Edita Nakiyingi v Merikicadeki* [1978] HCB 107; *Mayambala v Mayambala* Divorce Cause 3 of 1998 (unreported). . In *Edita Nakiyingi*, the court relied on the principle of equity and common law. In that case the woman made only contributions in the form of housework. The Court recognized these contributions and ruled in her favor. In *Mayambala* the court in reaching its decision, relied on the financial contributions made by the wife

In Uganda, succession is categorized into; *intestacy* when a person dies intestate in respect of all property, which has not been disposed of by a valid testamentary disposition<sup>108</sup>. Other than the residential holding, all the other property owned by the intestate forms part of the estate and distributed. Of the entire estate, the wife (wives) get only 15% when there are children and 50% where there are no children. It is however not clear according to law that the husband can inherit likewise from the deceased spouse. In case of *testacy*, a valid guides the distribution of the deceased's property. Where the deceased leaves dependants, they must be provided for. Where not provided for, court has the power to make an order for payment out of the estate of the deceased for maintenance of the dependants. This maintenance only extends until surviving spouse remarries and in the case of a daughter in the event of her marriage.

Jointly owned assets go automatically to the surviving partner at death. This is because property owned jointly has unity of title, time and possession. It cannot, therefore, be divided so that the beneficiaries of the deceased can have a share. The testator cannot give away such property by will because he/she cannot clearly ascertain his/her share of that property. However, property held in common, which means that although you hold it together, each party knows how much of that property belongs to him or her. This property is divisible and upon death, the beneficiaries of the deceased person can take over the share of the deceased. The deceased can also distribute only his share by will. It is important that friends or spouses acquiring property together such as land clearly determine how they wish to hold/own that property together.

The first problem with the Succession Act is that it fails to reach the majority of People in Uganda. This is particularly disturbing in the context of the HIV/AIDS epidemic. AIDS has resulted in women being widowed and becoming household heads at much younger ages than before. Although the law of succession does make a widow eligible to share in the distribution of property upon the death of a husband where he dies intestate, the widow is often denied her right to inherit land and other property because of customary practices. For example, accusations by family and community members that the wife was responsible for transmitting HIV/AIDS to her husband can result in the denial of her legal entitlements. In addition, a woman may be denied custody of her children and have her property taken from her. "Property grabbing" by the husband's family is widespread resulting in widows and orphans being left no property to which they may be legally entitled.

It is rare that land has been registered in the name of both husband and wife. More often land is registered in the name of men only. Without having title registered in her name, a widow cannot sell or transfer the land. Few daughters inherit land and those who do usually retain only the use of land while they are living with their family and do not have the right to sell the land. In addition, if a woman decides to leave her husband in order to protect herself from HIV infection, she will lose her right to the marital property even if she has not been officially divorced. Furthermore, upon the death of the husband clan elders often assume responsibility for administering the estate, sometimes in ways contrary to the intention of the deceased. Clan elders often distribute property in ways favorable to the relatives of the deceased and may even evict the widow from the matrimonial home. In a patrilineal society, a male relative whether a son or otherwise is often deemed to be the rightful heir, thus automatically terminating a widow's right to land and other property. Although the law clearly does not allow for such practices, far too many people are ignorant of the law.

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<sup>108</sup> S. 24 of the Succession Act

Against the background of the customary practices that impede women's ability to access the law, the Succession (Amendment) Bill of 2003 attempts to uphold principles of sexual equality in matters of succession as enshrined in the Constitution. With regard to the devolution of the matrimonial home, the Bill provides that the widow or widower shall be entitled to one half of the matrimonial home normally occupied by the testator prior to his/her death including the household chattels,<sup>109</sup> and where there is more than one wife, the wives shall share equally in one half of the matrimonial home<sup>110</sup>. The proposed amendment also provides that the rights of a widow or widower to inherit the matrimonial home shall not be effected by his or her remarriage. The proposal removes the usufruct rights that the current law gives to widows and children as far as the matrimonial home is concerned. However, the Bill still does not address some of the informal or customary practices that impede women's rights.

The second major problem with the law of succession in Uganda involves facially discriminatory provisions. For example, an obvious omission is that it does not provide for statutory distribution of the property of a *wife* who dies intestate. It refers only to a surviving "wife," not "husband," "spouse", or "cohabitant."<sup>111</sup> It is clearly assumed that all property belongs to the husband and that no woman would have enough property registered in her own name to pass on after death. Yet, Constitutional provisions relating to equality between men and women before, during and at the time of the dissolution of marriage clearly apply to women's property rights notwithstanding the lack of clarity in the language of the Succession Act.

Efforts have been made to create a positive legal environment for both men and women, but in spite of this, the majority of the people and women in particular are not aware of their legal rights. Gender imbalances exist in all sectors of development with regard to opportunities as well as access to and control over productive resources. The situation is further compounded by the fact that several traditional customs and practices reinforced by retrogressive cultural beliefs continue to impact negatively on women's realisation of their legal rights and access to and control over economically significant resources such as land.

#### Reform of Family Law: Domestic Relations Bill

The reform of family law under the Domestic Relations Bill where all laws on marriage, separation, divorce and succession are consolidated. In the draft section 63 it provides that both spouses shall have the duty to maintain their family except that the monetary contribution of each spouse shall be proportionate to his or her income; and non-monetary contribution shall also be taken into account when determining a spouse's contribution to the maintenance of the family. Non-monetary contribution is also defined to mean:

“the contribution made by a spouse for the maintenance of the family other than by way of money and includes domestic work and management of the home, childcare, companionship, the duration of the marriage, and any other matter that may be deemed by court to be relevant”.

The Domestic Relations Bill is the first major legislative attempt to bring co-ownership for spouse on the Statute Books. It defines co-ownership of property as ownership of property as provided for under sections 65, 66 and 67; Matrimonial property is defined as the property occupied as such and held in common in undivided shares;

<sup>109</sup> The Succession (Amendment) Bill 2003, proposed amendment to section 26

<sup>110</sup> Section 26 b

<sup>111</sup> S. 27(1)9a

“matrimonial property shall include the matrimonial home or homes, household property in the matrimonial home or homes, any other property either immovable or movable acquired during the subsistence of a marriage, deemed to be a matrimonial property by express or implied agreement as construed through the conduct of the spouses and immovable property owned by either spouse which provides the basic income for the family”

Where a man has more than one wife in a polygamous marriage, ownership in common of property between husband and each particular wife shall be determined as follows:

- Matrimonial property acquired by the man and the first wife shall be owned in common by the husband and the first wife if acquired before the man married the second wife;
- Any matrimonial property acquired after the man marries a second wife shall be regarded as owned in common by the man, the first wife and the second wife, and the same principle shall be applied to any other subsequent wife or wives.

Clearly, the DRB attempts to have progressive reforms in family land and on property rights within the family unit. However, this draft bill has faced enormous opposition from several sections of the society. In terms of property, there are ill-feelings about co-ownership of marital property from the male folk, indeed the news that the bill was shelved due to insufficient consultations was welcomed by several sections of society.

## 2.3 REVIEW OF EXISTING STATISTICAL DATA

This section of the report focuses on available statistical data on gender and land, before the conduct of the survey. The major input is from Gender Analysis of the Uganda National Household Surveys conducted between 1992 and 2003 conducted by the Ministry of Finance, Planning and Economic development which recognizes the centrality of addressing gender issues in poverty reduction and development. Other studies are also considered and the findings summarized to inform the discussion and analysis of findings.

### 2.3.1 Gender Analysis of National Household Surveys

This is a gender-focused analysis of poverty of Uganda's National Household Surveys (1992-2003)<sup>112</sup>, which provides the background and rationale to gender analysis of the household surveys, looking at the key gender trends both within households and across certain household types, and cross-references the findings with those of Uganda Participatory Poverty Assessment Report (UPPAP).<sup>113</sup> The main sources of data upon which analysis was based included all of the nationally representative surveys, the Integrated Household Survey (IHS) of 1992 and Ugandan National Household Survey (UNHS1 and 2) 1999/2000 and 2002/3. This forms the basis the data set (1992-1999) that allowed the analysts to study changes at the household level.<sup>114</sup> For instance whether households have moved into or out of poverty, or how household incomes have changed over the two periods. On issues relevant to understanding gender and land, the report concludes that:

- Women Headed Households appear to have particularly low assets levels (livestock and cultivatable land), compared to Male Headed Households.

<sup>112</sup> The household surveys used for the analysis are IHS 1992, UNHS1999 and UNHS2002 and Panel data for 1992 to 1999. The 1992/99 panel data refers to 1,398 households re-interviewed in both periods. For this research the panel was reduced to 1,105 households, after a matching process was undertaken to ensure that the households were actually the same. Further details of the matching process can be seen in Lawson, McKay and Okidi (2003).

<sup>113</sup> UPPAP - participatory techniques were used to consult people on their understanding of the nature and causes of poverty and their priority actions for poverty reduction by government or in communities themselves. PPA2 undertook research in 60 research sites in 12 districts.

<sup>114</sup> For the analysis contained in this report the two wave panel sample of 1,398 households was reduced to 1,105 households, after a matching process was undertaken to ensure that the households were actually the same. Further details of the matching process can be seen in Lawson, McKay and Okidi (2003).

- Since 1992, fewer women are now landless but there appear to be significant gender differences relating to land owned and cultivated.
- Asset depletion (especially cultivated land and cattle) in Women Headed Households generally is far greater than in Male Headed Households.

Additionally, WHHs appear to be experiencing smaller increases in assets of land and other livestock. In some cases, using the panel data, it even appears that WHHs which are chronically poor or moving into poverty are actually decreasing land holdings. This has major implication for future income generation and being able to escape poverty and vulnerability. Women's income diversification, away from agriculture, also appears to be extremely limited.

Comparing the gender findings of the household analysis with those from UPPAP, despite the data limitations which have restricted the analysis, the study finds some support for the findings such as men tend to have control over money and income from sales of agricultural production, even though it is the women who grow the crops. General support for this came from the Demographic Household Surveys (DHS) data which shows that as women contribute higher proportions of their income to household expenditure they have less control over how this is spent. The findings of this analysis effort, corroborate with gender analysis using the IHS (1992) to study the linkages between gender and poverty, with the fundamental question being to establish what factors account for whether women headed households (WHH) are disadvantaged. Appleton found that WHH were not poorer when assessed by income or consumption, nor did they appear to be consistently disadvantaged on social indicators. However some sub groups, such as WHH widowed households did have lower income, faced inequalities in educational attainment, and were dependant upon high levels of remittances to maintain economic parity<sup>115</sup>

**Table 2.1: Cultivated Land Assets–Disaggregated by Marital Status and Sex of HHead %**

	MHH					WHH					
	Unmarried	Married/ Cohabiting	Divorced	Widowed	All	Unmarried	Married/ Cohabiting	Divorced	Widowed	All	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
<b>1992</b>	1.75	2.82	2.4	2.23	2.73	1.4	2.22	2.02	2.48	2.21	2.59
<b>1999</b>	2.03	3.67	2.57	3.09	3.51	0.89	2.40	1.57	2.93	2.33	3.20
<b>2003</b>	<b>2.09</b>	3.69	3.55	4.8	3.55	<b>0.36</b>	1.84	2.15	3.47	2.15	3.16

Source: UNHS1999 (for 1992&1999 data) and UNHS 2002

This finding is also supported by the Lawson, McKay and Okidi (2003) study which found that if the household head changed, from male to female, then the household was less likely to experience increases in income over this period. Furthermore, Lawson (2003) also found that if a household was headed by a sick female, or female agricultural subsistence worker, then that household faced a substantially higher probability of falling into poverty. This analysis report also considers findings<sup>116</sup> using the IHS (in combination with the 1996 Monitoring Survey), found the tendency of non-farm income to contribute to inequality was greater among female-headed household, for whom self employment was important and non farm opportunities more constrained. This analysis report recommends that further investigations is needed to understand and underscore the following:

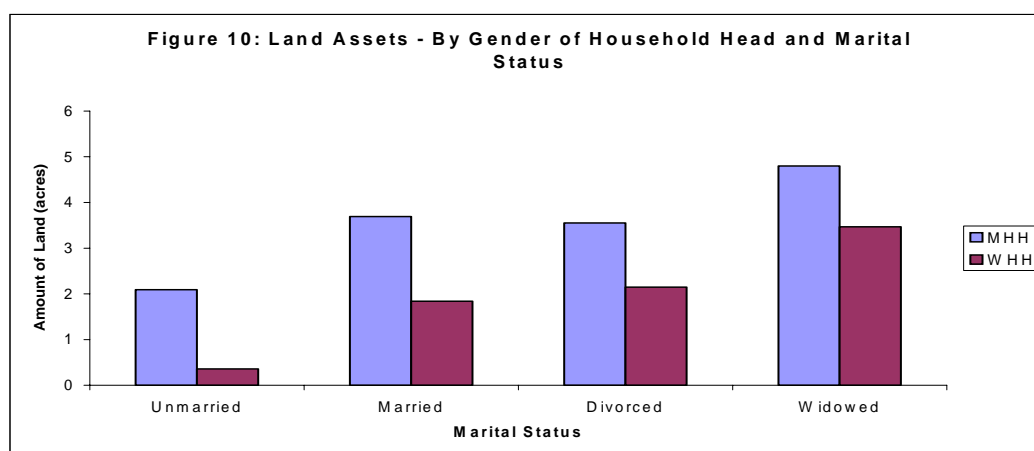
- The relative stagnation in asset levels, and apparent decline in WHHs which are chronically poor or moving into poverty, needs further investigation. Ideally, a sample of

<sup>115</sup> Appleton 1996, p1181

<sup>116</sup> Canagarajah *et al.* 2001

these households would be interviewed with lifecycle qualitative information gathered. This would help explain why (and corroborate if) such declines are occurring.

**Figure 2.2: Land Assets of Household Heads**



Source: UNHS 2002

- Analysis was largely focused on the main agricultural assets and was unable to analyse issues of quality, which can have a major influence on productivity. If detailed analysis of the 1999 crop survey was undertaken, a production function type analysis would establish, for example, if there are gender differences in productivity of land. Furthermore, low assets yields may also explain why families move location.
- Assets are defined at the household level, but this does not inform us of the access rights that individuals have in using land. It is recommended that future households' surveys incorporate questions which ask individuals if they have rights of usage (and control over the income generating from agricultural/other activities).

**Table 2.3: Table Poverty Dynamics and Assets Levels and Asset Changes (1992-1999)**

			Chronic Poor		Moving Poverty	Out	of Moving Into Poverty		Never In Poverty		
ASSETS			MHH	WHH	MHH	WHH	MHH	WHH	MHH	WHH	All
Asset	Quantities	-	All								
Households											
Amount of Land at 1992			2.84	2.17	2.81	2.53	2.54	2.25	2.84	2.45	2.72
Amount of Land at 1999			3.61	1.86	5.22	3.70	2.70	1.50	6.37	2.36	4.60
Rural Households Only											
Amount of Land at 1992			2.87	2.18	2.94	2.70	2.54	2.13	3.03	1.45	2.86
Amount of Land at 1999			3.69	2.06	5.70	3.99	2.58	1.59	5.89	3.18	4.66
Urban Households Only											
Amount of Land at 1992			2.50	2.14	1.88	1.25	2.50	3.00	1.95	1.76	1.93
Amount of Land at 1999			2.25	0.92	1.83	1.43	4.21	1.06	8.75	1.20	4.26
Asset Changes - All Areas											
% Increase in Land Area			27.1%	-14.3%	85.8%	46.3%	6.3%	-33.3%	124.3%	-3.7%	69.1%
Average Land Area Increases			0.77	-0.31	2.41	1.17	0.16	-0.75	3.53	-0.09	1.88

Calculations based on IHS/UNHS 1992/99 Panel

NOTE:- Gender of household head based on 1992 IHS

Urban household chronically poor figures are from small samples (MHH - 10, FHH - 7) + Urban FHH 'Moving Out of' (8 Households); Moving Into (MHH - 6, FHH 4);

### 2.3.2 Gender Analysis of UPPAP and PPA

The PPA found that women were responsible for providing food and household needs such as covering child school costs, although they do not usually control land the disposal of agricultural produce money. PPA2 revealed that although women have access to valuable

household resources such as land and livestock, men controlled virtually all household resources (i.e. men decide how to use and when to sell resources - although in the case of smaller livestock such as chickens women may have greater control). PPA2 also identified that apart from women in a few urban sites, men tend to have control over money and income from sales of agricultural production, even though it is the women who grow the crops. Supporting evidence from the DHS shows that in general and perhaps rather perversely, as women contribute higher proportions of their income to household expenditure they have less control over how this is spent. However, control over expenditure increases if a woman is divorced or widowed - therefore the relatively high expenditure on education that these groups make might indicate that they can choose how it is being spent.

For rural communities, in particular, UPPAP2 identified that whilst women and men contribute to agricultural production, it is the women who bear the major role and may be entirely responsible for food crop production, small scale livestock rearing and petty business. Household data supports these findings with women's activities being dominated by crop production. Although, there appears little evidence, from the occupation data in support of widespread small scale livestock rearing, WHHs have significantly more small livestock assets. For many urban communities, women reported to be restricted from working outside the home and running business by their husbands, as men feared wives becoming promiscuous. The unequal division of roles and responsibilities has in some instances been the reason given for moving into poverty. Household data has confirmed that relatively narrow income diversification of women, with crop, but also sales work being quite common.

### **2.3.3 Gender and Land in 2002 Population Census**

According to the census, the total population in 2002 was 24.4 million composed 11.9 million males compared to 12.5 million females. This gives a sex ratio of 95 males per 100 females. The agricultural sector employed relatively higher proportions of women (83%) than men (71%). Most households (68%) depended on subsistence farming for a livelihood. According to the Census, the agricultural sector accounted for 77% of the total employment. In addition, 74% of the households had an agricultural holding and subsistence farming was the main source of livelihood for 68% of all households in the country. The national adult literacy rate was 64% with females having a lower rate (54%) than males (75%). The census did not focus on ownership of land but look at asset proxies for ownership of household assets, in particular housing. The total number of household was 5,126,762 of which 1,181,755 are female headed. The majority of the households (79%) own the houses they live in. Ownership is higher in rural areas (86%) compared to the urban areas (30%).

### **2.3.4 Patterns and Trends in Land Registration and Ownership**

The 2004 study of patterns and trends in land registration and ownership in Uganda<sup>117</sup> for the period 1980-2002, indicated that male land ownership pre-dominates in all regions with an overall 63% and this monopoly is most predominant in the northern region at 78%. Under mailo tenure the predominance of ownership was at 60%, while leasehold is at 66%. The national-wide women land ownership with registered land is at 16%, in the central region it is at 18% and it is least in the northern region at 7%. Spousal land co-ownership was found to be slightly over 3%, this figure excludes mailo land in all other districts in the central region which account for over 60% of this tenure. The rate at which women transferred land to men was 59% compared to the rate of transfer to fellow women at 24%.

<sup>117</sup> undertaken by Makerere Institute of Social Research -MISR



This study also revealed that there was a vibrant land market where women involvement in land transactions is more prevalent in the central region at 35% followed by the eastern region at 25%. In the northern region, women's involvement on registered land transition steadily rose from 2% in the period 1980-1985 to 22% in the period 1998-2002 and in the western region at 23%.

### 3. SURVEY FINDINGS

This section of the report analyses baseline findings on monitoring indicators identified in the Land Sector Strategic Plan M & E framework. The findings are discussed either in their own standing and/ or in relation to other existing studies, surveys or policies in place to deduce baseline and performance levels with respect to the LSSP.

#### 3.1 LAND AND LIVELIHOODS

Land is a key resource for production and often the only capital available to the majority of Ugandans. Access to land is a basis for rural livelihoods<sup>118</sup> playing a pivotal role in the provision of shelter, food and income; secure rights in land not only guarantee these but create an incentive and opportunity for household investment. Alongside the basic survival necessities, secure rights to land can act as a catalyst to sustainable land management and also improve access to capital. The gendered dimension of this argument is often underlined by inequality. The disparity in access to secure rights to land between women and men endows varying livelihood options between genders. The subsequent sub sections here under examine gendered linkages of land as an asset in terms of perceived importance, size of holdings, utilization and accruing incomes.

##### 3.1.1 Land as an Asset in the Household

In this survey, land was rated highest (53%) in importance amongst all household assets followed by housing (24%) irrespective of whether the household was female or male headed. However, FHHs' rated land at 49% and housing at 30% while MHHs' rated the same at 54% and 23% respectively. Ratings by CHHs' did not reveal significant differences either, as depicted in Table 3.1 below.

**Table 3.1: Asset rating by Category of Household**

(Responses)		Household Category						Total	
		FHH		MHH		CHH		n	Col %
		n	Col %	n	Col %	n	Col %		
Key Household Assets	Land	382	49	2138	54	9	47	2529	53
	House	237	30	910	23	6	32	1153	24
	Chattels	22	3	87	2			109	2
	Livestock	49	6	340	9	2	11	391	8
	Perennial Crops	45	6	213	5	1	5	259	5
	Movables (Vehicles/Furniture/ E)	30	4	199	5			229	5
	Others	14	2	80	2	1	5	95	2
Total		779	100	3967	100	19	100	4765	100

*Source: LSSP Gender Household Survey, May 2005*

Analysis of the above result by combining land and house ratings reflects the close linkage between this result and that of the Uganda Population and Housing Census (2002). The census found 'house' to be the most rated household asset by 78.2% of all Ugandans. The fact that land and house are closely ranked in this survey is a clear indication that ownership of land is an important aspect of socio-economic welfare of any household. The ranking of 'house' (which is a development on land) is actually a proxy indicator of tenure security on a specific parcel of land. Tenure security is associated with the household's social protection ability in withstanding shocks and guaranteeing a level of self provision, which in turn impacts on subsequent economic success<sup>119</sup>.

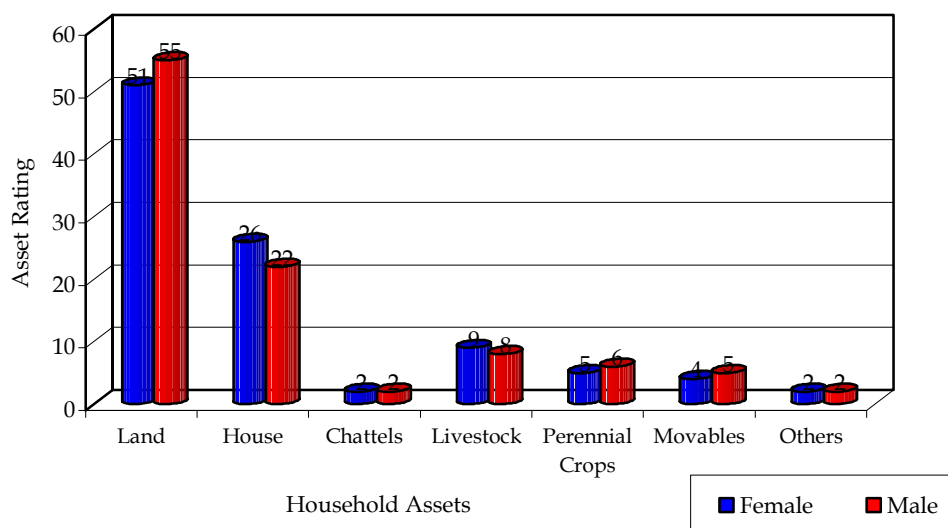
Comparative analysis between female and male respondents shows a generally matched pattern in asset ratings. Though not statistically significant the outstanding observation being more

<sup>118</sup> Issues Paper for the National Land Policy, 2004

<sup>119</sup> MWLE / AFD, 2004 PEAP Revision Land Sector Paper, page 7

males (55%) compared to females (51%) rated land higher while more females (26%) compared to males (22%) rated house higher as depicted in Figure 3.1. This finding highlights the centrality of land to livelihoods irrespective of whether one is female or male and denotes a difference in how household assets are perceived amongst females and males.

**Figure 3.1: Asset Rating by Sex of Respondent**



Source: Household Survey, May 2005

The significance of this finding is that despite gender differences, land has been and is crucial to the livelihood of most households in Uganda. It confirms the findings of PPA II, which access to land and land shortages was the second most frequently cited cause of poverty<sup>120</sup>. However, this finding is subject to regional variations. In the western region land is ranked by 65% of the respondents as a household asset, while in the northern region, 44% of the respondents see it as the most important household asset. In the Eastern and Central region, 55% and 48% of respondents rank land as an important household asset respectively. It is important to note that the asset rating for house is highest in the central region (34%) compared other regions where it falls below 24%, a statistically significant difference.

**Table 3.2: Asset Rating by Region**

Key Household Asset Responses	Region								Total	
	Northern		Eastern		Central		Western		n	Col %
	n	Col%	n	Col%	n	Col%	n	Col%		
Land	510	44	692	55	560	48	765	65	2529	53
House	228	20	294	23	389	34	242	21	1153	24
Chattels	53	5	31	2	17	1	8	1	109	2
Livestock	122	11	123	10	86	7	60	5	391	8
Perennial Crops	95	8	63	5	39	3	62	5	259	5
Movables (Vehicles)	120	10	38	3	41	4	30	3	229	5
Others	33	3	21	2	29	2	13	1	95	2
<b>Total</b>	<b>1160</b>	<b>100</b>	<b>1264</b>	<b>100</b>	<b>1161</b>	<b>100</b>	<b>1180</b>	<b>100</b>	<b>4765</b>	<b>100</b>

Source: Household Survey, May 2005

<sup>120</sup> Second Participatory Poverty Assessment Report, Ministry of Finance, Planning and Economic Development December 2002, cited as cause of poverty in over 60 villages covered in the 2001/02 participatory assessment.

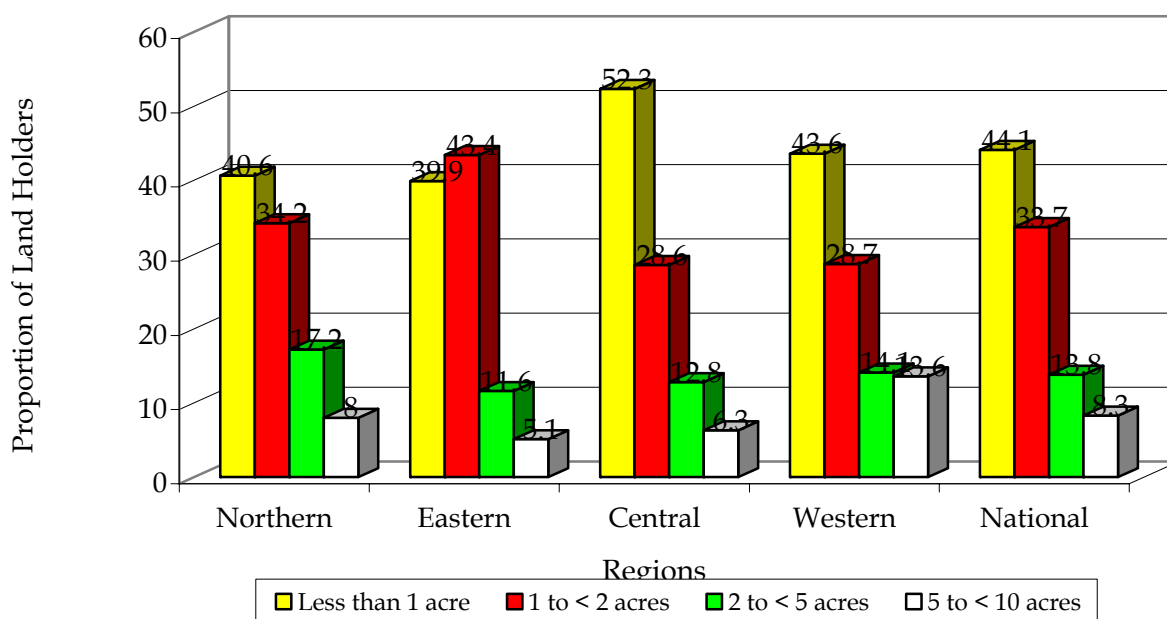
This variation in regional rankings can be explained by what PPA II asserts that in large parts of northern Uganda, households are unable to access and make use of the natural assets due to conflict resulting in mass displacement<sup>121</sup>, while in the central region alternative asset diversification within households, is a common phenomena, hence diversified livelihood options.

### 3.1.2 Size of Land Holdings

Lawson, Mackay and Okidi (2003) argue that rural residents with more land are less likely to fall into poverty and if poor are more likely to transcend faster out of the poverty bracket<sup>122</sup>. The other argument is that even with small sizes of land, unless if investment is made that is sufficient to push a household out of poverty, the productivity might still be low. The effect of size of land holding on household poverty was also corroborated by UPPAP II, which showed that poverty among crop farmers was increasing overtime due to consistent cultivation of the same piece of land that resulted in deterioration in quality and quantity of out put.

This study sought to establish size of landholdings per household as a way of determining the amount of land utilized per household and by each gender across the regions. The average size of land holding was found to be 2 acres per household. The central region had the smallest household land size of 1.5 acres and the highest was in northern region varying between 2 to 5 acres. Overall, most respondents (44%) were found to have land that is of less than 1 acre while those with land averaging 5 to 10 acres where their household is located were only 8% as shown in Figure 3.1 by region.

**Figure 3.1: Size of Land Holdings Pattern by Region**



*Source: Household Survey, May 2005*

It is also clear that irrespective of household category most (44.1%) households (19.4% for FHH and 79.9% for MHHs) have less than one acre of land as shown in Table 6.3, this closely followed by 1-2 acres bracket at 33.7% (82.7% in MHHs and 16.9% in FHH). From these results, it is clear that FHH hold far less amounts of land than MHH household both

<sup>121</sup> Ibid, page 113

<sup>122</sup> The politics of staying poor in Uganda, 2003

in smaller parcels of less than an acre and in slightly bigger parcels of 1-2 acres in size. The implication of this is that, the amount of land available to FHH for their use may not be commensurate to the household needs or demands. As the size of the parcel increases to more than 2 acres, the FHH become further marginalized, on the other hand CHHs have relatively small amounts of land as shown in Table 3.3.

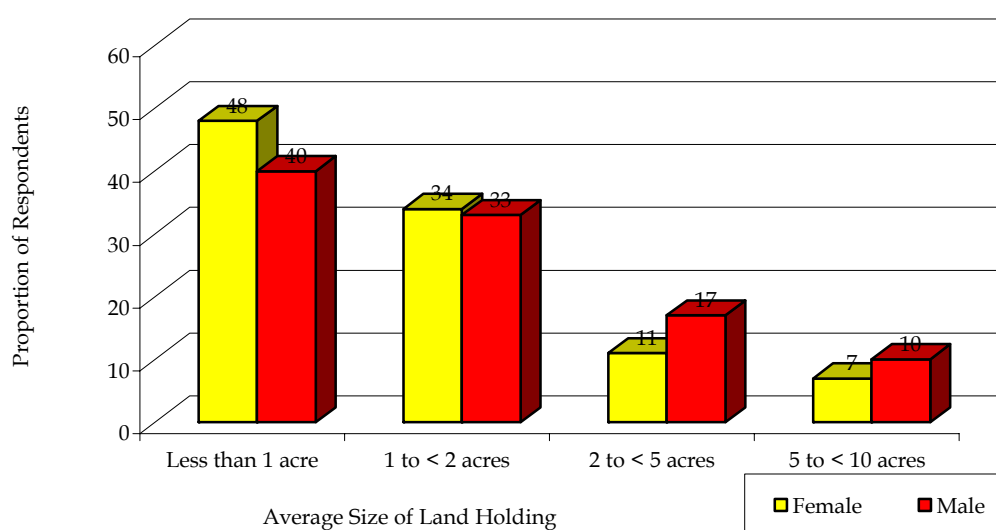
**Table 3.3: Size of Land holding by Household Category**

		Household Category						Total	
		FHH		MHH		CHH		n	Col %
		n	Col %	n	Col %	n	Col %		
Interview Site Parcel (Family Parcel)	Less than 1 acre	295	50.6	1213	42.8	10	52.6	1518	44.1
	1 to < 2 acres	196	33.6	959	33.8	5	26.3	1160	33.7
	2 to < 5 acres	57	9.8	416	14.7	2	10.5	475	13.8
	5 to < 10 acres	35	6.0	249	8.8	2	10.5	286	8.3
Total		583	100.0	2837	100.0	19	100.0	3439	100.0

*Source: Household Survey, May 2005*

These results affirm the fact that agricultural production in Uganda is characterized by smallholder production, on small plots, which are largely subsistence in nature. The levels of access directly relate to the mode of production, where small plots of land are intensively cultivated consistently for a long period of time. While it is stressed, in various studies on gender and land that equal rights for both men and women to hold and use property are the cornerstone of equitable social and economic growth<sup>123</sup>, the findings of this survey show that generally, women's land rights are secondary, derived through their membership in households and lineages and secured primarily through marriage.<sup>124</sup> The findings in this survey reveal, that contrary to what is estimated in the Issues Paper for the National Land Policy<sup>125</sup>, that the average land holdings in Uganda is estimated at 2.2 ha per household, this has drastically reduced to 1-2 acres (33.7%) and less than 1 acre (44.1%).

**Figure 3.4: Size of Land Holdings by Sex of the Respondent**



*Source: Household Survey, May 2005*

A deeper look at access to land, (Table 3.3) shows that most households utilize land parcels that are less than 1 acre (44.1%), there is a difference between revelations by male

<sup>123</sup> DFID, 2000 Better Livelihoods for the Poor People: the role of land policy Pg. 22

<sup>124</sup> Similar finding to Cheryl Walker, 2000

<sup>125</sup> Page, 24

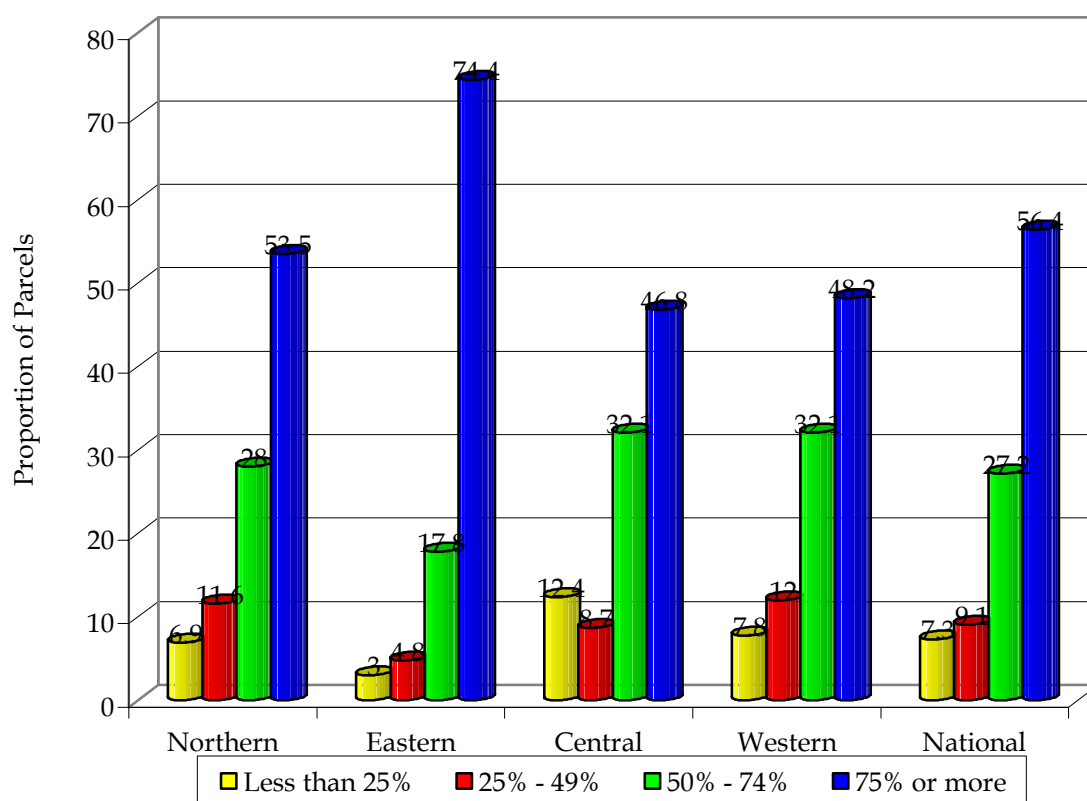
respondents at approximately 42%% and female respondents at 57.2%. This confirms that the majority of females have access to smaller land parcels/ holdings due to social cultural discrimination and weak ability to purchase own land.

### 3.1.3 Utilization of Land at Household Level

The 2002 Population and Housing Census found that 76.5% of Uganda's population depends on agriculture. 77.1% of the rural population depends on subsistence farming for livelihood.<sup>126</sup> There is an intricate relationship between land use and agriculture, the existence of the latter is dependent on the former.<sup>127</sup> Land is therefore mainly used for farming especially in the rural areas.

The results show on average 56.4% of the respondents included in the survey cultivate 75% or more of their principle parcel of land all year round. This proportion was found highest in the Eastern region (74.4%) and lowest (46.8%) in the Central region. The Northern region and Western region showed proportions of 53.5% and 48.2% respectively as sown in the Figure 3.2 below.

**Figure 3.2: Use of Principle Household Land Parcel by regions**



*Source: Household Survey, May 2005*

Results further show a bigger proportion of male headed households (57.1%) to be cultivating 75% or more of their principle parcels compared to female headed households (52.8%) as depicted in Table 3.5a.

<sup>126</sup> Census Report, UBOS 2004

<sup>127</sup> PEAP Sector revision paper, MWLE and AFD, 2004

**Table 3.5a: Use of Principle Parcel by Category of Household**

Counts		Household Category						Total	
		FHH		MHH		CHH		n	Col %
		n	Col%	n	Col%	n	Col%		
Percentage Of The Interview Site Parcel Cultivated All Year Round	Less than 25%	37	7.5	174	7.2	3	20.0	214	7.3
	25% - 49%	48	9.8	216	8.9	2	13.3	266	9.1
	50% - 74%	147	29.9	645	26.7	2	13.3	794	27.2
	75% or more	260	52.8	1379	57.1	8	53.3	1647	56.4
<b>Total</b>		492	100.0	2414	100.0	15	100.0	2921	100

*Source: Household Survey, May 2005*

Further synthesis of the results show more male respondents (57.8%) reporting a 75% or more cultivation level all year round on their principle parcel of land compared to females (55.1%). In the 50% to 74% category more females (29%) compared to males (25.2%) as depicted in Table 3.5b below.

**Table 3.5b: Use of Principle Parcel by Sex of Respondent**

Counts		Respondents Sex				Total	
		Female		Male		n	Col %
		n	Col%	n	Col%		
Percentage Of The Interview Site Parcel Cultivated All Year Round	Less than 25%	115	7.5	99	7.1	214	7.3
	25% - 49%	127	8.3	139	10.0	266	9.1
	50% - 74%	443	29.0	351	25.2	794	27.2
	75% or more	841	55.1	806	57.8	1647	56.4
<b>Total</b>		1526	100.0	1395	100.0	2921	100

*Source: Household Survey, May 2005*

Qualitative results<sup>128</sup> did not reveal a different picture; it was acknowledged that there were gendered differences in land use. Larger proportions of parcels held by MHH and/ or male respondents were cultivated compared to those held by FHH and/ or female respondents. This scenario not only emanated from the disparity in size of parcels held i.e. owned but also is explained by the cultivation labour accessed by the two genders. NAADS re-affirmed that the people mainly involved in agriculture are women who in most cases do not own the land they till and yet they need a lot of land to increase their produce. In these terms gender is addressed as a development issue to encourage freedom of access to work on land as the produce benefits them (the entire household). Increased production is looked at in terms of expansion of land under cultivation yet access to land remains uneven between women and men.

### 3.1.4 Land and Household Incomes

Inequality of land ownership between women and men has been found to correlate positively with household welfare. More important for poverty, however, is inequality of access, which means many poorer farmers (the bulk of whom are women) are either unable to access land, or can only do so on very unfavorable terms. This increases the vulnerability of livelihoods in both rural and urban areas, and in some cases through inhibiting or prohibiting specific income-generating activities<sup>129</sup>.

Results from this survey (Table 3.6) show that crop and crop product sales is the predominant income option (57%) across households; but more predominantly in MHHs at 57.1% compared with FHH at 55.2%. Since crop production mainly utilizes land, then the result shows a strong inclination of the respondents to 'land based livelihoods'. This is

<sup>128</sup> Poverty and Gender Advisor, NAADS<sup>129</sup> Issues Paper for the National Land Policy, Page 25

followed by salary earnings rated at 12%, which contributes 13.3% in MHHs and is an alternative income rated at 4.5% in FHH.

**Table 3.6: Incomes by Household Category**

Main Source of Income in Past 2 Years (Responses)	Household Category						Total	
	FHH		MHH		CHH		n	Col %
	n	Col %	n	Col %	n	Col %		
Livestock/ Livestock Product Sales	30	4.7	195	6.4	2	10.0	227	6
Crop/ Crop Product Sales	354	55.2	1742	57.1	9	45.0	2105	57
Rent from land/ housing	16	2.5	17	0.6	2	10.0	35	1
Salary	29	4.5	405	13.3	1	5.0	435	12
Family Remittances	76	11.9	97	3.2	1	5.0	174	5
Petty Trading/Market Stall/ Vending	80	12.5	263	8.6	3	15.0	346	9
Shop Operation	21	3.3	128	4.2			149	4
Carpentry/mechanic/ wage earning	31	4.8	196	6.4	1	5.0	228	6
Others	4	0.6	8	0.3	1	5.0	13	0
<b>Total</b>	<b>641</b>	<b>100.0</b>	<b>3051</b>	<b>100.0</b>	<b>20</b>	<b>100.0</b>	<b>3712</b>	<b>100</b>

*Source: Household Survey, May 2005*

The result above, for both categories of households, the lead income options are all land based; implying that ‘certainty’- tenure security on land is an income determining factor, which brings to the fore front the role of land in securing livelihoods and ensuring poverty reduction. Further analysis by contributions to incomes showed husbands to dominate in MHHs at a rating of 60.3% while wives were rated at a mere 5.9%. ‘Both spouses equally averaged 17.1% with equal ratings of 20.3% amongst husbands and wives as shown in Table 3.7.

**Table 3.7: Contribution to Household Income by Sex of Respondent**

Responses	Household Category						Total	
	FHH		MHH				n	Col%
	Female		Female		Male			
	n	Col%	n	Col%	n	Col%		
Husband (Includes ‘my self for husbands’)			946	68.3	1223	74.5	2169	60.3
Wife (Includes ‘myself for wives’)			129	9.3	85	5.2	214	5.9
Female children	55	9.6	17	1.2	18	1.1	90	2.5
Male children	89	15.6	28	2.0	40	2.4	157	4.4
Wife’s Relative					5	0.3	5	0.1
Husbands Relative	18	3.2	4	0.3			22	0.6
Both Spouses equally			281	20.3	333	20.3	614	17.1
Myself (Widow)	367	64.3					367	10.2
Myself (Single/ divorced /separated )	63	11.0					63	1.8
Parents	8	1.4	3	0.2	5	0.3	16	0.4
Total	571	100.0	1386	100.0	1642	100.0	3599	100.0

*Source: Household Survey, May 2005*

This result reinforcing the findings on sizes of land accessed and levels of principle cultivation between genders. Due to smaller land holding and relatively lower levels of cultivation, women were found to be contributing less to household incomes. Further qualitative analysis however, revealed a strong tendency in the households to attribute incomes to husbands and/ or men due to land ownership, a factor used by men to take charge of produce hence accruing incomes.



### 3.1.5 Incomes on Titled Vs Non-Titled Land

The baseline had sought to compare production on titled and non-titled land; however, due to recall biases<sup>130</sup> on production levels on the part of respondents' the study relied on valuations of production (incomes) other than actual production. Overall for the period 2003-2004, average (median) incomes on titled parcels (245,867/=) are twice those of non-titled parcels (157,398/=). Results also show male respondents attesting to average (median) incomes (368,650/=) that are 3 times those attested to by females (123,083/=) on titled land parcels in the same period. On non-titled parcels males attest to incomes (185,083/=) that are 1.4 times higher than those attested to by females (129,708/=) as shown in Table 3.7b.

**Table 3.7b: Incomes on Titled and Non-Titled Land**

Aggregated Principle Parcel Incomes		Land Holding Category				Total	
		Titled Land		Non-Titled Land			
		Male	Female	Male	Female		
Region	Northern	Mean	441,227	625,575	259,846	222,326	270,695
		Median	249,600	120,000	89,000	76,667	83,333
		Valid N	29	16	319	234	616
	Eastern	Mean	165,926	72,857	204,432	218,662	209,532
		Median	580,000	150,000	380,000	300,000	300,000
		Valid N	12	12	412	450	922
	Central	Mean	867,263	400,892	474,056	240,609	396,158
		Median	323,333	155,667	153,333	72,333	138,000
		Valid N	39	50	219	268	594
	Western	Mean	414,333	235,641	277,853	231,651	259,550
		Median	321,667	66,667	118,000	69,833	97,333
		Valid N	26	30	358	353	787
	Total	Mean	472,187	333,741	304,047	228,312	283,984
		Median	368,650	123,083	185,083	129,708	154,667
		Valid N	106	108	1308	1305	2919

*Source: Household Survey, May 2005*

From the result above, it is evident that more equitable distribution of incomes between females and males is experienced on non-titled land than on titled land. This result reflects other income vis-à-vis land ownership parameters like land use, parcels sizes and access to investment capital, which ordinarily favour males than females hence mirror the differences in overall incomes accruing from parcels both titled and non-titled.

## 3.2 LAND OWNERSHIP AND SECURITY OF TENURE

Insecurity of land tenure threatens livelihoods, particularly among specific vulnerable groups, many of whom are already among the poorest. At the household level, insecurity of tenure or the structure of tenure rights do impact on certain types of investment, for example the construction of permanent structures or the planting of income-generating trees<sup>131</sup>. Secure rights to land underpin the sustainability of livelihoods by providing a secure basis on which to plan and invest for the future, and even by providing security to consider wider livelihood options<sup>132</sup>.

### 3.2.1 Land Acquisition

Gender differences are visible in the survey results in terms of acquisition of land. The survey is informed by the paradigm that within the household, the way in which land rights are assigned or will be transferred through inheritance or other means will affect the range of land and non-land-related economic opportunities open to women and the spending

<sup>130</sup> Almost all respondents did not keep records of their incomes be it agricultural production or rental.

<sup>131</sup> McKinnon & Reinika, 2000; Marsh & Laker, Social Appraisal, Land Act Implementation Study, 1999

<sup>132</sup> Issues Page for the National Land Policy, page 25

outcomes directly under their control. Survey results on land acquisition show disparities in land acquisition modes by region as depicted in Table 3.8 below.

**Table: 3.8: Means of Land Access by Region**

How Parcel was Acquired (Counts)	Region								Total	
	Northern		Eastern		Central		Western		n	Col%
	n	Col%	n	Col%	n	Col%	n	Col%		
Purchased	176	22.2	383	40.4	561	61.3	398	42.8	1518	42.3
Gift/Inherited-Husband Family	492	62.0	519	54.7	252	27.5	436	46.9	1699	47.4
Gift/Inherited-Wives Family	8	1.0	13	1.4	30	3.3	29	3.1	80	2.2
Borrowed in	14	1.8	7	0.7	8	0.9	5	0.5	34	0.9
Rented in	45	5.7	10	1.1	12	1.3	13	1.4	80	2.2
Share cropped in		0.0	4	0.4	1	0.1	2	0.2	7	0.2
Just settled	47	5.9	7	0.7	20	2.2	23	2.5	97	2.7
Gift/inherited- my relatives	11	1.4	5	0.5	31	3.4	24	2.6	71	2
Total	793	100.0	948	100.0	915	100.0	930	100.0	3586	100

*Source: Household Survey, May 2005*

Overall the main method of acquiring land was indicated as ‘gift and/ or inheritance from husbands’ family rated at 47.4%, with the Eastern and Northern regions having the highest rankings of this method of acquiring land at 54.7% and 62.0% respectively. Inheritance from husbands’ family was found evident in western Uganda at a rating of 46.9% while in the central region it was rated at 27.5%.

Interestingly, the overall rating for purchase nearly marched inheritance at 42.3%. Purchases of land were highest in the central region at 61.3%, closely followed by the Western region at 42.8%. The Eastern region rated purchases at 40.4% while the Northern region recorded the lowest purchases at 22.2%. The other methods of land acquisition barely garnered an overall rating of 3% in this survey as shown above (Table 3.8). Outstanding with regard to this result was the rating for purchase of 22.2% in the northern region; which is an indication of the gradual move from communal customary tenure to individualized tenure. The effects of pro-longed conflict in this region has a direct bearing on this rate, as movement of population occurs to areas, described as secure or to IDP camps. The worrying observation here was the rating (5.9%) for just settled in the Northern region; though small this is actually shows the complex land dynamics in this region.

There are unique factors in the central region such as speculation and the emergence of estate agencies, which are escalating the purchase levels. The disparities in land acquisition are indicative of several factors, first is tenure type, because the northern region is predominantly customary, which is governed by norms and values of a particular group or clan or community, this makes inheritance and gifting the viable means of passing on land to the next generation.

A noticeable statistically difference occurs in inheritance levels where FHH recorded a lower (37.9%) compared to MHH with 49.3%. The results showed no significant statistical difference on purchases where FHH rated 40.4% and MHHs stood at 42.9%. The full result is shown in Table 3.9. Whereas borrowing, renting and sharecropping land are coping measures for those with less endowment, they are also indicators of vulnerability with respect to access to productive land resources. These phenomena were found more prevalent in FHH compared to MHH (Table 3.9 below). Again ‘just settled’ was stronger amongst FHH than in MHH. Within CHHs borrowing and just settling land are significant means of acquiring access and user rights ranked at 12.5% and 12.5% respectively.

**Table 3.9: Means of Acquiring Land by Household Category**

Counts		Household Category						Total	
		FHH		MHH		CHH		n	Col %
		n	Col%	n	Col%	n	Col%		
	Purchased	249	40.4	1268	42.9	1	6.3	1518	42.3
	Gift/Inherited from Husbands Family	234	37.9	1457	49.3	8	50.0	1699	47.4
	Gift/Inherited from Wives Family	58	9.4	22	0.7		0.0	80	2.2
	Borrowed in	8	1.3	24	0.8	2	12.5	34	0.9
	Rented in	16	2.6	63	2.1	1	6.3	80	2.2
	Share cropped in	2	0.3	4	0.1	1	6.3	7	0.2
	Just settled	26	4.2	69	2.3	2	12.5	97	2.7
How Parcel was Acquired	Gift/inherited from my relatives	24	3.9	46	1.6	1	6.3	71	2
<b>Total</b>		617	100.0	2953	100.0	16	100.0	3586	100

*Source: Household Survey, May 2005*

It's apparent from these results that many more individuals and households are acquiring land through purchase. This result is a pointer to probable depletion of inheritable lands and changing occupational effects where dual purchases are becoming more significant compared to singular inheritance.

### 3.2.2 Evidence to Land Ownership

**Table 3.10: Evidence of Land Ownership by Region**

Counts What document do you have	Region								National	
	Northern		Eastern		Central		Western		n	Col %
	n	Col%	n	Col%	n	Col%	n	Col%		
Have a leasehold title	27	3.5	11	1.2	43	4.9	21	2.3	102	2.9
Have a freehold/ Mailo title	36	4.7	12	1.3	64	7.3	34	3.7	146	4.2
Have a purchase agreement	163	21.1	362	39.4	471	53.8	336	36.8	1332	38.4
Have only a will	29	3.8	105	11.4	60	6.9	127	13.9	321	9.2
No document	516	66.9	428	46.6	237	27.1	395	43.3	1576	45.3
<b>Total</b>	771	100.0	918	100.0	875	100.0	913	100.0	3477	100

*Source: Household Survey, May 2005*

The survey explored the existence of documentary evidence to ownership. Results showed 45.3% of all the parcels of land by respondents did not have any document to show ownership of land. This was highest in the Northern region at 66.9% and lowest in the central region at 27.1%. The most prevalent type of documentary evidence to land was found to be purchase agreements rated at 38.4%; highest in the central region (53.8%) and lowest in the northern region at 21.1%. The full result by region is shown in Table 3.10.

**Table 3.11: Evidence of Land Ownership by Household Category**

Counts Documentary Evidence to Land Ownership	Household Category						National	
	FHH		MHH		CHH		n	Col %
	n	Col%	n	Col%	n	Col%		
Have a leasehold title	20	3.4	82	2.9			102	2.9
Have a freehold/Mailo title	23	3.9	123	4.3			146	4.2
Have a purchase agreement	208	34.9	1124	39.3			1332	38.4
Have only a will	62	10.4	256	8.9	3	15.8	321	9.2
No document	283	47.5	1277	44.6	16	84.2	1576	45.3
<b>Total</b>	596	100.0	2862	100.0	19	100.0	3477	100

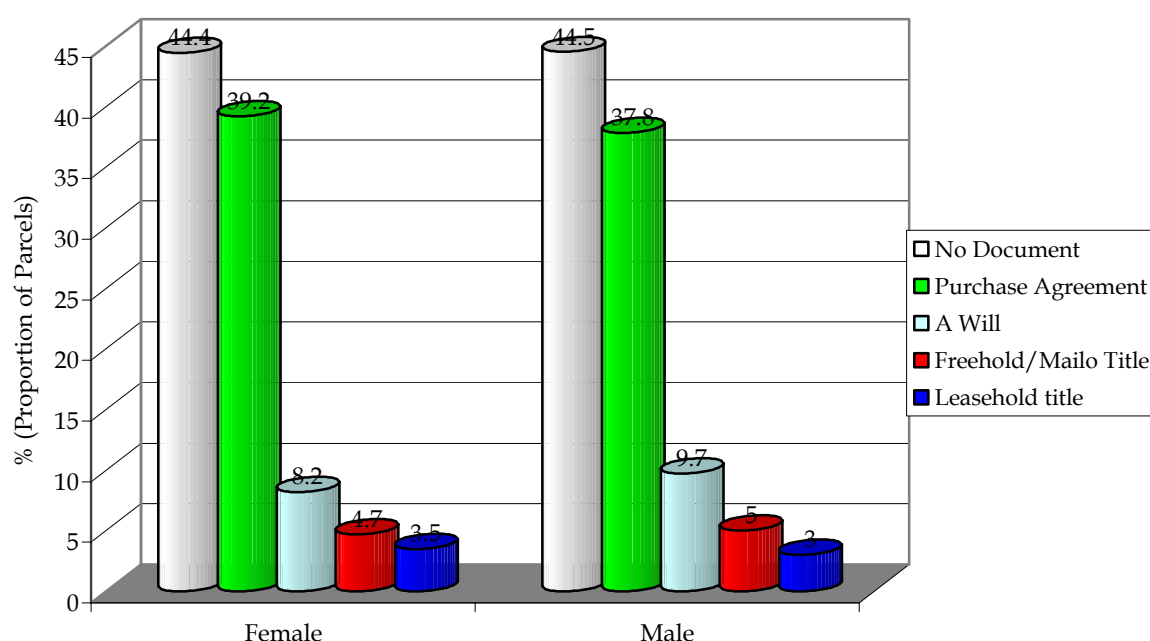
*Source: Household Survey, May 2005*

By sex of household head, results show slightly less parcels of land held by MHH (44.6%) to have no document at all to show ownership compared to those held by FHH (47.5%). On

the other hand more parcels held by MHH (39.3%) have purchase/ sale agreements as evidence of ownership compared to 34.9 held by MHH. Both categories of households hold less than 5% of their parcels either under leasehold and/ or freehold as shown in Table 3.11 above.

Although inheritance by virtue of these results is no longer the primary method of acquiring land rights, in households where it happens, it is still culturally tilted to serve patrilineal interests. This is confirmed by the fact that rights in land are ascertained by a will on 9.2% of the parcels held. The result above affirms a positive change from strong reliance on social relations to have greater access and use of productive land by women headed households to purchase as evidenced by the level of parcels with purchase agreements. Further analysis by respondent sex shows a matched pattern between females and males is depicted in Figure 3.11.

**Figure 3.11: Evidence to Land Ownership by Respondents Sex**



Source: Household Survey, May 2005

Results show males and/ or male headed households to be more endowed with evidence to land ownership either as titles or other forms of documents than females and/ or female headed households. These results supplement the findings on parcel acquisition methods.

### 3.2.3 Custody of Evidence to Land Ownership

It has often been argued that women's land rights are of a secondary nature, acquired through their husbands and male relatives. As a consequence, women's ability to have independent land ownership in the event of death of a husband or divorce is limited<sup>133</sup>. Overall in this survey, amongst parcels with documentary evidence, 68.4% had this evidence in the names of husbands. This observation was found more prevalent in MHH (74.2%) than in FHH (34.7%). However, the parcels that had documentary evidence in both spouses' names were 5.7% as shown in Table 3.12 below. The result, affirms that women land rights are generally secondary; less than 40% of all parcels with documentary held by FHH actually have this evidence in women's names.

<sup>133</sup> PEAP Sector Paper for Land Sector

**Table 3.12: Land Ownership Documents by Household Category**

Responses		Household Category				Total	
		FHH		MHH		n	Col %
		n	Col %	n	Col %		
Names Appearing on Land Ownership Documents	Both Husbands and wives	9	2.4	136	6.3	145	5.7
	Husband	128	34.7	1601	74.2	1729	68.4
	Wife	3	0.8	108	5.0	111	4.4
	Female children	8	2.2	11	0.5	19	0.8
	Male Children	27	7.3	36	1.7	63	2.5
	Mine (widow)	86	23.3			86	3.4
	Mine (Single/ divorced /separated females)	49	13.3			49	1.9
	Mine (single male)			39	1.8	39	1.5
	Husbands relative	20	5.4	167	7.7	187	7.4
	Wife's relative	16	4.3	8	0.4	24	0.9
	Others	23	6.2	53	2.5	76	3
Total		369	100.0	2159	100.0	2528	100.0

*Source: Household Survey, May 2005*

Analysis from the perspective of respondents' sex shows a similar pattern, amongst all parcels with documentary evidence held by females only 21% are exclusively in women's names as shown in Table 3.13.

**Table 3.13: Land Ownership Documents by Respondents Sex**

Responses		Respondents Sex				Total	
		Female		Male		n	Col %
		n	Col %	n	Col %		
Names Appearing on Land Ownership Documents	Both Husbands and wives	75	5.6	70	6.4	145	6.0
	My husbands	835	62.3	788	72.5	1623	66.8
	My wife's	13	1.0	32	2.9	45	1.9
	Female children	14	1.0	5	0.5	19	0.8
	Male Children	45	3.4	18	1.7	63	2.6
	Mine (widow)	159	11.9			159	6.5
	Mine (Single/ divorced /separated females)	50	3.7			50	2.1
	Mine (single male)			37	3.4	37	1.5
	Husbands relative	94	7.0	93	8.6	187	7.7
	Wife's relative	20	1.5	4	0.4	24	1.0
	Others	36	2.7	40	3.7	76	3.1
Total		1341	100.0	1087	100.0	2428	100.0

*Source: Household Survey, May 2005*

This result is across tenures, and is a proxy indicator of tenure security. It highlights the fact that the role women in households, is not matched or is rather excluded when individualization and invariable adjudication of land takes place. The registered names in the documentation are evidently for the males. There was hardly any male spouse (respondent) attesting to land ownership documents being in the names of the wife standing at only 1.9% as shown in Table 3.13 above.

Clearly specified rights in land evidenced by documentary proof enjoy broad recognition and have important equity benefits. These equity effects accrue and come to women, the poor, and other vulnerable groups whose rights have historically been neglected and who are least able to take costly measures to defend their land rights<sup>134</sup>. There are two aspects of equity, which require attention in this baseline; the aspect of power relations and the aspect of decisions making as affirmed by custody of land ownership documents. The custody of documentary evidence of ownership is a manifest of authority and power on land in the

<sup>134</sup> Denninger, 2002, Land Policy for Poverty Eradication and Growth

household. It is also a show of trust and confidence, between the parties in the household. But for females, it guarantees a level of security by limiting vulnerability. Survey results show that 60.3% of all parcels with documentary evidence to ownership have this evidence in the custody of husbands. Amongst females, this rated at 51.5% and amongst males at 70% as shown in Table 3.14 below.

**Table 3.14: Custody of Land Ownership Documents by Respondent Sex**

Parcel Responses		Respondents Sex				Total	
		Female		Male		n	Col %
		n	Col %	n	Col %		
Custody of the Land Ownership Document	Both Husband and Wife	113	8.8	94	8.1	207	8.5
	My husband	664	51.5	808	70.0	1472	60.3
	My wife	112	8.7	59	5.1	171	7
	Female children	7	0.5	4	0.3	11	0.5
	Male children	30	2.3	15	1.3	45	1.8
	My self (widow)	141	10.9			141	5.8
	My self (Single/ divorced /separated females)	44				44	1.8
	Myself (single male)			32	2.8	32	1.3
	Husbands relative	101	7.8	72	6.2	173	7.1
	Wife's relative	24	1.9	2	0.2	26	1.1
	It got lost	42	3.3	49	4.2	91	3.7
	Others	11	0.9	19	1.6	30	1.2
<b>Total</b>		1289	100.0	1154	100.0	2443	100

*Source: Household Survey, May 2005*

Only 7% of the parcels have the documentary evidence in the custody of wives. This result serves to affirm that land has a defining effect on power relations between women, men, boys and girls. This result also shows persistence of societal practices, often taken as norms and in certain instances termed 'culture'. In reality this result reflects a higher level of subjugation of women's away from the cultural/ traditional arena to the formal rights realm.

### 3.2.4 Perspectives on Land Ownership between Spouses

The survey explored the various perspectives respondents had on spousal ownership of land. The key investigation issue here was equitable ownership of the key productive resource between husband and wife through co-ownership. The survey found an overall approval rating for spouses to co-own land of 61.4%; and the disapproval rating was 24.6%, while those who did not know and/ or were not sure were 14%. All regions gave an above average approval rating as shown in Table 3.15.

**Table 3.15: Opinions on Spousal Land Ownership by Region**

Whether Respondent Agrees with Co-ownership between Spouses	Region								Total	
	Northern		Eastern		Central		Western		n	Col %
	n	Col %	n	Col %	n	Col %	n	Col %		
Yes	444	56.7	578	63.6	519	59.6	582	65.1	2123	61.4
No	174	22.2	243	26.7	255	29.3	177	19.8	849	24.6
Doesn't Know	165	21.1	88	9.7	97	11.1	135	15.1	485	14
<b>Total</b>	783	100.0	909	100.0	871	100.0	894	100.0	3457	100

*Source: Household Survey, May 2005*

Within the regions, the highest approval rate was in the western region (65.1%) and in the Eastern with 63.6%, the central and the northern region had the least approvals standing of 59.6% and 56.7%. Outright disapproval was highest in the central region at 29% followed by Eastern at 26.7%. In the western and northern regions, disapprovals were at 19.8% and 22.2% respectively. Outstanding; however, was the level of 'doesn't know' highest in the

Northern region at 21.1% and lowest in the Eastern region at 9.1%. Analysis by household category reveals that more (62.5%) respondents from MHH approved of co-ownership between spouses as opposed to 56% from FHH as shown in Table 3.16.

**Table 3.16: Opinions on Spousal Land Ownership by Household Category**

Whether Respondent Agrees with Co-ownership between Spouses	Household Category						Total	
	FHH		MHH		CHH		n	Col %
	n	Col %	n	Col %	n	Col %		
Yes	300	56.0	1818	62.5	5	45.5	2123	61.4
No	89	16.6	756	26.0	4	36.4	849	24.6
Doesn't Know	147	27.4	336	11.5	2	18.2	485	14
<b>Total</b>	<b>536</b>	<b>100.0</b>	<b>2910</b>	<b>100.0</b>	<b>11</b>	<b>100.0</b>	<b>3457</b>	<b>100</b>

*Source: Household Survey, May 2005*

Disapproval at this level was skewed more to the MHH (26%) than FHH (16.6%). The reverse of this pattern was apparent with regard to the levels of not knowing and /or not having a clear opinion with FHH rating 27.4% while MHH rated 11.5%. This result analyzed by respondent sex, shows that more female respondents (66.5%) compared to males (55.5%) support co-ownership. With regard to disapproval, out of the 24.6% respondents who are not for co-ownership, there were twice more male respondents (35%) compared to females (15.5%). Among those having no clear opinion and/ or did not know, the proportion of women is twice that of men at 18.0% compared to 9.4% as depicted in Table 3.17.

**Table 3.17: Opinions on Spousal Land Ownership by Respondents Sex**

Counts		Respondents Sex				Group Total	
		Female		Male		n	Col %
		n	Col %	n	Col %		
Whether Respondent Agrees with Co-ownership between Spouses	Yes	1238	66.5	885	55.5	2123	61.4
	No	289	15.5	560	35.1	849	24.6
	Doesn't Know	335	18.0	150	9.4	485	14
<b>Group Total</b>		<b>1862</b>	<b>100.0</b>	<b>1595</b>	<b>100.0</b>	<b>3457</b>	<b>100</b>

*Source: Household Survey, May 2005*

Scrutiny of the reasons behind the opinions expressed reveals the most outstanding reason for disapproving co-ownership cited was customs being prohibitory of land ownership for women rated highest at 28.3%, followed by the reason that inherited land endows uneven rights over it rated at 24.1%. Opportunistic remarriages were rated at 12.4% while a rating of 10.6% was attributed to the complacency amongst men and women that 'household land is for children, no body would sell it' (Table 3.18).

**Table: 3.18: Reasons for Disapproving of Co-ownership**

Whether Respondent Agrees with Co-ownership between Spouses: No	Respondents Sex				Total	
	Female		Male		n	Col %
	n	Col %	n	Col %		
Reasons for Disagreeing						
I am the head, authority on everything is under me	8	4.3	40	7.1	48	6.4
For us women we are still oppressed and suppressed by men	22	11.8	7	1.2	29	3.9
Inherited this land, implying more powers	34	18.2	146	26.0	180	24.1
the land is for the children, no body would sell it	22	11.8	57	10.2	79	10.6
Women will claim more than they invested	6	3.2	55	9.8	61	8.2
It was the effort of my husband, it is obvious the land is his	35	18.7	11	2.0	46	6.1
It is custom a woman is not supposed to inherit land	50	26.7	162	28.9	212	28.3
Women can divorce and get married elsewhere	10	5.3	83	14.8	93	12.4
<b>Total</b>	<b>187</b>	<b>100.0</b>	<b>561</b>	<b>100.0</b>	<b>748</b>	<b>100.0</b>

*Source: Household Survey, May 2005*

For respondent who approved of co-ownership, the reason rated most was household land belongs to both husband and wife (36.5%); followed by the reasoning that the key behind co-ownership are the children rated at 15.2% and the realization that with co-ownership there would be not disturbance to the family in event of one spouse dying rated at 13.7%. The contribution of both spouses was rated at 10.3% while the realization that this would be a good strategy of quelling strives between husbands and wives was rated at 10.9 as shown in Table 3.19.

**Table 3.19: Reasons for Approving of Co-ownership**

Whether Respondent Agrees with Co-ownership between Spouses: Yes	Respondents Sex				Total	
	Female		Male		n	Col %
Reasons for Agreeing	n	Col %	n	Col %		
The land is for the children, no body would sell it	68	4.5	53	4.5	121	4.5
Women would contribute to buying land in the family	26	1.7	27	2.3	53	2.0
No relatives would disturb in event of death	229	15.0	139	11.9	368	13.7
There will be motivation to invest	58	3.8	44	3.8	102	3.8
Help stop husbands selling without consent of wives	67	4.4	18	1.5	85	3.2
Land belongs to both husband and wife	521	34.2	460	39.5	981	36.5
If both contributed then why not	156	10.2	121	10.4	277	10.3
This is a recipe for strife between husbands and wives	169	11.1	125	10.7	294	10.9
It is for children parents should own together	230	15.1	179	15.4	409	15.2
<b>Total</b>	<b>1524</b>	<b>100</b>	<b>1166</b>	<b>100.0</b>	<b>2690</b>	<b>100.0</b>

*Source: Household Survey, May 2005*

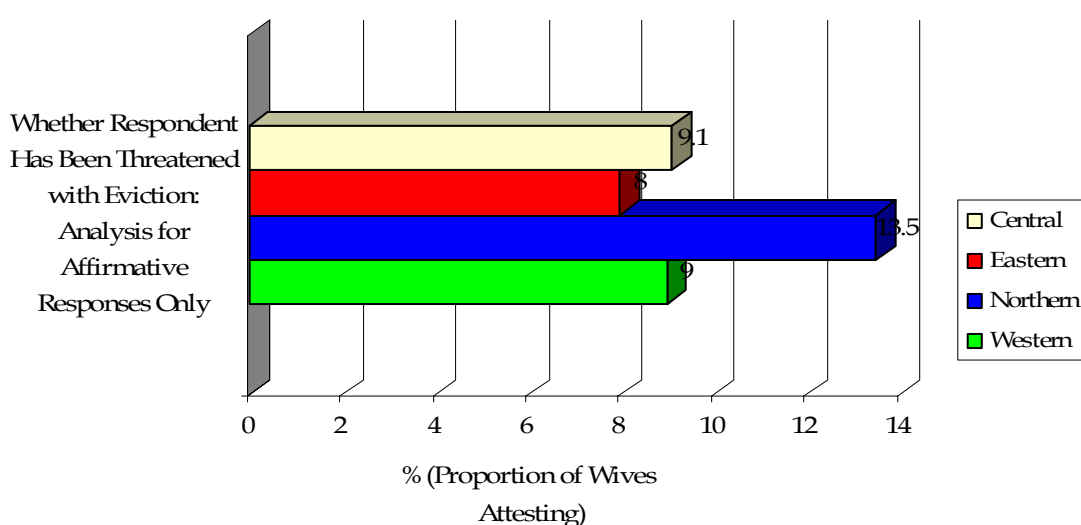
Key informant from government indicated that gender was a societal issue; and changing; thus, equitable land rights for women were nearly impossible due to imbalances in economic empowerment. This it was argued is premised on the subsistence nature of activities undertaken by women. A finding confirmed by the result on exclusive garden control; it was recommended that at the level that sensitization efforts on gender and land need to specifically target men and blend in issues of economic progression for women at household and individual level.

### 3.2.5 Threat of Evictions

The threat of eviction in event of breakdown of marital and family relations is a fear that affects the level of confidence to invest and/ or undertake activities both short and long term on a parcel of land. This fear is compounded by increased predisposition to loss of control over the productive resource and/ or proceeds accruing. However, confidence to invest even at the most micro-level is influenced by a host of factors, most of which could be beyond the land sector. In spite of this, living under the possibility of becoming landless as a result of threatened eviction is a more plausible means of assessing tenure security under local conditions; where there is hardly any monetary investment except for 'in-kind investments' like herding, cultivation and cropping labour. This specifically holds with respect to household social and economic conditions that pertain to women in Uganda. This section on evictions presents data from the survey attributable to only wives.

Results show that out of 1,374 wives who volunteered responses on whether they had ever been threatened to be chased off the land, 9.8% answered in the affirmative while 90.2% answered in negative. Amongst those (wives) attesting to eviction threats, most (13.5%) were from the Northern region as shown in Figure 3.12 below. According to results wives rated their spouses most (66.7%) as persons who threaten them with eviction. Husbands' relatives came next with a rating of 21.5%. It can be observed from the result (Table: 3.20) that the rating for abusive husbands relatives was highest in the northern region (31%) and least in the western region (13.8%) as depicted below in table 3.20.



**Figure 3.12: Eviction Threats to Wives by Region**

Source: Household Survey, May 2005

**Table 3.20: Persons Involved in Eviction Threats by Region**

Person who usually threatens Wife with Eviction (Responses)	Region								Total	
	Northern		Eastern		Central		Western		n	Col %
	n	Col %	n	Col %	n	Col %	n	Col %		
My husband	26	61.9	23	71.9	20	62.5	21	72.4	90	66.7
My husbands relatives	13	31	6	18.8	6	18.8	4	13.8	29	21.5
My own relatives	1	2.4	1	3.1	1	3.1			3	2.2
My brothers	1	2.4	1	3.1	1	3.1	3	10.3	6	4.4
My children	1	2.4	1	3.1	4	12.5	1	3.4	7	5.2
<b>Total</b>	42	100	32	100	32	100	29	100	135	100

Source: Household Survey, May 2005

Several causes of evictions were enumerated amongst them, disagreements over ownership of land was ranked highest at 22.5%, followed by land ownership disagreements at 22.2%, competing interests due to polygamy were rated at 20.6% while competing inheritance interests were scored at 14.7%. Interestingly drunkenness was rated at 19.6% as a cause of eviction threats. The full result is shown in Table 3.21.

**Table 3.21: Persons Involved in Eviction Threats by Region**

Causes of Eviction Threats Against Wives (Responses)	Region								Total	
	Northern		Eastern		Central		Western		n	Col %
	n	Col %	n	Col %	n	Col %	n	Col %		
Coercion with intent to grab land	1	3.7	1	3.7	1	4.8	3	11.1	6	5.9
Competing inheritance interests	6	22.2	4	14.8	1	4.8	4	14.8	15	14.7
Competing interests due to polygamy	4	14.8	5	18.5	5	23.8	7	25.9	21	20.6
Fraudulent land sales	2	7.4					2	7.4	4	3.9
Drunkenness	6	22.2	5	18.5	5	23.8	4	14.8	20	19.6
Fear of independence due to owning land	1	3.7	2	7.4	1	4.8			4	3.9
Land use disagreements	4	14.8	4	14.8			1	3.7	9	8.8
Land ownership disagreements	3	11.1	6	22.2	8	38.1	6	22.2	23	22.5
<b>Total</b>	27	100	27	100	21	100	27	100	102	100

Source: Household Survey, May 2005

Results further show that eviction threats serve as a disincentive to invest in long term developments (52.7%) and even in the short term discourage the extension to which cultivation can be undertaken (34.5%); in addition to one losing land altogether (15.5%). Within regions, wives in the central and western rank inability to invest in long term development highest (over 70% in both instances) while those in the eastern tend to have the two major effects of evictions affecting them at an even level. In the northern region, the leading effect different from the other regions is scale back of cultivation, rated highest at 51.4% as shown in Table 3.22.

**Table 3.22: Effects of Eviction Threats**

How Eviction Threats have Affected Wives	Region								Total	
	Northern		Eastern		Central		Western		n	Col %
	n	Col%	n	Col%	n	Col%	n	Col%		
Can't invest in long term developments	12	32.4	10	41.7	20	74.1	16	72.7	58	52.7
Have scaled back cultivation	19	51.4	10	41.7	5	18.5	4	18.2	38	34.5
Have eventually lost land	6	16.2	4	16.7	4	14.8	3	13.6	17	15.5
Total	37	100.0	24	100.0	27	100.0	22	100.0	110	100

*Source: Household Survey, May 2005*

Using Spearman's rank correlation coefficient (Table 3.23), the baseline also demonstrated that there is a positive relationship between the occurrence of eviction threats and the incidence of violence at the level of 34.6%; implying that in every 100 cases of eviction threats at least 34 of them result in violence.

**Table 3.23: Correlations between Eviction Threats and Violence**

Spearman's rho (Correlations)		Whether Respondent Has Been Threatened with Eviction	Whether Threats have involved some form of violence
Whether Respondent Has Been Threatened with Eviction	Coefficient	1	.346(**)
	Sig. (2-tailed)	.	0
	N	1374	157
Whether Threats have involved some form of violence	Coefficient	.346(**)	1
	Sig. (2-tailed)	0	.
	N	157	171

\*\* Correlation is significant at the .01 level (2-tailed)\*\*

*Source: Household Survey, May 2005*

In terms of how to overcome threats to eviction, enactment of laws to safeguard rights is ranked highest (32.4%), followed by empowerment of women to claim their rights (21.6%) and having co-ownership between spouses (17.6%) as shown in Table 3.24 below.

**Table 3.24: How to Overcome Eviction Threats**

How Wives Can be Helped to Eviction Threats and Effects (Responses)	Region								Total	
	Northern		Eastern		Central		Western		n	Col %
	n	Col %	n	Col %	n	Col %	n	Col %		
Give women rights to own and use land	6	19.4	1	4					7	6.9
Enhance ease of accessing land titles	1	3.2	1	4	1	5.3	1	3.7	4	3.9
Empower women to claim their rights	4	12.9	7	28	5	26.3	6	22.2	22	21.6
Encourage women to their own land	1	3.2	2	8	4	21.1	1	3.7	8	7.8
Enact laws that protect rights over land	7	22.6	12	48	3	15.8	11	40.7	33	32.4
Advocate for women's rights over land	3	9.7			1	5.3	5	18.5	9	8.8
Stop inheritance when either parent is alive	1	3.2							1	1
Having co-ownership between spouses	8	25.8	2	8	5	26.3	3	11.1	18	17.6
Total	31	100	25	100	19	100	27	100	102	100

*Source: Household Survey, May 2005*

Results on eviction threats clearly show tenure insecurity as experienced by women, particularly those in marriage. Although the prevalence is not high, the severity on the other hand is an issue to contend with. Eviction threats shown set in motion a serious of

consequences that not only work to impoverish the affected but also result in grievous harm once violence sets. Fortunately, the remedies suggested by respondents (wives) above, depict issues that can adequately be responded to by the land sector since most boarder within the realm of legislation and policy.

### 3.2.6 Land and HIV/AIDS

Distribution of respondents by occurrence of HIV/AIDS in their households' shows that 28.7% of all the respondents included in the survey experienced loss of a household member to the scourge. It should be noted that only a few of these respondents were able to overcome stigma and freely discuss the effects of the scourge in their households. Findings show that amongst the various HIV/AIDS effects on households, land related issues featured prominently. The most outstanding effect was indicated as failure to make investments and/ or savings rated at 36.9%, followed by having less time and labour to farm (26.3%), scaling back of farming (15%) and sale of land to finance health expenses (11.3%). Sale of land to finance sustenance was rated at 3.8%. The variations by region are shown in Table 3.25 below.

**Table 3.25: HIV/AIDS Effects by Region**

Effects of HIV/AIDS in Households Responses	Region								Total	
	Northern		Eastern		Central		Western		n	Col %
	n	Col %	n	Col %	n	Col %	n	Col %		
Sold land to finance health	21	22.1	6	6.3	15	11.5	14	7.9	56	11.2
Sold land for sustenance	3	3.2	1	1	8	6.2	7	3.9	19	3.8
Land disputes with relatives	6	6.3			1	0.8	5	2.8	12	2.4
Scaled back farming relatives	18	18.9	17	17.7	17	13.1	23	12.9	75	15
Could not invests/save	15	15.8	37	38.5	53	40.8	79	44.4	184	36.9
Was evicted from land	3	3.2	2	2.1			1	0.6	6	1.2
Grand parents took over land	1	1.1			1	0.8			2	0.4
Land disputes with neighbors	3	3.2					1	0.6	4	0.8
Was evicted from land	3	3.2	2	2.1					5	1
Our land was subdivided	4	4.2					1	0.6	5	1
Less time to farm/ fewer persons	18	18.9	31	32.3	35	26.9	47	26.4	131	26.3
<b>Total</b>	<b>95</b>	<b>100</b>	<b>96</b>	<b>100</b>	<b>130</b>	<b>100</b>	<b>178</b>	<b>100</b>	<b>499</b>	<b>100</b>

*Source: Household Survey, May 2005*

Within regions, failure to make investments is most profound in the western region (44.4%) while less time and labour to farm were most significant in the eastern region (32.3%). Sale of land to finance health distress rated highest in the northern region at 22.1%.

**Table 3.26: HIV/AIDS Effects by Household Category**

Effects of HIV/AIDS in Households (Responses)	Household Category						Total	
	Female Headed		Male Headed		Child Headed		n	Col %
	n	Col %	n	Col %	n	Col %		
Sold land to finance health	12	7.7	40	12.4	2	16.7	54	11
Sold land for sustenance	5	3.2	11	3.4	2	16.7	18	3.7
Land disputes with relatives	6	3.8	4	1.2	2	16.7	12	2.4
Scaled back farming relatives	24	15.4	49	15.2	1	8.3	74	15.1
Could not invests/save	59	37.8	122	37.8	2	16.7	183	37.3
Was evicted from land	1	0.6	5	1.5			6	1.2
Grand parents took over land	1	0.6	1	0.3			2	0.4
Land disputes with neighbors	1	0.6	1	0.3	1	8.3	3	0.6
Was evicted from land			5	1.5			5	1
Our land was subdivided	1	0.6	4	1.2			5	1
Less time to farm/ fewer persons	46	29.5	81	25.1	2	16.7	129	26.3
<b>Total</b>	<b>156</b>	<b>100</b>	<b>323</b>	<b>100</b>	<b>12</b>	<b>100</b>	<b>491</b>	<b>100</b>

*Source: Household Survey, May 2005*

At household level, a similar pattern is observed in the effects of HIV/AIDS, Failure to make investments is predominant in both categories of households at a rating of 37.8%.

Less time and labour to come next in both categories of households at ratings of 29.5% and 25.1% in female and male headed households respectively as shown in Table 3.26 above. By sex of the respondents, failure to invest and/ or save was rated highest by both females and males. However, less time to farm was rated higher amongst females (30.2%) than amongst males (21.1%). Sale of land to finance health distress and scale back of farm activities were at almost the same levels by both females and males as depicted in the variations shown in Table 3.27.

**Table 3.27: HIV/AIDS Effects by Respondents Sex**

Effects of HIV/AIDS in Households (Responses)	Respondents Sex				Total	
	Female		Male		n	Col %
	n	Col %	n	Col %		
Sold land to finance health	29	10.1	26	12.4	55	11.1
Sold land for sustenance	11	3.8	8	3.8	19	3.8
Land disputes with relatives	9	3.1	3	1.4	12	2.4
Scaled back farming relatives	41	14.2	33	15.8	74	14.9
Could not invests/save	101	35.1	83	39.7	184	37
Was evicted from land	3	1	3	1.4	6	1.2
Grand parents took over land	1	0.3	1	0.5	2	0.4
Land disputes with neighbors	2	0.7	2	1	4	0.8
Was evicted from land	2	0.7	3	1.4	5	1
Our land was subdivided	2	0.7	3	1.4	5	1
Less time to farm/ fewer persons	87	30.2	44	21.1	131	26.4
<b>Total</b>	288	100	209	100	497	100

*Source: Household Survey, May 2005*

To establish the severity of the effects of HIV/AIDS in the context of land in the households, the baseline followed up three readily measurable effects. The sale of land to finance health and sustenance since these would readily demonstrate direct reductions in productive asset endowment of the household and individual. And, scale back of farming activities, would demonstrate short term effects especially food insecurity and loss of agricultural income.

Results overall show households that have gone through the HIV/AIDS cycle to have lost 2.1 acres of land in sales aimed at financing health, the worst affected are FHH in northern Uganda with average losses of 3.8 acres. With regard to sustenance, overall an average of 1.4 acres is lost in sales. Worst affected again are FHH in northern Uganda and MHH in western Uganda both with average losses of about 3 acres. Scale back of farming activities is again worst in the northern region amongst FHH which experience scale backs of 1.5 to 3.5 acres as shown in Table 3.28.

**Table 3.28: Sale and Scale Back of Land by Household Category**

Land in Acres		Analysis of Averages (Means and Medians) by Region										Total
		Northern			Eastern		Central		Western			
		FHH	MHH	CHH	FHH	MHH	FHH	MHH	FHH	MHH	CHH	
Sold to Finance Health	Mean	3.8	2.4	5	1	3	0.9	1.3	0.8	3	1	2.1
	Median	2	2	5	1	2	1	1	1	2	1	1
	Valid N	N=4	N=18	N=1	N=1	N=3	N=5	N=22	N=3	N=9	N=1	N=68
Sold to Finance Sustenance	Mean	3	1	1		1.5	1.3	1.3	0.8	3	1	1.4
	Median	3	1	1		1.5	1	1	0.8	3	1	1
	Valid N	N=1	N=1	N=1		N=1	N=3	N=7	N=2	N=1	N=1	N=18
Scaled back from cultivation	Mean	3.5	1.43	0.75	0.6	1.34	0.87	1.41	1.09	1.26	1	1.35
	Median	1.5	1	0.75	0.5	1	1	1	1	1	1	1
	Valid N	N=4	N=15	N=2	N=5	N=10	N=6	N=17	N=12	N=18	N=1	N=92

*Source: Household Survey, May 2005*

Analysis of this result by sex shows males in the northern and western regions to be worst affected by sales (on average lose over 2 acres) aimed at financing health expenses due to HIV/AIDS while sustenance sales worst affect females in northern Uganda who incur

losses of up 3 acres. Scale backs are most prominent in the eastern (1.8 acres) and in the central (1.8 acres) as depicted in Table 3.29.

**Table 3.29: Sale and Scale Back of Land by Respondents Sex**

Land in Acres		Analysis of Averages (Means and Medians) by Sex								Total
		Northern		Eastern		Central		Western		
		F	M	F	M	F	M	F	M	
Sold to Finance Health	Mean	2	2.9	1	3	1.2	1.3	1.5	2.6	2.1
	Median	2	3	1	2	1	1	1	2	1
	Valid N	N=9	N=14	N=1	N=3	N=14	N=13	N=3	N=10	N=68
Sold to Finance Sustenance	Mean	3	1	1.5	.	1.3	1.3	1.5	1	1.4
	Median	3	1	1.5	.	1	1	1	1	1
	Valid N	N=1	N=2	N=1	N=0	N=6	N=4	N=3	N=1	N=18
Scaled back from Cultivation	Mean	1.3	1.5	0.5	1.8	1	1.7	1.2	1.2	1.4
	Median	1	1	0.3	1	1	1	1	1	1
	Valid N	N=8	N=13	N=8	N=7	N=14	N=10	N=15	N=16	N=92

*Source: Household Survey, May 2005*

The results above show HIV/AIDS not only having direct effects on land in terms of reduced productivity, but setting in motion a series of redistributive effects manifest land sales. These redistributive tendencies have a profound effect on sustainable resilience households and individuals can have to survive the multifaceted effects of HIV/ AIDS. Qualitative evidence in this survey showed that land is often the last amongst assets to be liquidated, except in instances where the endowment is reasonable. This implies that once sale of land takes place, the household and individuals, virtually become destitute with hardly any capital and diminished chances of recouping even when the scourge is no more in their midst.

### 3.2.7 Applications for Land Registration

The survey enlisted information on fresh applications for land from 14 District Land Board (DLB) offices. Of these, the northern, eastern and central regions each had 4 DLBs while in the western region only two DLBs that volunteered information on applications received and processed. From these DLBs, results for the period (2003-2004) show a total of 1,631 applications for land were received, of which 634 (39%) were for urban land and 997 (61%) were for rural land. The distribution of these applications by region is shown in Table 3.30 below.

**Table 3.30: Applications Received by District Land Boards (2003-2004)**

Applications 2003-2004 (Counts)	Regions								Total	
	Northern		Eastern		Central		Western			
	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural
Only Woman	23	44	16	8	51	22	21	10	111	84
Joint Women Only	9	2	4	1	24	19	10	5	47	27
Joint Men & Women	11	4	24	11	41	19	12	10	88	44
Men (Joint +Singular)	84	428	68	43	112	118	124	253	388	842
All Applicants	127	478	112	63	228	178	167	278	634	997

*Source: District Land Board Records Extraction (Gender Survey), May, 2005*

From the results above, the proportion of applications from women singly applying for land was 12% (n=195), of which 57% (n=111) were for urban land while 43% (n=84) were for rural land. Overall, urban joint applications were 135 while rural joint applications were 71. Of all joint urban land applications 47 (35%) were between women while 88 (65%) were between women and men. For rural joint applications, 38% (n=27) were between women and women while 62% (n=44) were between women and men. The distribution of successful and pending applications is shown in Table 3.31 below.

Analysis of successful and rejected and/ or pending applications is shown in Table 3.31 above. It should be noted that successful and pending/ rejected applications in a particular year are not necessarily those received in that year. Thus, comparative analysis at this level is impossible. However, estimation of the rate of work can still be deduced from relating received applications and processed applications in a given time period. Results show total applications successful in the one year preceding the survey (2003-2004) were 900 where 547 (61%) were for urban land while those pending were 532 (where 238 (45%) were for urban land) and the rejected applications in the same period were 64.

**Table 3.31: Successful, Pending and Rejected Applications by DLBs (2003-2004)**

Successful Applications (Counts)	Regions								Table Total	
	Northern		Eastern		Central		Western			
	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural	Urban	Rural
All	103	31	35	14	129	14	155	276	422	335
Only Women	6	1	3	*	61	1	10	3	80	5
Joint Women and Men	5	1	7	3	21	*	12	9	45	13
Total	114	33	45	17	211	15	177	288	547	353
Pending Applications										
Pending-Women	5	9	13	3	19	15	*	7	37	34
Pending-Men	73	53	82	17	46	149	*	41	201	260
Total	78	62	95	20	65	164	*	48	238	294
Rejected Applications										
Rejected-Women	*	.	2	3	*	*	*	*	2	3
Rejected-Men	*	1	4	7	*	1	12	2	16	11
Total	*	1	6	10	*	1	12	2	18	14

*Source: District Land Board Records Extraction (Gender Survey), May, 2005*

Note: \* -Implies that the survey team was unable to disaggregate raw data availed by the land board to discern the category.

The result above shows that amongst successful applicants, women who had applied singly were 85 while those in joint were arrangements were 58. In both instances, the numbers of successful applications were much higher in the urban than in the rural as shown in Table 3.31. Overall, the results shown a low level of registrable interest seeking amongst women compared to men. It is apparent from these results that registration of land ownership is more sought after by women in the urban compared to rural land. In addition, joint registration of land is twice more significant in the urban setting compared to the rural. The findings point to a more equitable land rights distribution in the urban setting amongst persons seeking to register land compared to those in the rural.

### 3.3 LAND RIGHTS AND DECISION MAKING

Deninger, 2002 asserts that secure property rights will increase the incentives of households and individuals to invest. He also argues that it has long been known a highly unequal land distribution will reduce productivity<sup>135</sup>. Without secure rights to land, women's ability and incentives to participate in income-expanding economic activity are reduced<sup>136</sup>.

#### 3.3.1 Land rights between Spouses within the household

The gender structure of land rights in Uganda varies across the country but in general is highly unequal. Women's land rights are generally limited to access while men are more likely to have ownership rights. Women's land rights being less secure than those of men<sup>137</sup>. This survey confirmed that there are differences in land rights within households, particularly between spouses; 34% of all respondents attested to this effect. Most

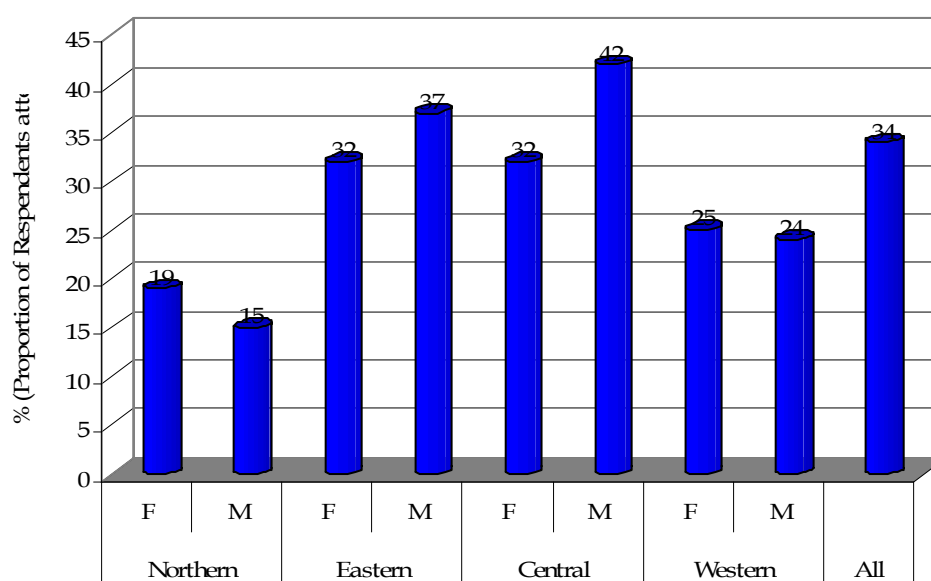
<sup>135</sup> Land Policies for Poverty Eradication, 2002

<sup>136</sup> Ovonji-Odida et al. al; Land, Gender and Poverty Eradication, 2000

<sup>137</sup> Issues Paper for the National Land Policy, 2004

respondents attesting to this were from the central and eastern regions region while fewer respondents in the northern region attested to this difference as depicted in Figure 3.13.

**Figure 3.13: Whether Differences in Land Rights Exist Between Spouses**



*Source: Household Survey, May 2005*

Results show the most outstanding right to land that is endowed differently between spouses is the right to sell land, with an overall rating of 25%; followed by the right to rent out land rated at 19%. Rights to make improvements on land and to subdivide land are rated equally at 11% while the right to choose who inherits a parcel of land is at 10% as shown in the full result in Table 3.32.

**Table 3.32: Differing Rights to Land between Spouses**

Rights to Land that Spouse has and Respondent does not have Responses	Respondent Category				Total	
	Wife		Husband		n	Col %
	n	Col %	n	Col %		
Rights to Choose the type of crops to grow	76	6	94	19	170	10
Rights to make land improving investments	149	13	40	8	189	11
Rights to rent/ let out the land	273	23	49	10	322	19
Rights to sale land	313	27	99	20	412	25
Rights to subdivide the land	148	13	37	7	185	11
Rights to use land as collateral	58	5	22	4	80	5
Rights to choose who inheritor	122	10	51	10	173	10
Rights to Own Land	33	3	104	21	137	8
Total	1172	100	496	100	1668	100

*Source: Household Survey, May 2005*

The result above, female spouses rated rights to rent out land (23%) and rights to sell (27%) as the two outstanding rights where differences with their male counterparts are most manifested. On the other hand, male spouses rated the right to sale land (20%) and the right to own (21%) as outstanding in rights differences with their female counter parts. Interestingly, husbands also rated the right to choose crops grown high at 19%. This result shows clearly that land rights are actually about economic power<sup>138</sup> relations in the household and should therefore be looked at as such.

<sup>138</sup> See Result on Control of Produce/ Crops under Section 6.3.4

Various bundles of rights endow different socio-economic attributes as shown in the reasons for these differences advanced by spouses. The most outstanding reason advanced for differences in land rights between spouses was attributed to customs against women with rating of 32%. Inheritance of land from spouses' family was rated second at 23% while the act of purchase was rated at 20% as shown in Table 3.33 below.

**Table 3.33: Reasons for Differing Rights to Land between Spouses**

Reasons for Differences in Land Rights Between Spouses (Responses)	Respondent Category				Total	
	Wife		Husband		n	Col %
	n	Col %	n	Col %		
The land was bought by my spouse	164	24	49	13	213	20
Land was inherited from spouses family	188	27	58	15	246	23
I am in polygamous marriage	37	5	19	5	56	5
Because of customs against women	268	39	73	19	341	32
Because of the influence of my religion	10	1	23	6	33	3
Men are the rightful owners	25	4	157	41	182	17
Total	692	100	379	100	1071	100

Source: Household Survey, May 2005

Whereas wives claimed that differences were attributed to custom (39%), ability to purchase (24%) and inheritance (27%); husbands claimed they had a superior rights to ownership of land (41%), followed by custom being against wives rated at 19%. These reasons show subjugation of women's land rights in particular those of wives to be strongly based on custom and unjustified societal tendencies. These points to an issue that has probably been over looked in grass roots gender activities, i.e. inclusion of husbands in these activities.

### 3.3.2 Land rights amongst Children

Rights to land between female and male children were found to be different. Results show that male children are accorded superior rights to land compared to their female counterparts. The survey found male children to have inheritance priority (55.5%) and to be allowed to inherit a collective parcel (21%). Their female counterparts are not allowed to inherit land at all (45.5%) and are allowed use but restricted on ownership and rights to sell (42.4%). The comparative result is shown in Table 3.34.

**Table 3.34: Comparison of Land Rights accorded to Female and Male children**

Responses (Land Rights Categories)	Rights Accorded to Female Children		Rights Accorded to Male Children		Rights Accorded to all children	
	n	Col%	n	Col%	n	Col%
Usually inherit a collective parcel	33	3.7	223	21.0	256	13.1
Usually given inheritance priority	34	3.8	590	55.5	624	31.9
Given land later in life	38	4.3	73	6.9	111	5.7
Usually given bigger parcels	3	0.3	105	9.9	108	5.5
Not allowed to inherit land at all	407	45.5	23	2.2	430	22
Allowed use but not to own/ sale	379	42.4	49	4.5	428	21.9
Total	894	100.0	1060	100.0	1954	100

Source: Household Survey, May 2005

According to both female and male respondents, female children are accorded lesser rights to land for reasons that female children will get married and go away (56.6%) and that it is custom that they can not inherit land (37.2%). The survey found that the type of marriage and the religious influence also had implications of the kind of land rights children accorded within the household (Table 3.35).



**Table 3.35: Reasons for Differing Land Rights between Children**

Responses		Respondents Sex				Total	
		Female		Male		n	Col %
		n	Col%	n	Col%		
Causes of Differences in Land Rights Amongst Children	Females will get married and go away	258	52.4	294	60.9	552	56.6
	It is custom female children can not inherit land	201	40.9	162	33.5	363	37.2
	The type of marriage between parents	17	3.5	17	3.5	34	3.5
	Religion	16	3.3	10	2.1	26	2.7
Total		492	100.0	483	100.0	975	100

Source: Household Survey, May 2005

### 3.3.3 Right to Inheritance

The power of culture and norms is still influential in inheritance patterns. In this survey, it was found that the right to determine who inherits a particular piece of land to be exercised by husbands on most (55.4%) parcels of land. Interestingly, a reasonable proportion of land parcels (19.5%) are subject to a joint decision determined by both husband and wife. The clan is still a determinant in terms of inheritance rated at 12.8% as shown in Table 3.36.

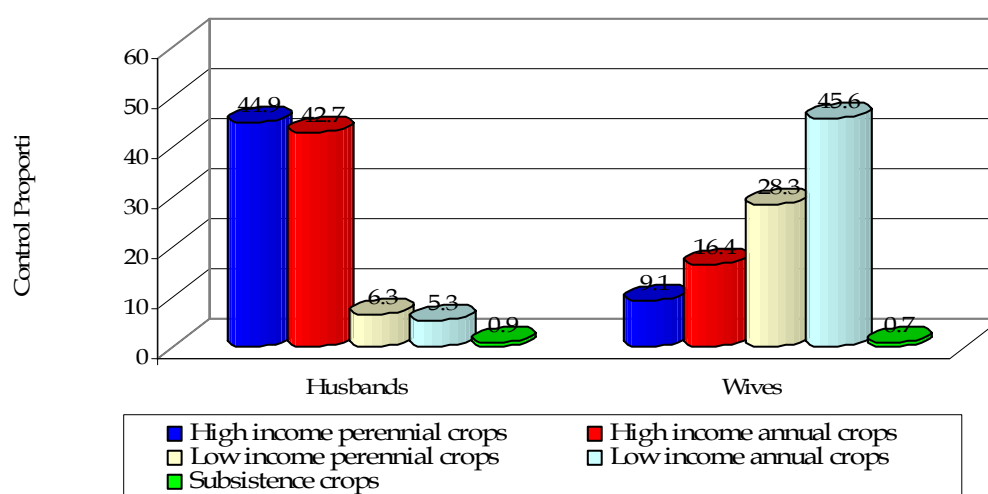
**Table 3.36: Exercise of Rights to decide who inherits the land**

Responses		Respondents Sex				Total	
		Female		Male		n	Col %
		n	Col%	n	Col%		
Person with the Right to decide who inherits the Land	Husband	1036	49.8	1206	61.3	2242	55.4
	Wife	126	6.1	26	1.3	152	3.8
	Both Spouses	343	16.5	446	22.7	789	19.5
	Clan	283	13.6	235	12.0	518	12.8
	Female Children	19	0.9	1	0.1	20	0.5
	Male Children	67	3.2	36	1.8	103	2.5
	My self (widow)	152	7.3			152	3.8
	My self (Single/ divorced /separated females)	47	2.3			47	1.2
	Other	6	0.3	16	0.8	22	0.5
	Total	2079	100.0	1966	100.0	4045	100

Source: Household Survey, May 2005

### 3.3.4 Control of Produce from Land

Results show a pattern where husbands control high value/ income crops irrespective of whether these are annual or perennial (Figure 3.14). This result mirrors the result on differences in land rights between spouses.

**Figure 3.14: Control of Land by Income Crop Category**

Source: Household Survey, May 2005

Land under high value perennial crops is controlled 44.9% by husbands as opposed to 9.4% control by wives. This sharply contrasts with annual crops of low value where wives have an upper hand in controlling land to over 45% compared to the husbands' 5.8% control level. It is even more peculiar that wives have control over land that holds low income perennial crops at 28.8%, compared with the husbands' control of 6.9% as shown in Figure 3.14. This result confirms that in most households there is gendered control of productive resources, determined by resultant incomes. This is directly related to the nature of rights held by husbands and wives, which then affect the control levels based on authority and power relations.

### 3.3.5 Choice of Crops Grown

Results show, that 44.8% of decisions on the type of crops to grow is made jointly by spouses; there is a low show of singly made decisions, with those attributable to husbands standing at 25.6% for husbands, while those of wives are at 18.1%. However, fewer female respondents (38.5%) attested to joint decisions compared to males (51.8%) as shown in Table 3.37.

**Table 3.37: Choices of Crops Grown**

Parcel Responses		Respondents Sex				Total	
		Female		Male		n	Col %
		n	Col%	n	Col%		
	Husband	391	18.9	615	33.0	1006	25.6
	Wife	501	24.2	213	11.4	714	18.1
	Both Spouses	797	38.5	967	51.8	1764	44.8
	Clan	8	0.4	7	0.4	15	0.4
	Female children	26	1.3	8	0.4	34	0.9
	Male Children	43	2.1	49	2.6	92	2.3
Person with the Right to Choose Crops Grown	My self (widow)	243	11.7			243	6.2
	My self (Single/ divorced /separated females)	58	2.8			58	1.5
	Others	3	0.1	7	0.4	10	0.3
Total		2070	100.0	1866	100.0	3936	100

*Source: Household Survey, May 2005*

This result further affirms the fact that women provide the labour needed in production processes, because the decision on choice of crop is made at a time when their farm labour is needed (planting season), then the room for joint decisions is available. Yet after crops are planted and value is attached to products, then the control of land on which the crops are farmed becomes an issue.

This diminishes; the ability of women especially wives fair participation in decision making, because at this time, decisions are based on the bundle of rights that an individual holds in the land. This finding also confirms that women are generally income poor despite investing a lot of labour in production, largely because they cultivate only to lose control of the proceeds. In addition, women's effective control is on low value crops (Figure 3.14).

### 3.3.6 Improvements on Land

Results from this survey show that the decision whether or not to invest in land improvements at household level, is often a consensus between spouses (39.7%), however in instances where it has to be taken singly then husbands account for 36.4% of such decisions. Only 11% of wives take decisions to make improvements on land (Table 6.36).

In a situation where women provide over 70% of the labour in agriculture, yet are less responsible for decisions on land improvements highlights a disparity that probably explains increasing declines in land productivity. The key user of the resource is not responsible for

decisions on the sustainability of the resource. This is worsened by the fact that the decision making power is not held by women in households because of lack of secure rights in land. This is also in line with the findings in UPPAP (1999) where it was found that poverty among crop farmers had increased overtime due to deterioration of farmland quality.

**Table 3.36: Right to make Improvements on Land**

Responses		Respondents Sex				Total	
		Female		Male		n	Col %
		n	Col%	n	Col%		
Person with the Right to Make land Improving Investments	Husband	626	29.5	855	43.8	1481	36.4
	Wife	354	16.7	117	6.0	471	11.6
	both spouses	743	35.1	873	44.7	1616	39.7
	Clan	43	2.0	19	1.0	62	1.5
	Female Children	33	1.6	10	0.5	43	1.1
	Male Children	64	3.0	65	3.3	129	3.2
	My self (widow)	196	9.2			196	4.8
	My self (Single/ divorced /separated females)	54	2.5			54	1.3
	Other	6	0.3	12	0.6	18	0.4
Total		2119	100.0	1951	100.0	4070	100

Source: Household Survey, May 2005

### 3.3.7 Permission to Carry out Activities on land

Across regions the main activities that require permission to be carried out on parcels of land were planting of perennial crops (16.5%) mostly in the eastern and northern region at 34.9% and 32.6% respectively. This is followed by renting out of land (15.8%) which is still significant in northern and eastern region, and leasing out of land (13.4%) with the same regional trend. Passing on use, ownership and inheritance rights were rated at a level of 12.8% while the most interesting action i.e. burial of wives relatives was rated at 5.9%. The result by region is shown in the Table 3.37 below.

**Table 3.37: Activities Requiring Permission on Land Parcels by Region**

Production Control And Parcel Incomes (Analysis By Parcel -But For All HH Parcels)										
Actions That Require Permission To Be Carried Out On Parcel (Responses)	Region								Total	
	Northern		Eastern		Central		Western		n	Col %
	n	Col%	n	Col%	n	Col%	n	Col%		
Planting Perennial Crops	214	32.6	232	34.9	122	27.1	86	21.3	654	16.5
Leasing out the land	114	17.4	253	38.0	87	19.3	76	18.8	530	13.4
Renting/letting out the land	145	22.1	262	39.4	128	28.4	92	22.8	627	15.8
Lending	83	12.7	156	23.5	84	18.6	39	9.7	362	9.1
Constructing Permanent Buildings	123	18.8	147	22.1	134	29.7	68	16.8	472	11.9
Passing on use/ ownership/ inheritance	167	25.5	185	27.8	76	16.9	78	19.3	506	12.8
Burying wife's relatives	79	12.0	84	12.6	47	10.4	25	6.2	235	5.9
Making land improvements	79	12.0	132	19.8	56	12.4	29	7.2	296	7.5
Others (e.g. brick making/ livestock )	20	3.0	34	5.1	146	32.4	76	18.8	276	7
Total	656	100.0	665	100.0	451	100.0	404	100.0	2176	100

Source: Household Survey, May 2005

From the result above, it is apparent that activities, tend have tenure implications require some sort of permission to be undertaken. For example perennial crops are like a long term encumbrance on the land while renting and lending land exposes one to risks of fraudulent claims. It is activities such as these that permission has to be sought. Results also show that in most case permission is mostly obtained from husbands (39.7%); from wives and/ or widows the rating is 10.9%. This result not only highlights the vulnerability aspects involved but also points to restrictive access and use of land for productive purposes. This is particularly pertinent where income can be obtained through means other than cultivation like land rentals.

### 3.3.8 Soil Conservation

The baseline revealed most respondents (44.7%) do not practice any soil conservation. This proportion was highest in the western region (67.5%), followed by the central and northern region both rating of over 56%. Practice of seasonal soil conservation measures had a rating of 38.8%, with all regions attesting at a rating of over 40% as shown in Table 3.38 below. Permanent soil conservation measures had an overall rating of 11.1%.

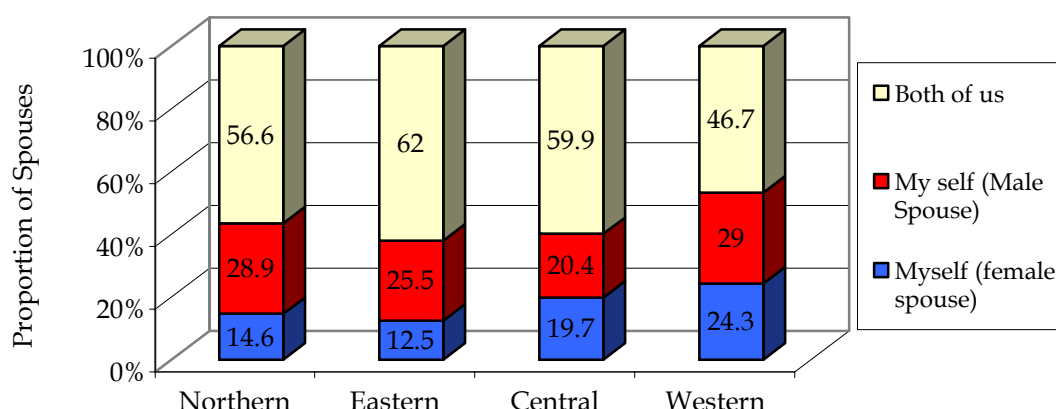
**Table: 3.38: Soil Conservation Measures Practiced On Parcel**

Soil Conservation Measures Practiced On Parcel (Responses)	Region								Total	
	Northern		Eastern		Central		Western		n	Col %
	n	Col%	n	Col%	n	Col%	n	Col%		
Seasonal Measures (Crop Rotation/ cover crops/fallow/ mulching)	293	47.3	439	51.2	402	50.1	355	41.2	1489	38.8
Permanent Measures (Contours/ terraces/ bunds/ TG-Strips)	36	5.8	178	20.8	161	20.0	52	6.0	427	11.1
Non is practiced	358	57.7	319	37.2	459	57.2	582	67.5	1718	44.7
A combination of seasonal and permanent measures	43	6.9	81	9.5	38	4.7	44	5.1	206	5.4
<b>Total</b>	<b>620</b>	<b>100.0</b>	<b>857</b>	<b>100.0</b>	<b>803</b>	<b>100.0</b>	<b>862</b>	<b>100.0</b>	<b>3142</b>	<b>100</b>

Source: Household Survey, May 2005

On the other hand, results also showed that between spouses the responsibility for ensuring sustainable use of land was more or less evenly shared between spouses. In all regions the rating for ‘both of us’ was over 45% while the ratings for individual responsibility were in all instances less than 30%, although male spouses (25.9%) than females (17.7%) claimed it was their responsibility as shown Figure 3.15.

**Figure 3.15: Responsibility for Sustainable Land Use between Spouses**



Source: Household Survey, May 2005

The results above (Table 3.38 and Figure 3.15) show that most respondents are not conscious of the fact that land is a resource that can be degraded over time. Synthesis of the result on myself for male spouse and that of ‘both of us’ also affirms that the main users of land (women) are not empowered with the decision making power over sustainable land use.

### 3.3.9 Sensitization on Land Rights

The rhetoric that “information is power” is not without foundation. According to Lawson and others (2003), households without information on land rights and land quality are likely to stay poor. Those who have access to information have the ability to enforce and enjoy their land rights. The results of this survey show that there are very few organizations and individuals undertaking the dissemination of information on gender and land rights. The baseline shows a rating of only 16.8% for known sensitization initiatives (paralegals, CBOs / NGOs) in the education of people on gender and land rights. Surprisingly, government or

line ministries are not mentioned as sources of such initiatives. A large portion of the respondents 59.7% claimed that in spite being aware of such initiatives none had taken place their areas while 23.6% simply did not know about such sensitization initiatives as shown in Table 3.39 by region.

**Table 3.39: Gender and Sensitization Initiatives**

Existence of Organizations and Individuals giving information on gender and land rights		Region								Total	
		Northern		Eastern		Central		Western		n	Col %
		n	Col%	n	Col%	n	Col%	n	Col%		
	Paralegals	71	8.1	32	3.4	27	3.0	50	5.4	180	5
	CBO/ NGO	150	17.2	97	10.4	78	8.7	103	11.1	428	11.8
	No	252	28.9	672	72.2	671	74.9	571	61.5	2166	59.7
(Counts)	Don't know	400	45.8	130	14.0	120	13.4	204	22.0	854	23.6
Total		873	100.0	931	100.0	896	100.0	928	100.0	3628	100

Source: Household Survey, May 2005

Out of the 59.7% respondents who aware of the sensitization initiatives but have not been recipients of such, most were from the eastern and central region both at a score of over 70%, followed by western at 61.5%. Much as the northern region has the highest number of respondents who have received land rights information, it also boosts of the most ignorant population that has never heard of such initiatives at 45.8%. In tracing the level at which information trickles down to the intended recipient, respondents, show that most initiatives take place at the village level as attested to by 21% of the respondents. The parish and sub-county levels have the least rankings of 8% and 13% respectively. The results of this still emphasis that at least 58% of the respondent population has not been reached during the sensitization initiatives at any level as shown in Table 3.40.

**Table 3.40: Information Dissemination Levels by Region**

Whether a Seminar/ Workshop on Land and/ or Gender has taken place in the Community	Regions (Count)									
	North		East		Central		West		Table Total	
	n	Col %	n	Col %	n	Col %	n	Col %	n	Col %
Yes, in this village	11	24.4	9	15.0	18	29.5	9	14.8	47	21
Yes, in this parish	3	6.7	3	5.0	6	9.8	6	9.8	18	8
Yes, in the sub county	3	6.7	9	15.0	10	16.4	8	13.1	30	13
No, none has taken place	28	62.2	39	65.0	27	44.3	38	62.3	132	58
Table Total	45	100.0	60	100.0	61	100.0	61	100.0	227	100

Source: Household Survey, May 2005

In looking at channels of information dissemination, radio programmes were found to be the most common at 37.7%. This is most common in the western and central regions at 57.3% and 45.7% respectively. Seminars and/or workshops had an overall rating of 7.9%. Overall, the proportion of respondents that has not accessed information on gender and land rights is still high at 52.6%, and is mainly in the northern and eastern region at 64.4% and 65.3% respectively (Table 3.41).

**Table 3.41: Information Access Channels by Region**

How information on land rights and gender is accessed	Region								Total	
	Northern		Eastern		Central		Western		n	%
	n	Col %	n	Col %	n	Col %	n	Col %		
seminar/workshop	78	9.0	90	10.4	50	6.7	53	5.6	271	7.9
Radio programmes	211	24.2	199	23.0	341	45.7	540	57.3	1291	37.7
have read news papers	11	1.3	7	0.8	7	0.9	11	1.2	36	1.1
Have read books	10	1.1	4	0.5	5	0.7	5	0.5	24	0.7
Have not accessed any	561	64.4	565	65.3	343	46.0	333	35.4	1802	52.6
Table Total	871	100.0	865	100.0	746	100.0	942	100.0	3424	100

Source: Household Survey, May 2005

**Table 3.42: Information Access Channels by Sex**

		Respondents Sex				Total	
		Female		Male			
		n	Col%	n	Col%	n	Col %
How information on land rights and gender is accessed	seminar/workshop	114	6.2	157	9.9	271	7.9
	Radio programmes	631	34.5	659	41.5	1291	37.7
	have read news papers	15	0.8	20	1.3	36	1.1
	Have read books on land rights	4	0.2	20	1.3	24	0.7
	Have not accessed any	1065	58.2	733	46.1	1802	52.6
Table Total		1829	100.0	1589	100.0	3424	100

*Source: Household Survey, May 2005*

Out of the 37.5% respondents who access information through radio, 34.5% are female compared to 41.5% who are male. This finding dispels the commonly held belief; since women are not owners of radios, they are not able to benefit from radio programmes. The margin between the two genders clearly dispels the assumption. Seminars are also more or less evenly common between men and women, as 6.2% of the female and 9.9% of the male respondents show having attended. The most peculiar finding there is hardly any dissemination accessed through literature (Table 3.42).

**Table 3.43: Understanding of Gender and Land Rights by Sex**

Issues Known About Land and Gender (Multiple Responses)	Respondents Sex				Total	
	Female		Male		n	Col %
	n	Col%	n	Col%		
I do not know any thing	1224	74.4	893	64.0	2117	53.7
Women and men are equal, both can buy and sell land	45	2.7	53	3.8	98	2.5
Land can be owned and used by both women and men	86	5.2	128	9.2	214	5.4
Women are not supposed to be evicted/ chased off land	22	1.3	21	1.5	43	1.1
Widows have a right to land	31	1.9	33	2.4	64	1.6
Husbands should not sell without the consent of their wives	79	4.8	89	6.4	168	4.3
Gender issues have made women very disrespectful	1	0.1	3	0.2	4	0.1
Gender means equal responsibilities over land	85	5.2	118	8.5	203	5.2
Women should be allowed to inherit land	33	2.0	17	1.2	50	1.3
Female children are not allocated land	16	1.0	16	1.1	32	0.8
Male children usually take inheritance priority over land	17	1.0	13	0.9	30	0.8
Women should not inherit land, they will go and get married	10	0.6	15	1.1	25	0.6
Women's rights on land should be protected	68	4.1	76	5.4	144	3.7
Male children have aright to inherit, because its clan land	9	0.5	9	0.6	18	0.5
Males and females have equal rights to land	131	8.0	190	13.6	321	8.1
Female children should not get land because they go and get	14	0.9	13	0.9	27	0.7
According to culture no woman is supposed to be given land	35	2.1	37	2.7	72	1.8
Both spouses should agree on who should inherit land	42	2.6	58	4.2	100	2.5
Women are free to buy, sell and own land	12	0.7	5	0.4	17	0.4
Women like men are free to buy and own land	35	2.1	37	2.7	72	1.8
When am not here (man), the wife takes care of the land	6	0.4	7	0.5	13	0.3
Female children should be given the right to inherit fathers	29	1.8	46	3.3	75	1.9
There is a lot of ignorance on women's land rights	10	0.6	14	1.0	24	0.6
Land should be used for future development of children	2	0.1	2	0.1	4	0.1
Divorced women should get land to look after their children	2	0.1	2	0.1	4	0.1
Total	1646	100.0	1396	100.0	3939	100

*Source: Household Survey, May 2005*

The survey also investigated what is known by respondents in actual terms about gender and land rights, with the intent to show, the level of understanding and the conceptualization of gender rights. The key highlights are as follows:

- 53.7% of the respondents are ignorant about gender and land rights and do not know anything about it
- 8.1% of the respondents understand gender land rights to mean males and females have equal rights to land,
- 5.5% of the respondents are aware that land is supposed to be used by both men and women,

- 5.4% of the respondents understand gender land rights to mean land can be owned and used by both women and men
- 5.2% of the respondents understand gender land rights to mean equal responsibility over land,
- 4.3% of husbands are aware that land is not supposed to be sold without the consent of their wives,
- 3.7% of the respondents assert that women's rights on land should be protected,
- 2.5% of the respondents understand gender land rights in terms of decision making on inheritance by agreeing on who is to inherit land,
- 2.5% of the respondents assert that men and women are equally and therefore both have the right to buy and sell land.

Other detailed interpretations of respondents understanding of gender and land rights by sex are summarized in Table 3.43 above. These results underline the need to widen the coverage of land rights sensitization and information dissemination since it is the basis upon which all other rights in law are enjoyed and enforced. Innovative means of effectively reaching out to community stakeholders need to be devised.

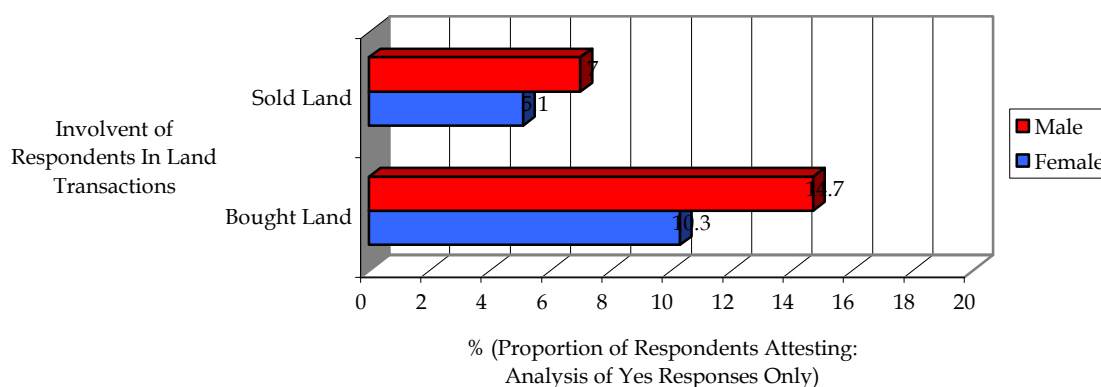
### 3.4 LAND MARKET AND TRANSACTIONS

Land markets in Uganda have been said to be beneficial for increased production. It has been argued that an enhanced land market will stimulate credit and increase incentives for investment in land. The PMA<sup>139</sup> promotes agro-processing industries to allow accelerated creation of off farm/ 'land' jobs. It is expected that with increasing population pressure and poverty, the demand for land is escalating; and this, coupled with commercialization translates into increased demand for formal land. Land reforms in Chapter 15 of the Constitution of 1995; and, the Land Act 1998 have a basic underlying principle of enhancing land markets so that land moves from the people without capacity to utilize it to those that have the capacity to put it to maximum usage<sup>140</sup>. Analysis of findings on land markets in this survey looks at the dynamics of land transactions and use of land to access credit.

#### 3.4.1 Land Transactions

The survey looked at land transactions in terms of purchases and sale in the period three years preceding the survey. The survey found the proportion of respondents who had been involved in land purchases to be 12% while that that had sold land was 5.7%.

**Figure 3.16: Involvements in Land Transactions by Respondents' Sex**



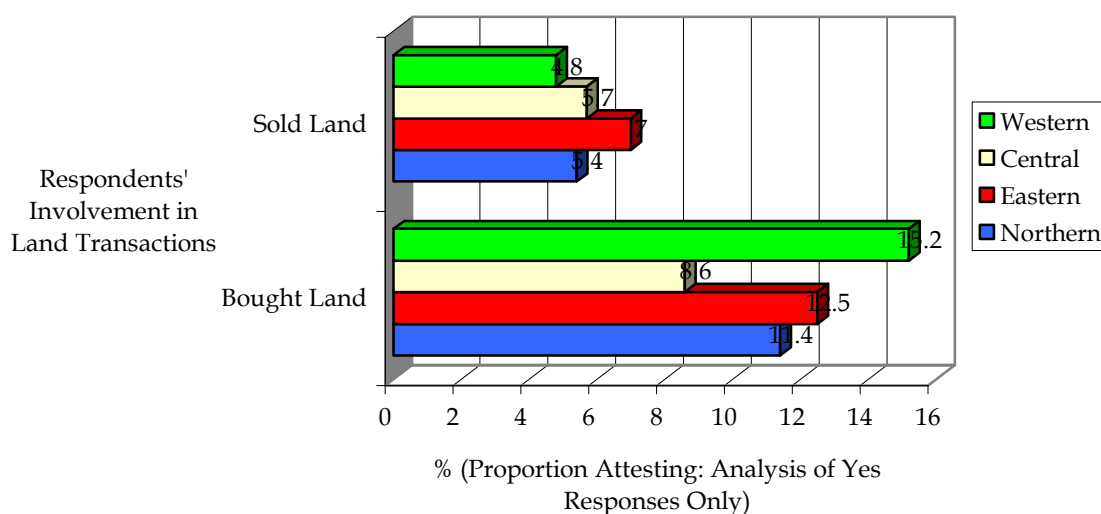
Source: Household Survey, May 2005

<sup>139</sup> Plan for Modernization of Agriculture

<sup>140</sup> Issues Paper for the National Land Policy

Overall fewer females were involved in land transactions compared to males. With regard to those who had sold land, 5.1% were female while 7 were male. On the other hand, amongst those who had bought land 10.3% were female while males were 14.7% as shown in Figure 3.16. Amongst regions, overall involvement in purchases was again higher than involvement in sales. Comparatively involvement in land purchases was highest in the western region followed by the eastern and northern regions respectively. With regard to sales, the eastern region showed the highest ranking followed by central and northern as shown in Figure 3.17.

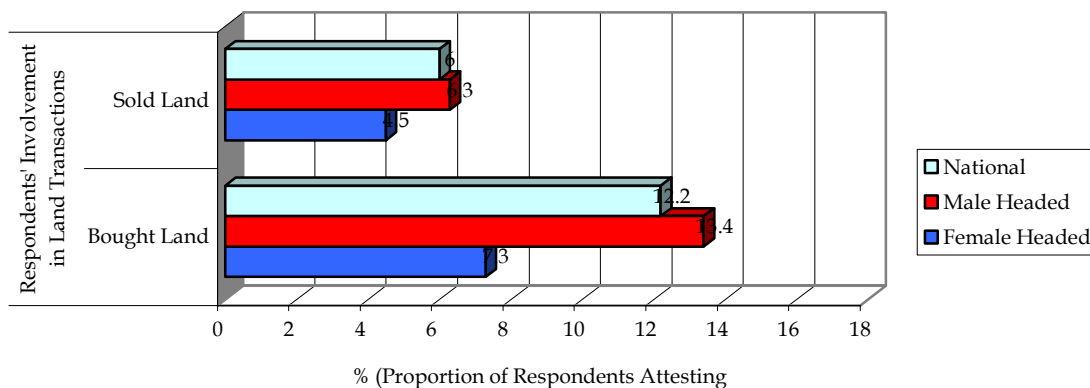
**Figure 3.17: Involvements in Land Transactions by Region**



Source: Household Survey, May 2005

At the level of households, child-headed households are only involved in sales, and undertake no purchases because of the survival objective which is the main reason for participating in sales. There is generally a higher volume of both transactions (sales and purchases) for MHH's than FHH's as shown in figure 3.18 below.

**Figure 3.18: Land Transactions at Household Level**



Source: Household Survey, May 2005



Looking at who had contributed most to the purchase of land between female and male respondents; results show that overall single contributions i.e. 'my self' rank highest (37.6%) amongst both females and males. However, more than twice the number of males (51.4%) than females (21.2%) attests to this. It is also interesting to note that only 8% of the male respondents attested to their wives contributing, a higher proportion of the females (41.3%) attested for their husbands. Equal contributions were rated at 26.5% as shown in Table 3.44.

**Table 3.44: Contributions to Land Purchases**

Counts		Whether Respondent bought land in the past 3 years? Yes				Table Total	
		Female		Male		n	Col %
		n	Col%	n	Col%		
Who contributed most to the purchase of Land in the Past 3 Years	My husband	86	41.3			86	18.8
	My wife			20	8.0	20	4.4
	Both Spouses equally	42	20.2	79	31.7	121	26.5
	Female children	9	4.3	3	1.2	12	2.6
	Male children	5	2.4	3	1.2	8	1.8
	Relatives	8	3.8	2	0.8	10	2.2
	Myself	44	21.2	128	51.4	172	37.6
	Table Total	208	100.0	249	100.0	457	100.0

Source: Household Survey, May 2005

The survey also sought to understand influences behind sale of land. Results show 40.2% of the male respondents attesting that the decision to sell land is made jointly while only 25.8% of the females agree to this. Again while 43.8% of the females attest that the influence to sell often comes from the husbands, only 16.3% of the males attest that it comes from their wives. This disparity is also observed amongst the singly made decisions as shown in Table 3.45.

**Table 3.45: Influence of Decision to Sale Land**

Counts		Whether Respondent sold land in the past 3 years? Yes				Table Total	
		Female		Male		n	Col %
		n	Col %	n	Col %		
Who influenced most the Decision to sell land?	My husband	39	43.8			39	21.5
	My wife			15	16.3	15	8.3
	Both of equally	23	25.8	37	40.2	60	33.1
	Female children	6	6.7	1	1.1	7	3.9
	Male children	3	3.4	9	9.8	12	6.6
	Relatives	8	9.0	7	7.6	15	8.3
	My self	10	11.2	23	25.0	33	18.2
	Table Total	89	100.0	92	100.0	181	100.0

Source: Household Survey, May 2005

The intended use of land acquired was indicated by most respondents was expansion of agriculture (51.9%) although slightly more male respondents (55.4%) attested to this compared to 47.5% females. The distinct finding was the ratings of land as a secure investment (19.2%) and as a means of accumulating wealth (16%). Overall, female respondents rated these two aspects slightly higher than male respondents as shown in Table 3.48.

**Table 3.46: Intended use of Purchased Land by Gender**

Responses		Respondents Sex				Total	
		Female		Male		n	Col %
		n	Col %	n	Col %		
Intended use of Land Purchased	Expand agric land	95	47.5	138	55.4	233	51.9
	Is involved in land business	6	3	3	1.2	9	2
	Secure investment	44	22	42	16.9	86	19.2
	accumulate wealth	33	16.5	39	15.7	72	16
	Establish business premises	10	5	16	6.4	26	5.8
	For my children to inherit	12	6	11	4.4	23	5.1
Total		200	100	249	100.0	449	100

Source: Household Survey, May 2005

At the level of regions, the analysis is as follows;

- Most respondents in the northern region indicated that land was the most secure investment (38%), followed by expansion of agricultural land - cultivation (23%).
- In the eastern region, respondents indicated that expanding agriculture was the most common reason for purchase of land (75.2%), followed by land being the most secure investment (13.2%).
- In the central region purchases are common for expanding agricultural land (30.8%), followed by accumulation of wealth (25.6%) and land being the most secure investment (17.9%).
- In the western region, expansion of agriculture is the major reason for purchase of land at 63.3%, followed by accumulation of wealth at 15.3%.

Overall, within the regions, expansion of agriculture is still the main reason for purchase, followed by the belief that land is a more secure investment as shown in Table 3.47.

**Table 3.47: Intended use of Purchased Land by Region**

Responses		Region								Total	
		Northern		Eastern		Central		Western		n	Col %
		n	Col%	n	Col%	n	Col%	n	Col%		
Intent of Land Purchased	Expand agric land	23	23	91	75.2	24	30.8	95	63.3	233	51.9
	Is involved in land business	2	2	2	1.7	2	2.6	3	2.0	9	2
	Secure investment	38	38	16	13.2	14	17.9	18	12.0	86	19.2
	Accumulate wealth	19	19	10	8.3	20	25.6	23	15.3	72	16
	Establish business premises	11	11		0.0	9	11.5	6	4.0	26	5.8
	For my children to inherit	7	7	2	1.7	9	11.5	5	3.3	23	5.1
Total		100	100	121	100.0	78	100.0	150	100.0	449	100

*Source: Household Survey, May 2005*

With regard to sales, results show the underlying factor to be distress financial needs rated at 63.9% including health and sustenance. Sale of land to raise investment capital was rated at 11.9%; higher in males (23%) than amongst females (8.8%). Sale of land due to default of loan was rated at 5.7%. Sale of land as a preemptive measure to probable loss due to land conflicts was rated at only 3.1%. The comparison of these ratings between female and male respondents is shown in Table 3.48 below.

**Table 3.48: Reasons behind Sale of Land by Gender**

Responses		Respondents Sex				Total	
		Female		Male		n	Col %
		n	Col%	n	Col%		
Reasons behind sale of Land	Parcel had a conflict	3	3.3	3	2.9	6	3.1
	Had investment finance problems	8	8.8	15	14.6	23	11.9
	defaulted on loan	6	6.6	5	4.9	11	5.7
	Had distress financial needs	59	64.8	65	63.1	124	63.9
	was just doing business	2	2.2	6	5.8	8	4.1
	Education of Children	13	14.3	8	7.8	21	10.8
To settle a Court fine			0.0	1	1.0	1	0.5
Total		91	100.0	103	100.0	194	100

*Source: Household Survey, May 2005*

### 3.4.2 Level of Purchases and Sales

In this survey it was important to establish dynamism of sales and purchases of land by looking at the level of activity regionally. The total numbers of parcels transacted in the three year period preceding the survey were 541. Of which purchases were 69% (n=373) while those sold were 31% (n= 168). In purchases, 17.4% of the parcels were titled, of these 52.3% were purchased by women. Titled parcels purchased from female holders were

40%, interesting non titled hat were purchased from female holders were 22.2% of all the parcels purchased in the same period (Table 3.49a).

**Table 3.49a: Parcel Purchases by Region**

Parcel Purchases (Analysis for only individuals involved in parcel Transactions)		Region								Table Total
		Northern		Eastern		Central		Western		
		M	F	M	F	M	F	M	F	
No. of Land Parcels Purchased	Mean	1	1	2	2	1	1	2	2	2
	Median	1	1	1	1	1	1	1	1	1
	Valid N	N=44	N=51	N=59	N=41	N=33	N=23	N=64	N=58	N=373
No. of Titled Land Parcels Purchased	Mean	1	1	1	1	1	1	1	2	1
	Median	1	1	1	1	1	1	1	2	1
	Valid N	N=9	N=19	N=6	N=2	N=7	N=7	N=9	N=6	N=65
No. of Titled Land Parcels Purchased from Female Holders	Mean	1	1	.	.	1	1	1	1	1
	Median	1	1	.	.	1	1	1	1	1
	Valid N	N=3	N=11	N=0	N=0	N=4	N=6	N=1	N=1	N=26
No. of Titled Land Parcels Purchased from Male Holders	Mean	1	1	1	2	1	1	1	2	1
	Median	1	1	1	1	1	1	1	2	1
	Valid N	N=11	N=13	N=5	N=5	N=5	N=5	N=7	N=5	N=56
No. of Non-Titled Parcels Purchased from Female Holders	Mean	1	1	1	1	1	1	1	1	1
	Median	1	1	1	1	1	1	1	1	1
	Valid N	N=9	N=15	N=6	N=8	N=9	N=7	N=10	N=19	N=83
No. of Non-Titled Parcels Purchased from Male Holders	Mean	1	1	1	2	1	1	2	1	2
	Median	1	1	1	1	1	1	1	1	1
	Valid N	N=29	N=23	N=52	N=31	N=26	N=16	N=49	N=45	N=271

*Source: Household Survey, May, 2005*

In sales, the proportion of titled parcels sold was 10.1%, of these 52.9% were sold by women. Titled parcels sold to female holders were only 3.5% while non titled parcels that were sold to female holders were 25.5% (Table 3.49b).

**Table 3.49b: Parcel Sales by Region**

Purchase Sales (Analysis for only individuals involved in parcel Transactions)		Region								Table Total
		Northern		Eastern		Central		Western		
		M	F	M	F	M	F	M	F	
How many pieces of land were sold	Mean	2	1	1	1	1	2	2	1	1
	Median	1	1	1	1	1	1	1	1	1
	Valid N	N=24	N=14	N=31	N=22	N=15	N=24	N=21	N=17	N=168
No. of titled parcels sold	Mean	2	1	.	.	1	1	1	1	1
	Median	1	1	.	.	1	1	1	1	1
	Valid N	N=4	N=1	N=0	N=0	N=3	N=7	N=1	N=1	N=17
No. of titled parcels sold to female holders	Mean	1	.	1	3	.	1	.	1	1
	Median	1	.	1	3	.	1	.	1	1
	Valid N	N=2	N=0	N=1	N=1	N=0	N=1	N=0	N=1	N=6
No. of titled parcels sold to male holders	Mean	4	1	.	.	1	1	1	3	1
	Median	4	1	.	.	1	1	1	3	1
	Valid N	N=2	N=1	N=0	N=0	N=5	N=6	N=1	N=1	N=16
No. of non titled parcels sold to female holders	Mean	1	1	1	1	2	1	1	1	1
	Median	1	1	1	1	1	1	1	1	1
	Valid N	N=11	N=2	N=4	N=5	N=5	N=9	N=3	N=4	N=43
No. of non titled parcels sold to male holders	Mean	2	1	1	1	1	1	1	1	1
	Median	1	1	1	1	1	1	1	1	1
	Valid N	N=19	N=9	N=27	N=18	N=7	N=12	N=18	N=11	N=121

*Source: Household Survey, May, 2005*

### 3.4.3 Consent to Land Transactions

Section 38, of the Land Act (Cap. 227) requires spousal and other consents prior to carrying out transactions on household lands. Although these requirements are not proprietary rights, they do give selected persons powers to approve or disapprove a transaction with the result that any transaction that is carried out without their consent is null and void. From the results it is apparent that there is a reasonable level of consent seeking amongst spouses in the course of land transactions.

Amongst respondents who had engaged in land sales, 28.1% claimed they did not consult any body followed by 18.6% who claimed it was a decision jointly taken amongst spouses. Whereas 24.7% of the female respondents claimed they sought permission from husbands, a higher proportion of males (29.1%) claimed they sought permission from wives as shown in Table 3.50.

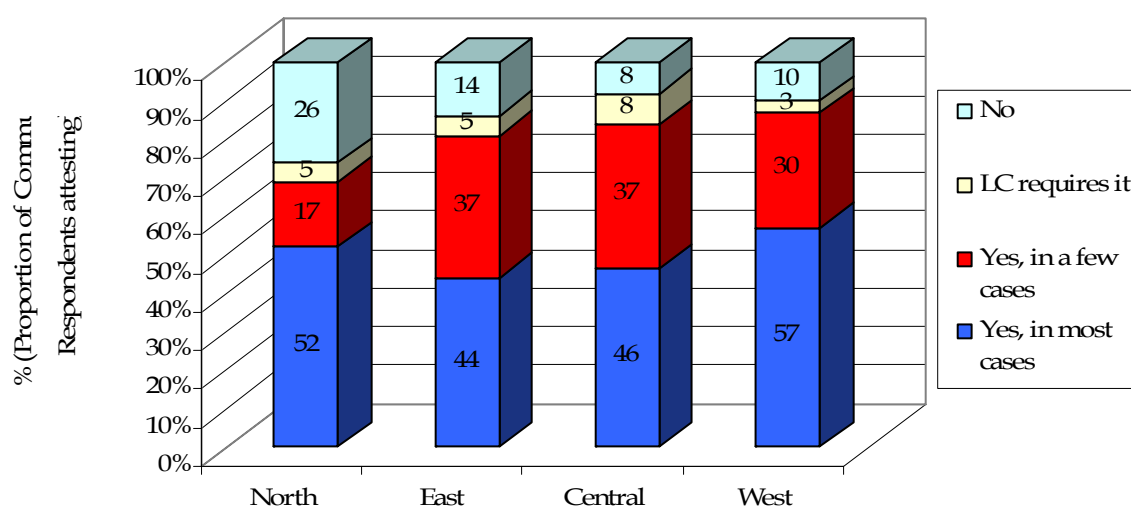
**Table 3.50: Obtaining Consent before Sale of Land**

Responses		Respondents Sex				Total	
		Female		Male		n	Col %
		n	Col %	n	Col %		
	No body	30	33.7	26	23.6	56	28.1
	My husband	22	24.7			22	11.1
	My wife			32	29.1	32	16.1
	Both Spouses share decision	15	16.9	22	20.0	37	18.6
	Female children	3	3.4	2	1.8	5	2.5
	Male children	6	6.7	11	10.0	17	8.5
	Wives relatives	5	5.6	1	0.9	6	3
	Husband relatives	6	6.7	11	10.0	17	8.5
From Whom Consent was Sought before sale of Land	Local Councils	1	1.1	4	3.6	5	2.5
	Family members	1	1.1	1	0.9	2	1
<b>Total</b>		89	100.0	110	100.0	199	100

*Source: Household Survey, May 2005*

Community key informant interviews revealed that in most cases (50%) married persons obtain consent from each other before transacting in land, by way of consensus. The proportion of those seeking consent before a transaction was found highest in the western region (57%) and least in the eastern region (44%). Fourteen percent (14%) of married persons do not seek consent when transacting in land mainly in the northern (26%) and eastern region (14%). 6% of the respondents seek consent because the local councils endorsing the land transaction require it. This is common in central (10%) and western region (8%); the detailed result is shown in the Figure 3.19.

**Figure 3.19: Obtaining Consent before Transacting in Land**

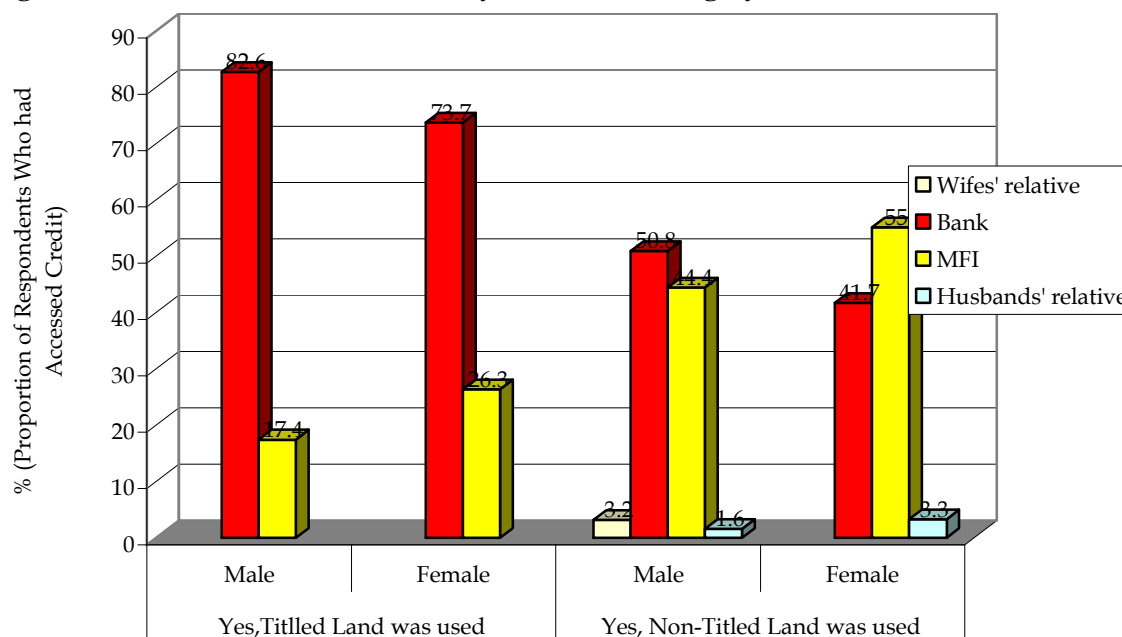


*Source: Local Council 1&2 Extraction, May 2005*

### 3.4.4 Use of Land to Access Credit

Use of land as collateral to access credit was investigated in the baseline; results showed a very low level of use of land to access credit amongst the survey respondents (94.9% of the respondents do not use land as collateral for credit). Interestingly amongst those who had accessed credit 4% indicated it was through using non titled land compared to 1.2% who had used titled land. Slightly fewer females (1%) than males (1.4%) had used formal title to access credit. The same scenario was observed for non titled land, the proportions were more or less evenly distributed between females (3.6%) and males (4.4%) as shown in Figure 3.20.

Figure 3.20: Use of Land as Collateral by Household Category



Source: Household Survey, May 2005

By region, use of non titled land to access credit was most reported in the western region at 5.7% and least as expected in the northern region at 2.5%. The highest transactions on titled land were in the northern region at 1.5% followed by central region at 1.2%, the detailed result is in the Table 3.51 below.

Table 3.51: Use of Land as Collateral by Region

	Land used to Access Credit in 3 years Preceding Survey (Col % Only)																Total	
	Northern				Eastern				Central				Western					
	M		F		M		F		M		F		M		F			
	n	%	n	%	n	%	n	%	n	%	n	%	n	%	n	%		
Titled	7	1.5	8	1.9	5	1.2	3	0.6	7	1.9	5	0.9	4	0.9	5	1	44	1.2
Non-Titled	13	2.8	10	2.4	14	3.4	15	2.8	20	5.3	20	3.5	27	6.2	28	5.5	147	4
No access	444	95.7	395	95.6	396	95.4	511	96.6	349	92.8	542	95.6	403	92.9	478	93.5	3520	94.9
Total	477	100	426	100	427	100	535	100	382	100	577	100	438	100	519	100	3785	100

Source: Household Survey, May 2005

The leading purposes for loan acquisition were indicated as capitalization of existing businesses (39.2%), rated at 36.5% by females and 41.8% by males. Establishment of new business is rated at 19.9% followed by diversification of household agricultural enterprises (10.8%) and acquisition ring land for new agricultural enterprises (10.2%) and, see Table 3.52 below.

**Table 3.52: Purpose for which Credit using Land was obtained**

Responses	Respondents Sex				Total	
	Female		Male		n	Col %
	n	Col%	n	Col%		
acquire land for new agric enterprise	10	11.8	8	8.8	18	10.2
capitalize existing business	31	36.5	38	41.8	69	39.2
Diversify household agric enterprise	10	11.8	9	9.9	19	10.8
acquire land for new commerce enterprise	4	4.7	2	2.2	6	3.4
establish new business enterprise	17	20.0	18	19.8	35	19.9
distress financing(health/food scarcity)	9	10.6	5	5.5	14	8
ordinary household sustenance	4	4.7	11	12.1	15	8.5
<b>Total</b>	85	100.0	91	100.0	176	100

*Source: Household Survey, May 2005*

The survey found very few instances (6.2%) of foreclosure due to failure to pay either where all or part of the parcel had been lost. Irrespective of respondent and household category rate of recovering land from the credit source was shown to be over 75% as shown in Table 3.53 below.

**Table 3.53: Recovery of Land Used in Accessing Credit**

Counts	Respondents Sex				Total	
	Female		Male		n	Col %
	n	Col%	n	Col%		
was recovered promptly on repayment	56	84.8	63	78.8	119	81.4
Lost it all on failure to pay	4	6.1	5	6.3	9	6.2
lost part of it on failure to pay			2	2.5	2	1.4
Has been encumbered due to failure to pay			2	2.5	2	1.4
had delayed recovery due to default	6	9.1	8	10.0	14	9.6
<b>Total</b>	66	100.0	80	100.0	146	100

*Source: Household Survey, May 2005*

Two banks (DFCU and HFCUL) and three microfinance institutions (Pride Microfinance Uganda, FINCA and Uganda Micro Finance Union) were visited at case study level for further insights into access to credit using land. Results showed disproportionate access to mortgage financing between men and women as shown in the Table 3.54 below.

**Table 3.54: Mortgages by Women and Men**

(Counts)	2002		2003		2004	
	Females	Males	Females	Males	Females	Males
DFCU	6	47	19	86	44	181
HFCU					46	95
<b>Totals</b>	6	47	19	86	90	276

*Source: key informant Interviews, Gender Survey, May 2005*

The banks intimated that the key problem in accessing mortgage financing was availability of land titles. They claimed most clients had non titled land, which was difficult to value and access reasonably. Secondly, there were chronic delays in registering mortgages at the land office. In addition, the new legal requirements on spousal consent were hindering lending especially in instances where clients are customarily married. This category of clients lack certificates as proof of spousal rights.

There was consensus amongst the key informants at this although these problems affected mostly women, they were not exclusive. It was noted that well to do females do not want to involve their spouses in their financing matters, an observation which true on the side of their male counter parts. Interestingly most mortgages obtained were used mainly either for the construction of residential and or business premises but no investment in agriculture.

The Micro Finance Institutions on the other land claimed they did not require collateral for access to financing. In all instances they claimed that their clientele was largely composed of the poor who do not have access to registered land for use as collateral and are accessed in groups drawing on 'social capital' as collateral. Key informant information from the private sector foundation alluded to efforts currently in progress to streamline land registry problems to enhance investment. Concern was expressed however, about the physical security of titles that has made investors vulnerable to fraud, forgery and corruption.

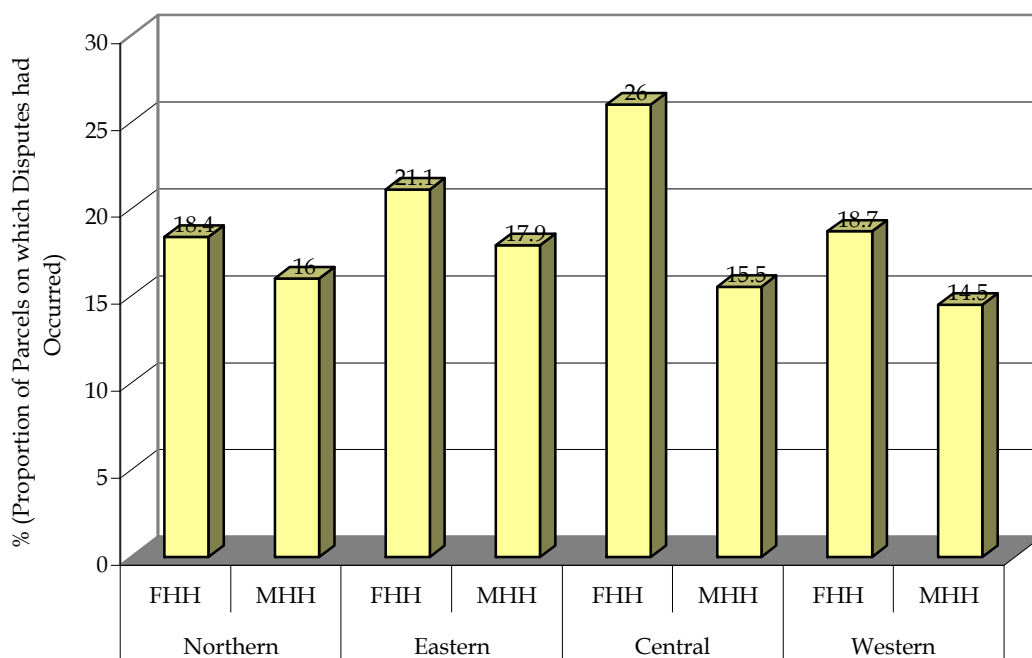
### 3.5 LAND DISPUTES

The system for dispute resolution was reformed by the 1995 Constitution and the Land Cap. 227 (as amended by the Land Amendment Act 2004) under the principles of decentralization. Land tribunal on circuit basis have been established, the capacity of local council courts is being built to deal with land matters and provision has been made for traditional authorities and mediators to be appointed on ad hoc basis to assist the tribunals in resolving disputes. Research indicates that land disputes require special judicial or quasi-judicial mechanisms for their resolution.

#### 3.5.1 Occurrence of Disputes

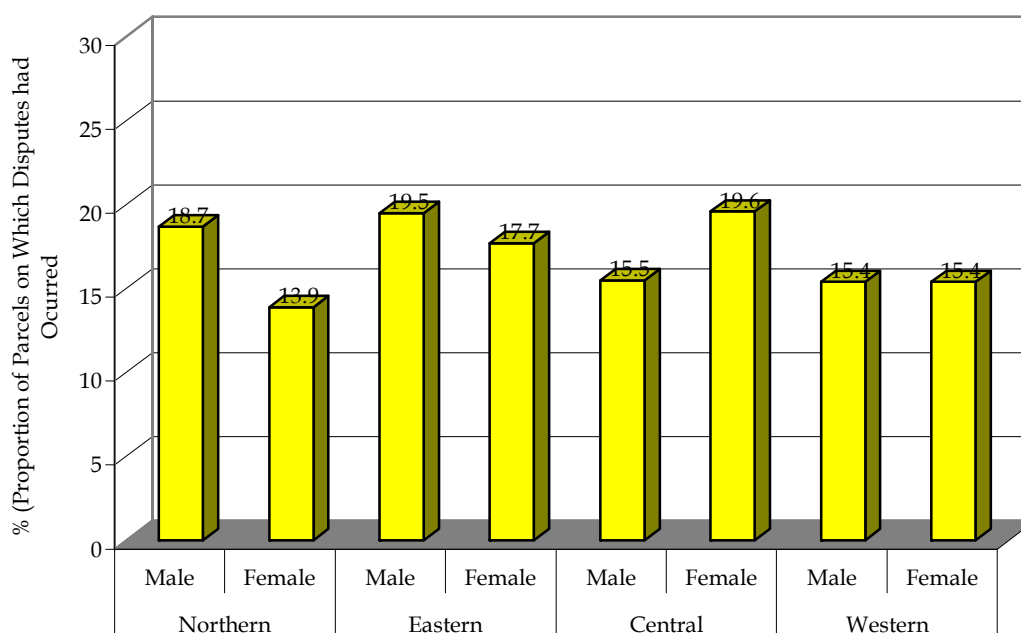
The baseline found the parcel rate of occurrence of land disputes to be 13.9% in the two years preceding the survey. Parcels held by FHHs were indicated to have had more land disputes (19%) compared to those held by MHHs (15.9). Results show that parcels held by FHHs in the central and eastern regions had the highest dispute occurrence levels (26% and 21.1% respectively) as shown in Figure 3.21.

**Figure 3.21: Occurrence of Land Disputes by Household Category**



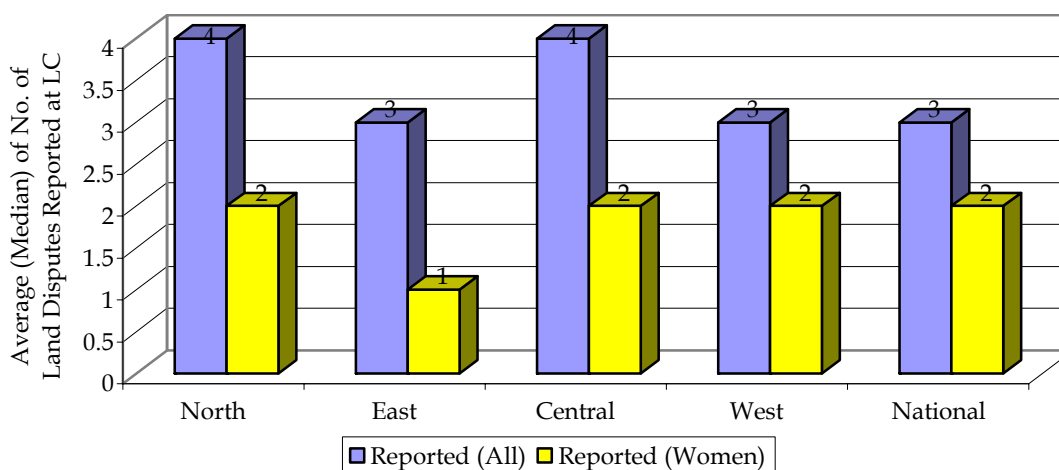
*Source: Household Survey, May 2005*

Analysis of the result by sex shows a more or less even distribution of the occurrence rate between females and males across regions as shown in Figure 3.22

**Figure 3.22: Occurrence of Land Disputes by Respondents Sex**

Source: Household Survey, May 2005

At a community level, results show that in the year preceding the survey (2004), each of the survey communities (n=227 villages) experienced at least 3 land disputes of which 2 were reported by women. Disaggregation of the result by region, showed that in the northern region out of every 4 disputes that were reported 2 were by women, a scenario similar to the central region while in the eastern and western regions for every three land disputes reported, one was by women respectively as depicted in Figure 3.24.

**Figure 3.24: Analysis of Averages for Land Disputes Reported at LC by Region**

Source: LC Key Informants, May 2005

Synthesis of the causes of the various land disputes revealed trespass and/or extension of boundaries to be the most pronounced cause of disputes on 43.5% of parcels (Table 3.55). This further clarified by 51.8% of all parcels actually having disputes involving neighbors (Table 3.56). Amongst others, illegal occupation (10.8%), occurrence and threats to evict (13%), disagreements over land sales (8.2%) and inheritance wrangles (8.6%) were also



mentioned as causes of land disputes on parcels. Interestingly both female and male respondents attest to land use disagreements as fuelling land disputes on 11.4% of the parcels included in the survey. The full result by respondents' sex category is shown in Table 3.55 below.

**Table 3.55: Causes of Land Disputes by Household Category**

Parcel by Parcel analysis		Respondent				Total	
		Male		Female		n	Col%
		n	Col%	n	Col%		
	Land use disagreements	39	12.6	35	10.3	74	11.4
	Land sales	27	8.7	26	7.6	53	8.2
	Compensation	11	3.6	9	2.6	20	3.1
	Resettlement	3	1.0	7	2.1	10	1.5
Parcel	Illegal occupation	33	10.7	37	10.9	70	10.8
Causes of	Inheritance rights	26	8.4	30	8.8	56	8.6
Land	Eviction	37	12.0	47	13.8	84	12.9
Disputes	Trespass and Extension of boundaries	133	43.0	150	43.9	283	43.5
Total		290	100.0	323	100.0	613	100.0

*Source: Household Survey, May 2005*

Following from the above result, the baseline also found that amongst parcels with disputes held by women, 25.2% involved disputes with husbands' relatives while 49.4% involved neighbors as shown in Table 6.56

**Table 3.56: Parties to Land Disputes by Household Category**

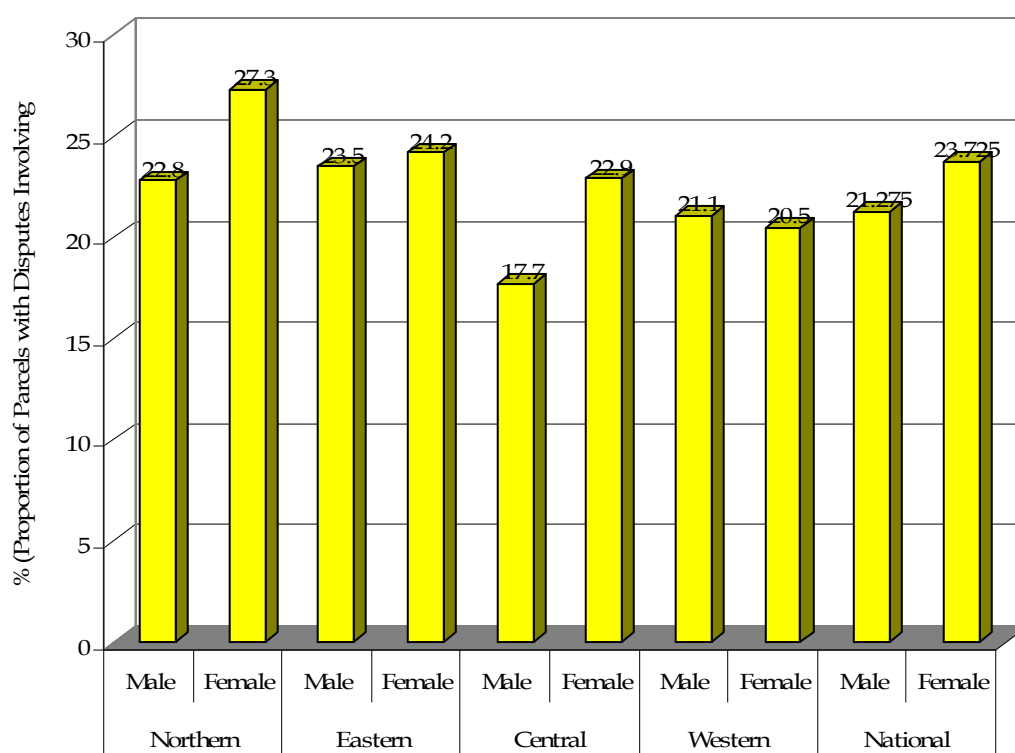
Parcel by Parcel analysis		Respondent				Total	
		Male		Female		n	Col%
		n	Col%	n	Col%		
	My wives relatives	35	12.2			35	5.6
	My husbands relatives			81	25.2	81	13.0
	Neighbour	164	57.1	159	49.4	323	51.8
	My wife	1	0.3			1	0.2
	My husband			12	3.7	12	1.9
	My siblings/ relatives	36	12.5	24	7.5	60	9.6
With Whom was	Land lord	19	6.6	22	6.8	41	6.6
the Land	Squatter/ Migrant	14	4.9	16	5.0	30	4.8
Dispute	Previous owner	23	8.0	18	5.6	41	6.6
Total		287	100.0	322	100.0	624	100.0

*Source: Household Survey, May 2005*

The baseline also found that the rate occurrence of violence in land disputes within households was at a level of 22.5% (Overall, highest on parcels held by females 23.7% than those held by males 21.3%). Within regions, the rate was found highest on parcels held by females in the northern region (27.3%) and least on parcels held by males in the central region (17.7%); Figure 3.23a.

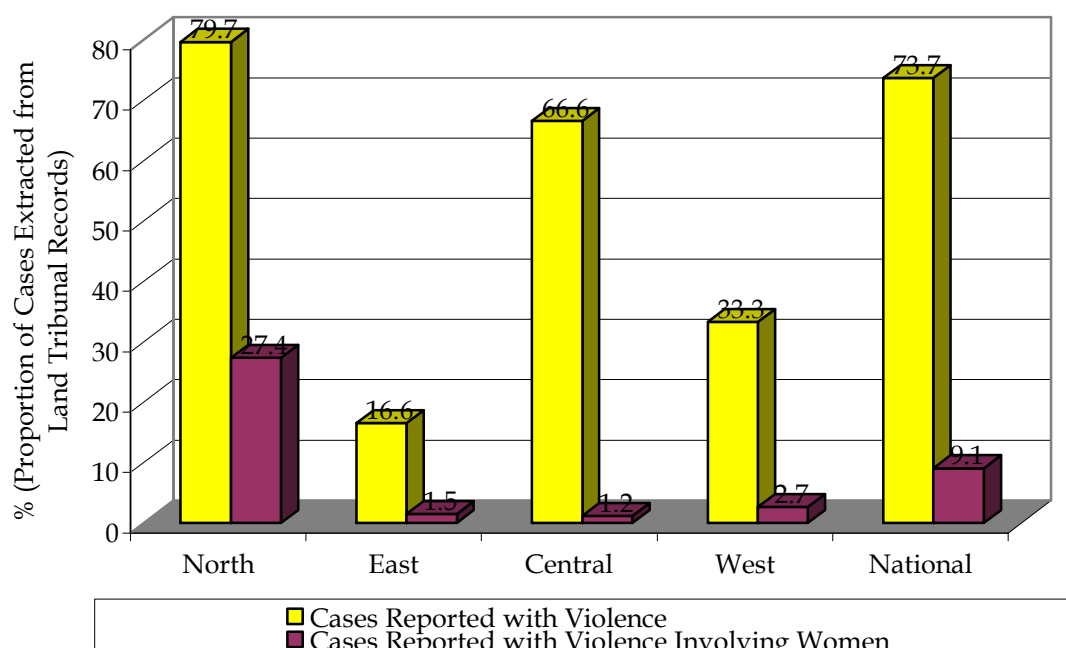
Analysis of land tribunal records also showed an alarming rate of occurrence of violence in land disputes. Overall, the rate was 73.7%, highest in northern Uganda at 79.7% and lowest in the east at 16.6% as shown in Figure 3.23b. At this level the survey did not ascertain whether complainants were reporting intra-household i.e. domestic violence. By region, highest levels of violent cases involving women were from the northern region (27.4%), while all the other regions recorded violence involving women at rates below 3% as shown in Figure 3.23b

**Figure 3.23a: Violence in Land Disputes by Sex of Respondent**



Source: Household Survey, May 2005

**Figure 3.23b: Land Cases Involving Violence from Land Tribunals**



Source: Land Tribunals Records Extraction (Gender Survey), May, 2005

### 3.5.2 Dispute Resolution

The according to results, over 50% of the disputes that had occurred in the two years preceding the survey were resolved using only one dispute resolution option. However, over 40% were resolved through two or more options as shown in Table 3.57.

**Table 3.57: Resolution Options Visited by Complainants' Sex**

Number of Resolution Channels Visited Before Dispute was Resolved	(Col % Only)	Northern		Eastern		Central		Western		National	
		M	F	M	F	M	F	M	F	M	F
	None			7	6	4	2			2	3
	One	48	53	52	50	47	58	53	58	50	54
	Two	17	17	17	23	22	25	32	25	22	23
	Three & More	35	30	24	21	31	13	13	17	26	20
	Total	100	100	100	100	100	100	100	100	100	100

Source: Household Survey, May 2005

From the result above; amongst female complainants, those from the northern region had the highest number of parcels disputes (47%) that had to go through more than two dispute resolution options to get resolved. The most frequented options were found to be village and parish local councils rated by both females and males at over 50%. While resolving land disputes within family and/ or through the clan was rated at over 20% by both females and males. The land tribunals and magistrates courts are not popular as shown in Table 3.58 below.

**Table 3.58: Frequented Dispute Resolution Options by Complainants' Sex**

	(Col % Only)	Northern		Eastern		Central		Western		National	
		M	F	M	F	M	F	M	F	M	F
Frequented Options for Dispute Resolution	Village/ Parish Councils	51	54	62	51	40	60	53	50	52	54
	Sub County Local Council	5	4	5	8	10	9	6	6	6	7
	District Council			2	3	8	3	4		3	2
	Magistrates Court	5	4	4	4	16	9	6	7	7	7
	Land Tribunal	2		2	6	5	5	8	6	5	5
	Clan/ Family	37	33	20	26	10	9	19	23	22	21
	Police		2	4	2	3	1	3	4	3	2
	RDC/CAO/Presidents Office		2	1		8	3	1	4	2	2
	Total	100	100	100	100	100	100	100	100	100	100

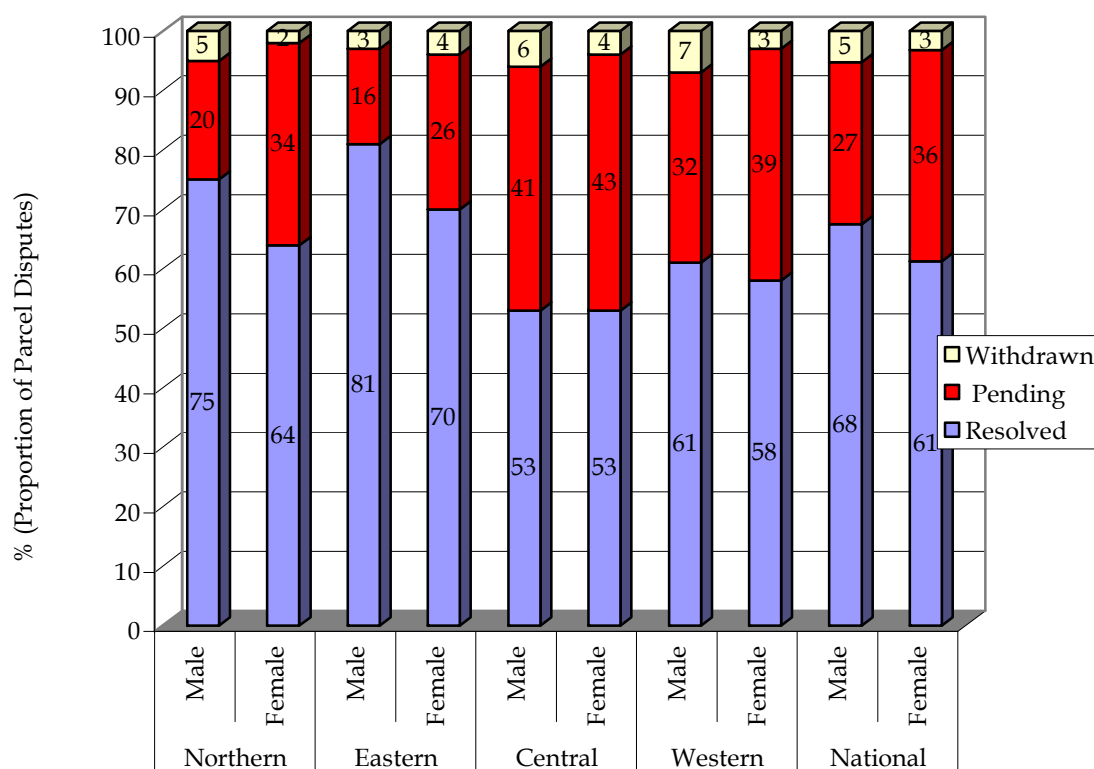
Source: Household Survey, May 2005

The results above show that although most disputes are readily resolved after a complainant has been to only one dispute resolution option, the tendency to 'shop' for other options either through appeals or where an advantage can be exercised is apparent. This is readily elucidated by the result in Table 3.58 where village/ parish councils and clan/family options are more frequently used by complainants.

This scenario points to recurrent vulnerability especially on the part of women that surrounds the redress seeking patterns observable in the two results above. In addition, survey results show more pending land disputes being attested for by females (36%) than males (27%). Although the survey captured information on case withdrawals (4%), it was not readily established whether these were due to frustration with dispute resolution options available. The result on pending and resolved disputes is depicted Figure 3.24a.

### 3.5.3 Local Councils in Dispute Resolution

Information from the key informants showed a reasonable level of local authority response to the plight of widows and orphans in terms of having developed protection measures. Across the regions, 30% of the LCs said they devote energies to expediting cases, especially in the eastern 47.1% and central region 36.4%.

**Figure 3.24 a: Pending and Resolved Disputes**

Source: Household Survey, May 2005

Twenty one percent (21%) of the local councils, attested to having passed bye- laws against land grabbing with the eastern region having the highest coverage of 39.1% and the western region at 30.4%. Eleven percent (11%) of the LCs refer widows and orphans with land disputes to civil society organizations, mostly in eastern region 41.7% and central region 33.3%, detailed results in Table 3.59 below.

**Table 3.59: Measures Undertaken by LCs to Protect Widows and Orphans**

What is done by LCs to Mitigate Land Grabbing (Responses)	Regions								Total	
	North		East		Central		West		n	Col %
	n	Col%	n	Col%	n	Col%	n	Col%		
Usually refer Widows/ Orphans to CSOs			5	13.2	4	11.1	3	13.6	12	11
Widows/ Orphans included on LCs	1	6.3			3	8.3	2	9.1	6	5
No Measures at all, their cases referred	1	6.3	3	7.9	2	5.6	1	4.5	7	6
Usually Keep their land records			2	5.3			2	9.1	4	4
Are encouraged to get land titles	1	6.3		0.0	3	8.3	1	4.5	5	4
Transact in land only when LC is present	2	12.5	3	7.9	4	11.1	2	9.1	11	10
Usually try to be expedient with their cases	4	25.0	16	42.1	11	30.6	3	13.6	34	30
Usually not charged when cases come up					3	8.3			3	3
Have a bye-law on land grabbing	4	25.0	9	23.7	3	8.3	7	31.8	23	21
Are encouraged to get letters of administration	3	18.8			3	8.3	1	4.5	7	6
Total	16	100.0	38	100.0	36	100.0	22	100.0	112	100

Source: Household Survey, May 2005

However, on whether the measures had special consideration for HIV/AIDS widows and orphans, the overall response level was low. The village and parish council s indicated that specific follow up of property is done rated at 27% and effort is made for more expedient action (68%) as shown in the response distribution below (Table 3.60).

**Table 3.60: Measures Undertaken by LCs to Protect Widows and Orphans**

Responses	Regions								Total	
	North		East		Central		West		n	Col %
	n	Col%	n	Col%	n	Col%	n	Col%		
Considerations that specifically target HIV/AIDS widows and orphans										
Specific follow up of property	1	16.7	1	20.0	2	40.0	2	33.3	6	27
Try to settle cases out of court							1	16.7	1	5
More expedient action is taken	5	83.3	4	80.0	3	60.0	3	50.0	15	68
<b>Total</b>	6	100.0	5	100.0	5	100.0	6	100.0	22	100

*Source: Household Survey, May 2005*

Key informant views indicated the most outstanding issue with regard to gender matters in dispute resolution as marriage and the unfortunately high levels of ignorance on the law and policy amongst local council leaders and the wider community. It was apparent from the interviews that dispute resolution is often taken as gender irresponsible. This was indicated to stem from the fact that the grounds on which most female complainants approach legal redress are often shaky. Many of them subsist in co-habitation, which is not legally recognized and yet socially conceived as marriage.

There is discrepancy between societal conceptions and what the law provides, hence “no value” in terms of land rights for women. In addition, to this connivance between local council leaders and men was noted as exacerbating the overall vulnerability of women with regard to seeking legal redress inland disputes. The NGOs however, lamented the lack of a proper relation ship with the Ministry of Water, Lands and Environment.

### 3.5.4 Durations and Costs of Disputes

The national average (median) duration of land disputes was found to be 2 months. This duration was found highest in FHH across regions with the central and eastern regions indicating 5 months while northern and western showed 3 months.

**Table 3.61: Duration and Costs of Land Disputes Resolution by Household**

(Only Households With Disputes On Parcels considered in analysis)		Region								Total
		Northern		Eastern		Central		Western		
		FHH	MHH	FHH	MHH	FHH	MHH	FHH	MHH	
Total Average Duration (In Months) It Took To Resolve All The Land Disputes Per HH	Mean	6.09	3.14	10.39	6.02	6.23	101.46	8.63	10.7	20.44
	Median	3	1.52	5	2	5	3	3	2	2
	Valid N	N=9	N=74	N=19	N=98	N=22	N=53	N=16	N=76	N=369
Total Average Cost Of Resolving All The Land Disputes Per HH	Mean	40,428	232,258	87,083	60,527	424,625	199,112	9,145	292,661	176,638
	Median	5,000	17,750	30,000	20,000	10,000	25,000	5,000	10,000	15,000
	Valid N	N=7	N=60	N=12	N=74	N=12	N=31	N=11	N=47	N=254
Average Duration (In Months) It Took To Resolve The Dispute Per Parcel)	Mean	6.09	2.95	10.39	6.02	6.23	101.46	8.31	10.36	20.32
	Median	3	1.5	5	2	5	3	3	2	2
	Valid N	N=9	N=74	N=19	N=98	N=22	N=53	N=16	N=76	N=369
Average Cost Of Resolving The Land Dispute Per Parcel	Mean	40,428	231,558	87,083	60,527	399,625	199,112	9,145	292,661	175,292
	Median	5,000	15,250	30,000	20,000	10,000	25,000	5,000	10,000	15,000
	Valid N	N=7	N=60	N=12	N=74	N=12	N=31	N=11	N=47	N=254

*Source: Household Survey, May, 2005*

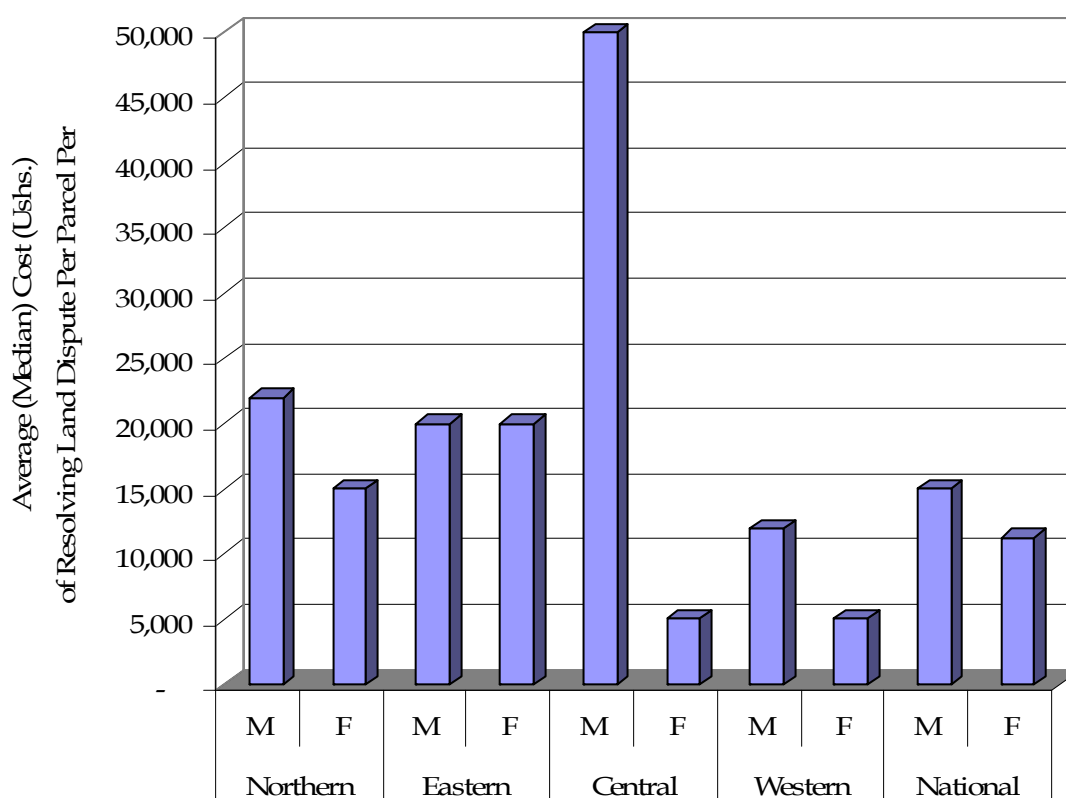
Across regions the highest duration amongst MHHs was 3 months in the central region and least 1.5 months in the northern region while the central and eastern regions averaged (median) 2 months as shown in Table 3.61. From the result above, the disparity in duration of land disputes between FHHs and MHHs, does not only point to deferring vulnerability

but is indicative of the extent to which vulnerable households suffer the vagaries of land disputes. Analysis of household expenditure on land dispute resolution shows that households irrespective of region and category incur an average (median) expenditure of 15,000/= over the course of the land dispute (2 two months).

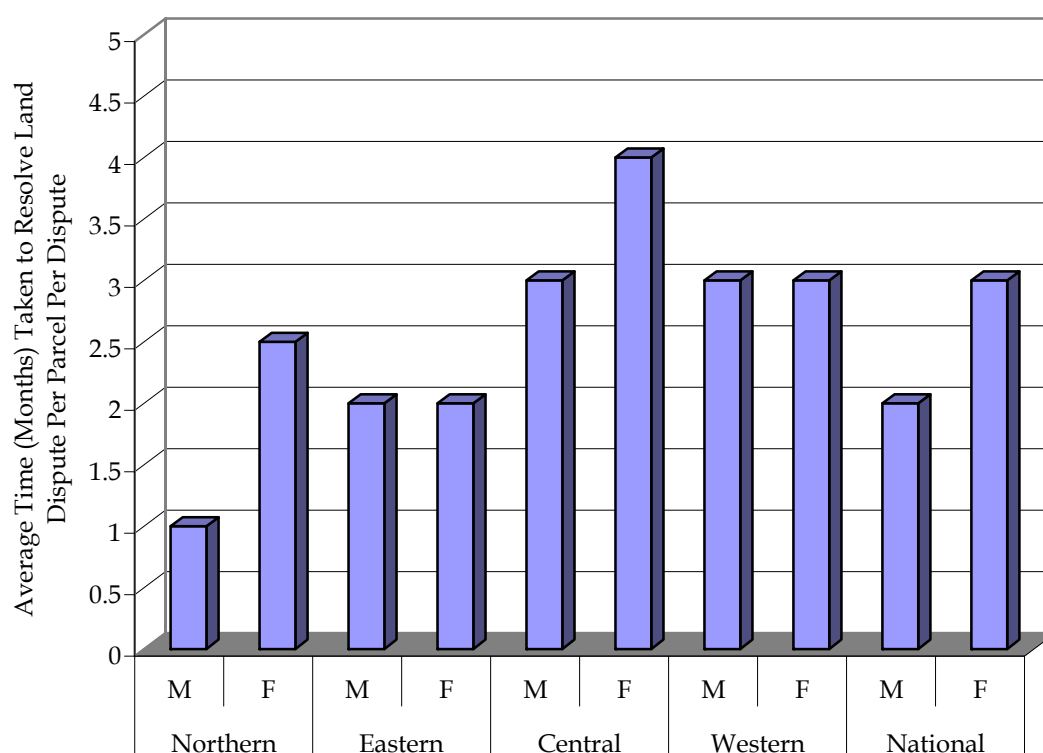
On average FHH irrespective of region spend 12,500/= over the course of the dispute while MHHs spend 18,188/= over the same period. Within regions FHH in the eastern region spend highest overall (30,000/=) on dispute resolution. Comparison of this result with household incomes shows that overall households spend 5.4% of their annual income on dispute resolution (i.e. 65% of their monthly income during the months when the dispute is ongoing).

FHH spend 9.3% of their annual income on dispute resolution while MHHs spend 5.9% of their annual incomes. The variations in cost and duration between females and males are shown in Figures 6.24 c and d. The average (median) time taken by female complainants to have their disputes resolved is 3 months while for the males it is 2 months although the males spend more (26,000/=) per dispute per parcel than females (11,250/=)

**Figure 3.24b: Average Costs of Land Disputes Resolution by Sex**



*Source: Household Survey, May, 2005*

**Figure 3.24c: Average Duration of Land Disputes Resolution by Sex**

Source: Household Survey, May, 2005

### 3.5.5 Gender Patterns in Land Tribunal Cases

Out of the 20 survey districts, land tribunals from 13 districts readily availed the survey team with information regarding cases received, appealed and referred. From these land tribunals a total of 1,250 cases were reported in the year preceding the survey (2003-2004). The highest cases were reported in the eastern region from 5 districts (412 cases), followed by the northern region from 3 districts (361 cases) while the west (3 districts) and the central (2 districts) reported 226 and 251 cases as shown in Table 3.62 below.

**Table 3.62: Proportion of Cases involving Women at the Land Tribunals**

Cases Received (2003-2004)	13 Land Tribunals	Total Received Cases	Average (Mean) Cases Received per District	Total Received Involving Women	Average (Mean) Cases Involving Women per District	Proportion (Row %) Cases involving Women per region
Northern	3	361	120	141	47	39
Eastern	5	412	82	97	19	24
Central	2	251	125	91	45	36
Western	3	226	75	79	26	34
<b>Regions</b>						
<b>Group Total</b>	13	1250	96	408	31	33

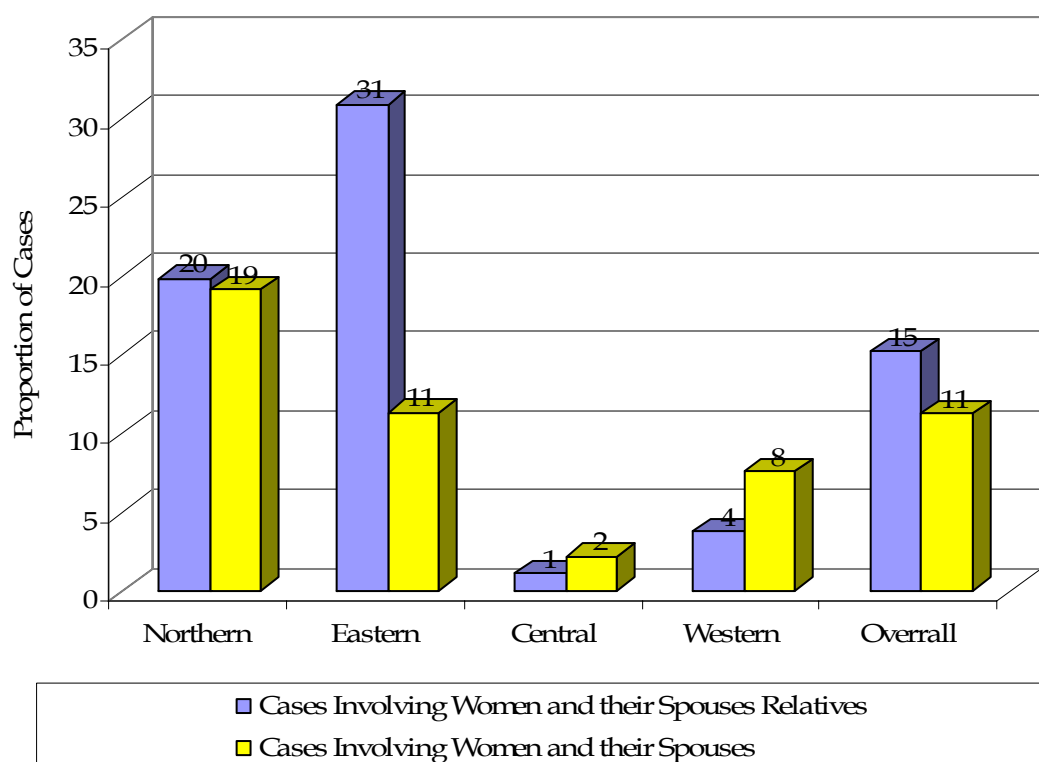
Source: Land Tribunals Records Extraction (Gender Survey), May, 2005

Analysis of averages (means) from the result above shows an outstanding concentration of disputes in the northern and central regions at 120 and 125 cases per district respectively. Again these two regions record the highest concentration of cases involving women at a level of 47 and 45 cases per district in the respective regions in the year preceding the survey.

Desegregation of the cases involving women shows ratings of those involving their spouses' relatives to be 15% and their spouses themselves to be 11%. The other cases involving

women were with men not related to them. Figure 3.25 below shows a comparison within regions of proportions of cases involving these two categories of disputants.

**Figure 3.25: Cases Involving Women at the Land Tribunals**



*Source: Land Tribunals Records Extraction (Gender Survey), May, 2005*

With respect to cases resolved, results show below average rates of dispute resolution across regions from the 13 land tribunals with the lowest rate pertaining in the central region (4.4%) and the highest in the northern region (37.5%). Comparatively the rate of dispute resolution for cases involving women was highest in the western region at (41.5%) and least in the central region at 9.1%. The full result is shown in Table 3.63 below.

**Table 3.63: Rates of Disputes Resolution in Land Tribunals by Region**

Cases Resolved (2003-2004)	13 Land Tribunals	Total Resolved Cases	Rate (%) of Dispute Resolution	Cases Resolved Involving Women	Rate (%) of Dispute Resolution for Cases involving Women
Northern	3	135	37.5	24	17.7
Eastern	5	45	10.9	10	22.2
Central	2	11	4.4	1	9.1
Regions Western	3	41	18.1	17	41.5
Group Total	13	232	18.6	52	22.4

*Source: Land Tribunals Records Extraction (Gender Survey), May, 2005*

On the other hand appeals from lower courts are 9.2% of all cases received by the land tribunals while cases referred were found to be 0.9%. The northern (14%) and central (12%) regions rerecorded the highest levels of appeals from lower courts in the year preceding the survey (2003-2004). Expectedly the proportions of appeals from lower courts involving women were highest amongst these same regions as shown in Table 3.64 below.



**Table 3.64: Proportions of Appeals from Lower Courts by Region**

Appeals From Lower Courts and Refers to a Higher Court		Land Tribunals	Total Appeals Received	Appeals as proportion (Row %) of cases received	Appeals Involving Women	Appeals Involving Women as proportion (Row %) of Total Appeals Received	Proportion (Row %) of cases Received And Referred to higher court
Region	Northern	3	51	14.1	11	21.6	0.5
	Eastern	5	30	7.3	5	16.6	1.2
	Central	2	7	2.8	1	14.3	-
	Western	3	27	12.0	9	33.3	1.8
Group Total		13	115	9.2	26	22.6	0.9

*Source: Land Tribunals Records Extraction (Gender Survey), May, 2005*

#### 4. CONCLUSIONS

The results of this survey confirm that land has the potential to contribute to improved per capita income of a household, because it is ranked the highest (53%) among productive assets and accounts for (64%) of income (from land based sources) within a household. It also established that at least 55% of women and female headed household are able to access and cultivate more than 75% of land parcels available (owned, rented or leased for production) in a household. However, control of incomes from land is differentiated and opportunistic (tilted to favour household heads and males) on the basis of “value of crops” farmed, indeed access and utilization may not realistically translate into improved livelihoods for women in households, since husbands control 44.9% of perennial crops as opposed to 9.4% by wives, while annual crops of low value are controlled by wives at 45% compared to the husbands’ 5.8%. It is even more peculiar that wives have control over land that holds low income perennial crops at 28.8%, compared with the husbands’ control of 6.9%. In essence, farming is the major source of income for households, though this does not translate into actual benefits for women (their interests are subsumed by the household) hence, unreliable as a source of enhanced income for women, even if it is valid for households as whole units.

Often, it is assumed that market led land reform will increase the rate of land utilization and thus provide leverage for structural transformation from subsistence to commercial agriculture (especially in the PMA and the PEAP), it is the conclusion of this survey, that the volume of land transactions is too low to support this transformation. 94.9% of the respondents in this survey have never used their land to access credit from any banking institutions or micro-finance institutions. Only 1% of females and 1.4% of males had used formal title to access credit. Indeed, this is confirmed by statistics from the banking institutions, where in 2004 the mortgage department of Development Finance Company Uganda Ltd extended 225 (19.6% to women and 80.4% to men) mortgages using land as collateral for non-agricultural investments. Similarly, Housing Finance Company Uganda extended 141 mortgages (32.6% to women and 67.4% to men) for non-agricultural investments using land as collateral. This confirms that the major producers in Uganda’s agro-economy (the smallholder farmers) have limited capital options; unless if the capital options are expanded; increased land utilization is impossible, therefore it becomes difficult to assume a shift to commercial production without consumerate capital investments, whose sources are limited. Credit institutions claimed that their clientele were largely composed of the poor who do not have access to registered land to use as collateral; the alternative is ‘social capital’ as collateral for groups. The implication is that certainty that the current cycle of the Land Sector Strategic Plan (LSSP) will support structural growth of the smallholder subsistence farmer to commercial levels diminishes and calls in the need to explore other linkages between LSSP and Plan for Modernization of Agriculture (PMA).

The LSSP aspires to increase tenure security and direct welfare benefits for the poor and vulnerable groups, evidence in this survey elucidates the secondary nature of women rights; few have documents to show ownership (only 7%) just as the Makerere Institute of Social Research study found male dominance in ownership of land (mailo tenure at 60%, while leasehold is at 66%). The national-wide women land ownership with registered land is at 16%, for those with documents few are in their own names (and hardly any documents on land ownership are kept by woman, they are in custody of husbands (60.3%). The survey also shows that tenure security for women is still far from reality given the threats of evictions (11.5%) arising from disagreements over ownership of land (22.5%) and land disputes at 13.9%, which not only deter socio-economic advancement by disrupting livelihoods but also undermine confidence to invest in land. One of the ways of improving

tenure security for women which is still a dismal reality (except for those in urban centres) is to ensure ownership rights through co-ownership whose approval rating is 61.4% and those opposing it at 14%. The support is an opportunity, which LSSP should utilize to achieve its objectives LSSP in this respect.

The LSSP argues that the sustenance of household welfare and incomes, in the event of HIV/AIDS, is only plausible if the land rights of orphans and widows are streamlined. The results of this survey confirm that 28.7% of respondents who experienced loss of a household member to HIV/AIDS, experienced a multitude of effects, whose consequences on household welfare and incomes is undoubted such as failure to make investments and/or savings rated at 36.9%; reduced time spent in land utilization and labour to farm (26.3%); utilization of resources and reduced productivity by scaling back of farming (15%) and sale of land to finance health expenses at (11.3%). Households attesting to the above did not have diversified income and production options hence reliance on land (for production-food, for security; for health etc). Female headed households (30.2%) exhibited higher vulnerability than male headed households (21.2%) to the effects of HIV/AIDS, though sale of land (3.8%) which is the “last option effect” affected both households equally. The importance of property and inheritance rights for women in the context of HIV and AIDS inevitably draws us to tenure security. The survey found that male children have inheritance priority (55.5%) compared to their female counter parts, who are not allowed to inherit land at all (45.5%) and are only allowed use but restricted on ownership rights (42.4%), because the power of culture and norms is still influential in inheritance patterns despite the effects of the epidemic. The right to determine who inherits a particular piece of land is still a male domain exercised by husbands on (55.4%) parcels of land compared to (19.5%) which are subject to a joint decision by both husband and wife. To achieve its intent LSSP will have to invest in articulating the need for secure rights for women and female children at inheritance.

The LSSP implemented decentralised dispute resolution provided for in the Land Act Cap.227 and the 1995 Uganda Constitution, to improve the delivery of services. Initially, the District Land Tribunals were under the Ministry of Water, Lands and Environment, later they transferred to Ministry of Justice, a measure that seems to have completely transformed their intent, purpose and services. As a measure of confidence and satisfaction in dispute resolution over land, the survey found that ‘One stop dispute resolution’ occurred in over 50% of the disputes that had been resolved in the two years preceding the survey. ‘Multiple option dispute resolution’ was reported in 40% of the cases in the same period. However, most disputes are resolved at the village and parish local councils (over 50%) while traditional institutions accounted for 20% of disputes mainly in Northern and Eastern Uganda, where services from formal institutions are limited. Although, 68% of men and 61% women in this survey were able to access some institution (including Local Councils, Clans etc) to attend to their land disputes. This goes to show that tribunals once perceived to be the “magic” needed at lower levels are far away and have continued to drift away from their intended users. It is therefore imperative that if LSSP is still interested in the delivery of “closer to the people, non-bureaucratic and people-oriented justice” in the resolution of land disputes, it will have to refocus its investments to empowering lower local councils and traditional institutions where they exist, to achieve its intent, because the current form of the Land Tribunals have failed to deliver and are not different from the pre-existing courts, that the LSSP was steering from.

The LSSP argues, that a household’s involvement in land disputes over a pro-longed period of time, can emaciate its asset portfolio (especially land) and increase its vulnerability to poverty. In this survey, this risk is considerably reduced given the average (median) expense

on a dispute is 15,000/= over the course of two months, though the drain on household resources is still above average. On average households spend 5.4% of their annual income on dispute resolution (FHH spend 9.3% while MHHs spend 5.9%). The LSSP has to continue to invest in reducing the prevalence of land disputes which is still high at 13.9% (19% FHH, 15.9% MHH) considering the severity involved and drain on household resources. This level of prevalence consumes woman-time and resources that would have otherwise been used productively elsewhere, implying increased poverty risks for the FHH. At community level, it was reported that for every 3 land disputes, 2 are reported by women. In the northern region out of every 4 land disputes 2 were reported by women. It is clear, that women find community level institutions easier to access, than higher level institutions (such as tribunals), therefore they have continued to suffer injustice emanating from ignorance of the law and orientations to custom and norms often in their disfavor, on which institutions at that levels (LCs, Clans etc) premise their decisions. Many women and some poor men who are unable to access and afford tribunals have sought to resolve disputes at other fora or simply given up fighting for their rights<sup>141</sup>.

Decentralized delivery of land services is yet to result into improved access and utilization by women for purposes of securing rights in land. Looking at the operations of the 13 district land boards, a total of 1,631 applications were received for the period 2003-2004, of which only 12% were by women (57% for urban land, 43% were for rural land). This low rating can be explained by the low levels of awareness. Overall, the proportion of respondents who not accessed information on gender and land rights is still high at 52.6%. For those who accessed information 37.5% was through radio, (34.5% female, 41.5% are male), 7.9% through seminars and/or workshops (6.2 females, 9.9% males). The most peculiar finding was hardly any respondent mentioned literature as a way accessing information. This finding calls into question the strategies and methods used by government, civil society organizations and the private sector in awareness campaigns. The LSSP will have to restructure the approach and rethink the levels investments (probably revise them upwards) in public awareness because the effects of the current efforts so far, are not clearly visible in the communities. Even those who claim to have benefited, are ignorant on specifics, this is much higher amongst women. The survey also found that the distribution of awareness campaigns is uneven across regions and with districts (sometimes tailing CSO presence) to deliver the desired results.

The northern region with regard to land is one to contend with. The study shows that land transaction figures are high, yet people are in camps; this notwithstanding, the prevalence of land conflicts that translate into violence is high. The figures on dispute resolute show disputes involving female complainants take longer to resolve. This scenario is one that needs urgent mitigation oriented work to further understand and develop strategies for response.

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<sup>141</sup> Confirmed by the results of the Justice Law and Order Sector in Uganda survey conducted in 2004, which showed that there are four times more cases brought to the tribunals by men than by women.

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Table 1.2: Distribution of Survey Respondents by District

Survey Districts	Respondent Category																		Group Total	
	Wife		Husband		Widow/ Widower		Single female		Single male		Female child		Male child		Divorced/separated female		Divorced/separated male		n	%
	n	%	n	%	n	%	n	%	n	%	n	%	N	%	n	%	n	%		
1. Arua	39	23	75	44	12	7	6	4	10	6	2	1	6	4	14	8	6	4	170	100
2. Busia	75	38	78	39	41	21	2	1	2	1					1	1	1	1	200	100
3. Apac	76	39	89	46	15	8			8	4					4	2	2	1	194	100
4. Iganga	74	38	73	38	40	21	2	1	2	1	1	1			2	1			194	100
5. Kabarole	70	36	67	35	36	19	11	6	3	2			1	1	4	2	2	1	194	100
6. Kapchorwa	88	48	90	49	4	2	1	1											183	100
7. Kayunga	70	36	69	36	39	20	5	3	5	3			1	1	1	1	2	1	192	100
8. Kibale	63	32	88	45	29	15	5	3	6	3					2	1	1	1	194	100
9. Lira	76	44	75	43	18	10	2	1							1	1	1	1	173	100
10. Luweero	75	39	65	34	31	16	13	7	7	4									191	100
11. Masaka	73	39	72	38	28	15	6	3	6	3	1	1			1	1	1	1	188	100
12. Masindi	77	42	78	43	9	5	3	2	5	3	1	1	1	1	7	4	2	1	183	100
13. Mbale	77	40	83	43	29	15	1	1	1	1			1	1			2	1	194	100
14. Mbarara	72	37	83	42	31	16	3	2	1	1					7	4			197	100
15. Moroto	53	30	84	48	9	5	3	2	15	9	4	2	3	2	1	1	2	1	174	100
16. Mubende	73	37	68	35	36	18	9	5	8	4					2	1			196	100
17. Nebbi	56	29	80	42	12	6	2	1	17	9	1	1	4	2	12	6	8	4	192	100
18. Rukungiri	84	44	70	37	24	13	1	1	2	1	1	1	1	1	5	3	1	1	189	100
19. Kumi	79	41	94	48	17	9	2	1							1	1	1	1	194	100
20. Wakiso	75	40	75	40	25	13	8	4	3	2					1	1			187	100
<b>Group Total</b>	1,425	38	1556	41	485	13	85	2	101	3	11	0	18	0	66	2	32	1	3,779	100

Source: Household Survey

## ANNEX 1: TERMS OF REFERENCE

Gender awareness is the recognition that the life experience and life chances of women and men are not only fundamentally different but involve inequity and that they are subject to change. In development, this implies an awareness of the ways in which gender relations' condition how men and women participate in and are affected by the processes of development, and how interventions affect gender roles and relationships. Experience has shown that without such awareness, development will not only fail to meet the needs and serve the interests of all the people they are intended to help, but are likely to worsen the situation of women.

Any intervention with a genuine concern for promoting social justice must be aware of gender inequality and take action to promote women's development. The awareness of gender discrimination should be as fundamental to development thinking as awareness of the causes of poverty. Women and men play an important role in the agricultural development of Uganda. Land is the most important resource in Uganda because the country's economy is largely agro-based. Unfortunately, agricultural development is affected by unequal gender relations resulting in gender imbalances in access to and control over land.

Uganda is now undertaking major land reforms ushered in by a new Constitutional and legal order. The various programmes under the reform are aimed at eradicating poverty by increasing the ability of the poor to raise their incomes. Land and Agriculture are crucial to achieving these goals. It is recognized that programmes which overlook gender issues and concerns do not register the desired impact because the strategic needs of women and other marginalized groups are not addressed and yet these needs are related to the process of changing situations positively.

### Objectives

The Ministry of Water, Lands and Environment is seeking for the services of a team of consultants to undertake a baseline survey.

- (a) The main objective of the survey is to establish baseline data and progress on the indicators for the Land Sector in achieving national development objectives stated in the PEAP. It has been acknowledged by the sector, that the synergy between PEAP and LSSP is still limited, though links have been established between the PEAP goals and LSSP strategies. It is broadly accepted within MWLE, among CSO's and other land based resources stakeholders that empirical clarification, of the nexus between gender, land and poverty is inadequate.
- (b) A framework for Monitoring and Evaluation of the LSSP has been completed, with clear linkages to the PEAP. This activity will extract the gender component from the M & E framework for the LSSP, based on the indicators. Data collection instruments will be designed for both qualitative and quantitative data. The design of tools will be based on the M and E tools as they related to the activities undertaken by the sector under LSSP.
- (c) Using the instruments developed, carry out a survey in 20 districts agreed with the client (MWLE)

### Expected Outputs

- An inception report within one week of signing the contract

- Data Collection Instrument and detailed implementation plan within the second week
- Draft Discussion Report within one month of concluding field work (field work report)
- A final report within 2 weeks of submitting the discussion draft

**Time Frame**

6 Months

**Reporting**

Reporting to the Director, Lands and Environment or his / her appointed nominee. In all stages of planning and conducting of the survey, collaboration must be closely maintained with the Planning and quality Assurance Department of the Ministry of Water, Lands and Environment and the LSSP Division.

**Qualifications**

The consultancy team comprising the following skills and experiences are required:

- M & E Expert
- Sociologist / Socio-Economist
- Gender Expert
- Policy Analyst
- Experience in household surveys / field surveys
- Person knowledgeable in land matters
- Experience in data collection and management
- Past assignments carried out in the land sector
- Knowledge of PEAP, PMA and NAADS