



APS IN WOMEN'S LAND RIGHTS IN UGANDA

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IMPLEMENTATION GAPS IN WOMEN'S LAND RIGHTS IN UGANDA

Background/ Situation Analysis

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ACRONYMS & ABBREVIATIONS

(Only those not clearly defined elsewhere in the text)

WLRs	Women's Land Rights
DLBs	District Land Boards
ALCs	Area Land Committees
MLHUD	Ministry of Lands, Housing and Urban Development
CEDAW	Convention on the Elimination of All forms of Discrimination Against Women
LCs	Local Councils
MDAs	Ministries, Departments and Agencies
ADR	Alternative Dispute Resolution
UDHR:	The Universal Declaration of Human Rights
Maputo Protocol:	The African Charter on Human and Peoples Rights
ICCPR:	The International Covenant on Civil and Political Rights
PGIESCR:	Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights
UBOS	Uganda Bureau of Statistics

SUMMARY REPORT

This background analysis aims to establish a rationalized basis for the Stand for Her Land (S4HL) Campaign five (5) year strategy by interrogating the Uganda country context and status regarding implementation gaps in women's land rights.

The analysis relies strongly on secondary data sources through document review (as abridged in the annexes and duly referenced at the end of the report) and key informant interviews selected in consultation with Uganda Community Based Association for Women and Children's Welfare (UCOBAC). This summary report focuses on key findings, their implications, and recommendations, organized in themes to bring out issues pertinent to the crafting of a strategy that gives the S4HL campaign an edge.

1.1 Changing Justification for WLRs: WLRs no Longer an End but a Means

Literature on the linkage between WLRs and food security, climate change, and sustainable development depicts not only a changing but also a maturing justification for WLRs. There are arguments that agricultural productivity is positively affected by women; as women invest effort (and other capital) on guaranteed (secured) land, there is an assurance of returns. Literature provides no evidence of lesser efficiency (in land use, agricultural production, or even production inputs) by women farmers. Literature shows a consensus; often, women's land rights have far-reaching trickle-down economic outcomes, translating into better welfare at the household level, especially for children. This economic efficiency justification is often combined with human rights reasoning to counter unequal distribution and control of resources (mostly productive capital- land), which creates or exacerbates poverty.

The human rights justification firmly draws on the existing body of international human rights law and conventions to provide rights principles that are relied on to temper the impact of free-market forces that are often construed to cause or reinforce the unequal distribution of or access to resources. In literature, the human rights perspective determines the moral weight of competing claims to land and is seen as having significant potential for the protection of a woman's right to a heritage, social security, economic empowerment, and enhanced participation in the community, the ultimate dividends of secure rights to land. Equity also features strongly in

justifying WLRs; invoking the significant proportions of women not only in the national population but also in the agricultural labor force. The sheer contribution of women to the national economy earns them the right to land. In literature, these traditional justifications for WLRs are reframed in the context of food security and climate change to highlight the role secure land rights can play; first, as an incentive in notching up agricultural production. Second, as the underlying farm-level decision factor in the uptake of climate change adaptation or mitigation actions for sustainable responses to this practical present-day human problem. Third, the constituency of women is bigger, going beyond rural women to encompass urban and peri-urban women or even those in ethnic minorities, whose land rights are brought to the fore by climate change issues.

The implication of this change to the S4HL campaign strategy is land rights are not an end but a means or an enabler to better development outcomes for women. The strategy must through appropriate indicators be able to demonstrate contribution to improving these linkages and remaining in line with changing societal circumstances around these issues.

1.2 Existing Policy and Law: Progress, Responsiveness, and Gaps in Realizing WLRs

In existing policy and law literature, Uganda is good at incorporating international and regional frameworks on WLR. Whereas these are numerous, they take the form of conventions, treaties, and instruments; developed to guide the promotion, protection, and actualization of women's land rights. The overarching principles in these frameworks are non-discrimination and equality across political, social, economic, cultural, and civil spheres of life. Domestication takes the form of signature, ratification, and incorporation into national policies and laws, a process that may involve; drafting non-existing policies, reviewing existing policies, amending existing laws, and drafting new laws.

The Constitution of the Republic of Uganda (1995, as amended); and the Land Act (Cap 227 as amended) are praised for reasonably, not perfectly, conforming to CEDAW, and the Maputo Protocol. The Succession (Amendment) Act of 2021, is being touted as having gone further than the Constitution and Land Act in actualizing CEDAW, the Maputo Protocol, the Beijing Declaration, the ICCPR, and PGIESCR, as well as Target 5a of the Sustainable Development Goals (SDGs). To this effect, there is a reasonable consensus both in literature and interview narratives that a lot has been achieved in defining and clarifying the bounds of women's land and property rights. However, there is a strong realization that there are significant missing pieces of the puzzle on equally progressive laws on marriage and divorce and the registration of land in Uganda.

In literature, it is apparent that the Marriage and Divorce Bill of 2009, would be a progressive law, but it has fallen victim to three issues that perhaps the S4HL campaign would resolve or come to terms with. One, persisting controversies on the presumption of marriage among cohabiting

persons. Two, persisting allegiance to societal norms and practices rather than policy and law; yet, the rate at which societal norms and practices re-invent, change, and have opportunistic interpretation significantly outpaces the rate at which law and policy can be responsive. Three, an unexplained lack of consensus among women on the subject, especially among women in leadership and the ordinary female citizenry, the heterogeneity of women suddenly seems more complex, going beyond well-studied person-level attributes (life cycle stages, religion, tribe, education/ literacy, and income/ economic empowerment) to less interrogated influences like political ascriptions and other sensitivities. These issues are confounders to WLRs beyond the context of the Marriage and Divorce Bill of 2009.

In scanning literature, we establish that there is reasonable consensus on the definition of that which a woman should be entitled to either as a wife, a widow, a daughter or simply as a private citizen. Both literature and interview narratives agree that present and continuing gaps and inconsistencies are in the arena of implementation. The otherwise reasonable laws and policies are not made use of by most intended beneficiaries. At times, these lack administrative regulations as is the case with aspects of the 1998 Land Act. The personal convictions of implementing officers as well as corruption can also get in the way of implementation. Very often, the laws are not localized (translated, circulated/ distributed) in a timely and appropriate manner to the numerous social and community units to whom they are most relevant. Also, the associated assistive services (sensitization, advocacy, awareness creation, legal and paralegal services) are either absent or have uneven coverage to the disadvantage of those that need them. Importantly, in this study, we find a near complete absence of any analysis of the cost¹ (to ordinary citizens) for accessing or not accessing services associated with various rights, laws and policies when needed; yet this is an important determinant of grassroots uptake in WLRs implementation.

1.3 Existing Initiatives to Advance WLRs: Barriers and the Enigma of Societal Norms

Both literature and the interview narratives point to a plethora of actions by both government and non-state actors/ civil society that can currently be broadly classed (not mutually exclusive though) into three; advocacy, law reform, and the piloting of solutions/ tools that enhance or create opportunities for better WLR. The quest for WLRs is explicit in the issuance of Certificates of Customary Ownership (CCO), Certificates of Occupancy on titled land (COO), Systematic Land Adjudication and Certification (SLAAC); various law and policy reform initiatives as highlighted by the impending National Land Policy review process, the concluded process of reforming the Succession law and the faltering reform of the Marriage and Divorce law since 2009; and, the numerous affirmative action provisions in government MDAs, and local government

¹ Cost in terms of actual expenditure but also in terms of associated implications of decisions made in the pursuance or not of rights or courses of action to realize rights.

decentralization both at a political and technical level. These existing efforts are commended as testing solutions to WLRs barriers and extending WLRs to new frontiers both geographically and culturally. Land management and administration services delivery are decentralized with women having positions in these institutions; and, a general sense of awareness of WLRs in the populace has been created. Though not to scale, and often in a shared manner have delivered individualized land rights to some women.

On the side of criticism, tokenism mostly on the side of affirmative action is widely alleged. Whereas a third of the positions in decentralized land management and administration are for women, the quality of women appointed to these positions defeats the purpose of women-centered or conscious service delivery. They hardly have any impact as evidenced by the continued approval of questionable land transactions by DLBs and ALCs that often result in the grabbing of family land, especially from widows and orphans. Current efforts are implemented within and with the support of weak institutions prone to corruption and the personal convictions of duty bearers in them; if a registrar, for example, in a land office does not appreciate the WLR cause, they are unlikely to check for spousal consent on a land transaction which requires one. On the other hand, even if they wanted to, they would be let down by the absence of integrated relevant registries on property, person identification, marriage, divorce, or even death. The example of Local Councils (LCs) and their involvement in fraudulent land transactions that often result in dispossession of vulnerable persons' land needs no elaboration here. From a general perspective, literature is thin on how land management and administration institutions disadvantage WLRs but interview narratives are very elaborate on how these institutions should be the new frontier in the actualization of WLRs.

The chronic lack of adequate operational resources (human and financial) in land management and administration institutions is well documented. The way DLBs and ALCs set fees for land services is evidence of this. This is not only a barrier to accessing land services but inadvertently a barrier to WLR as well. In effect, the institutions are weak and vulnerable; therefore, can easily be influenced in matters of claims and contestations. In the way the day-to-day processes of land governance are conducted, the needs, interests, and concerns of women; more so in targeting them as clients, are not high on the agenda. It cannot and should not be business as usual; from requiring proof of spousal consent in land transactions to the much needed expediency in the Administrator General's office, it cannot be said that government land actors and other leaders are much inclined to the WLR cause. Duty bearers at various governance levels, in various land management and administration structures and institutions, are seldom targeted by advocacy, often they are left to their convictions as far as WLR issues are concerned. The assumption that they know and can articulate the rationale for WLR is wrong. They often call out WLR from a very shallow perspective, they are aware, they are sensitized but they are not literate in WLR; yet they are at the frontlines of actualizing WLRs and are relied on heavily in WLR outreach efforts. They need to be equipped with information and knowledge beyond the requirements of administrative forms.

Existing efforts especially among non-state actors are very generic, lacking in innovation or creativity, using advocacy, sensitization, and awareness creation in a manner that has hardly changed in years of implementation; yet the demographics and the prevailing societal norms and practices have changed. WLRs have moved from the public to the personal realm; WLR efforts must influence at a personal level. Critical WLRs decisions though with societal implications are personal, made in the private spaces of households, and influenced by interpersonal relations, the S4HL campaign must be cognizant of this. Current efforts are implemented without proper targeting, without adequate stakeholder analysis, leaving out critical institutions, for example, the Administrator General's Office, as critical as this office is to WLR, there is hardly any mention of it in any literature. Existing efforts are characterized by project rather than programmatic implementation, with very short implementation cycles within which it is hard to realize any reasonable turnaround in the WLRs situation. The risk of elite capture is of concern; indeed, both literature and interview narratives show that WLRs are often dismissed as an issue for a certain class of women. In such circumstances, WLRs efforts are personalized and not owned by communities or the larger constituency of women in the intervention areas. Indeed, very often to trace these initiatives at the community level, one must invoke personalities attached to or involved with them. Both literature and interview narratives allude to the realization that the origination of most WLRs initiatives is often not linked to grassroots women or the ordinary female citizenry; thus, translating into limited uptake or even dismissive attention in the wider community. The S4HL campaign strategy must devise ways and means of cultivating ownership of the effort among grassroots women.

Initiatives by both state and non-state initiatives have had limited success in overcoming challenges posed to WLRs by societal norms and practices. Both literature and interview narratives agree that these are likely to linger on as a limiting factor to WLRs either because the initiatives crafted as projects are outlived by the persistent societal norms and practices or because behavior rooted in culture tends to take longer to change. The root contention here is legitimacy in society, not legality; although legal pluralism compounds the matter by affording societal norms and practices a wider field of opportunistic posturing, invocation, and interpretation. This cannot be turned around through sensitization, awareness creation as currently structured, or mere inclusion of names on documents. However, literature is not revealing clear-cut actions or options on the way out.

One school of thought is that state and non-state actors can design more localized interventions that respond to community-specific complexities of societal norms and practices first as pilots and later delivered at scale after obtaining proof of concept. However, there is a general dearth of detail on how that can work, for example, could codification of custom take in an allowance for periodic review and change to capture the resilience and reinvention of culture? If this does not happen, then on what basis would a customary register function? Because this is would be an innovation towards harmonizing social norms concerning WLR in a specific locality. Another option would be the creation of local deliberative spaces, bringing together a wide

variety of actors, including local feminist organizations, to critically engage, assess, and come up with pathways to address specific gender inequality patterns on land. These suggestions notwithstanding, both literature and interview narratives agree that the turn-key to overcoming the overbearing and seemingly insurmountable challenge of societal norms and practices is by packaging WLRs to appeal to the personal rather than public convictions of the targeted constituents.

1.4 Political Will, Knowledge, and Agency Regarding WLRs

Taking political will as the commitment/ determination of key decision-makers to support/ undertake a particular policy solution to a particular problem; it should be realized that issues that often require harnessing of political will are those that cannot be easily resolved as is the case with the quest for WLR in Uganda.

It is important to be cognizant of the fact that gender issues came to the fore in Uganda due to political, not economic, or human rights arguments. Therefore, whilst political will may at times be looked at as an outcome, in the case of WLRs, it must be an output requiring immediate cultivation for the political citizenry at different levels of governance in the country to be awakened to the WLR cause. This review finds abundant documentation of political will achievements at the national level but hardly any at the regional and district level, let alone the lower local governments. Without negating the national discourse, this is the new frontier to focus on. District council conversations, district plans, and budgets need to mirror the national discourse, to bring the quest for WLR closer to the action arena where ordinary/ grassroots women subsist. This political space has not been adequately engaged by the proponents of WLRs.

The creation of broader coalitions beyond politicians, involving technocrats, state and non-state practitioners, and the academia concerned with or about WLRs is key to sustaining political will and building narratives that embrace the values and views of most. For the WLRs cause in Uganda, what is needed is not moderation or even necessarily compromise, but effective empirical stories that appeal to widely held beliefs emanating from the fact that the GoU has ratified most international conventions and frameworks supportive of WLR, which are largely well domesticated in various laws and policies and through affirmative action quotas that have ensured that women have a presence in nearly all decision-making institutions in the country. WLRs need not be a concern for widows, divorced and separated women but grandmothers, mothers, sisters, and aunts; for women with a wider national appeal in the public arena.

Adequate resources are indeed essential for making the most of gender interventions; literature and interview narratives indicate that with adherence to international standards and commitments as enshrined in the different conventions and frameworks; resources are available

to pilot options and even deliver workable solutions at scale. What is key for political will to deliver resources is demonstrable or evidence-driven initiatives without the imposition of what works elsewhere in recognition of the highly contextual nature of WLRs. In this regard, it is important to point out the selective way civil society is engaging with various initiatives regarding WLRs; the tendency is to be very active where they are co-opted as implementing agencies letting other opportunities to engage go by. Illustratively, the GoU through CEDP is in the process of issuing thousands of freehold land titles, and this is to be scaled up to perhaps millions of titles but this is taking place with a glaring absence of civil society, and non-state actors; yet in contrast where CCOs are being issued, there is a near 100% presence of civil society, the non-state actors.

This review finds well-documented limitations to current sensitizations and awareness-raising initiatives, often limited in duration, frequency; and more so not tagged to changing knowledge needs along the life of a typical woman. These efforts while important, are criticized as glossing over issues, many women despite attending these sessions, still claim not to understand. Besides these approaches do not create opportunities for dialogue, particularly with men and community leaders on WLR. Legal literacy is being heralded in literature and interview narratives as an approach capable of going beyond the limitations of sensitization and awareness-raising by not only creating longer and more repeated engagement opportunities but also by creating local knowledge banks community-level resource/ reference persons or paralegals thus ensuring longer interaction periods capable of building a critical mass of knowledge and understanding for WLRs.

However, there is a realization that women still have a weak voice and fractured agency. Affirmative action position quotas have neither translated into social nor political capital. There are many women occupying positions important to the WLR cause but the net opportunity of these women being in these positions is hardly realized. Either the quality of women chosen for these positions leaves a lot to be desired; it is not clear whether the appointing authorities do this on purpose or not; what is clear is, that this is an opportune entry point for advocacy, district and sub-county chairpersons can be nudged to nominate women likely to have an influence on the DLBs and ALCs for example. Unfortunately, this review did not find any report or study on the perceptions of women in these positions on WLRs.

If agency is indeed the ability to identify goals or make choices and then act upon them, then women can exercise agency in many ways, either as individuals or collectively, and in many forms including bargaining and negotiation. In this context, there are 189 women MPs (including 14 Ex officio Members) constituting 34% of Women in the 11th Parliament. There are 14 Women Cabinet Ministers that constitute 45% out of 31 Cabinet Ministers and 24 Women State Ministers constituting 48% out of 50 Ministers of State. It is not clear the strength of presence in the lower local governments. But one wonders why for example, the marriage law cannot be actualized with this level of influence. The idea of self-efficacy is often closely linked to agency. Self-efficacy is the belief in one's ability to do something. Women must first be aware of their capacity to decide actions and then believe they can carry them out. Even when enough resources are

available, women may not be able (or be willing) to leverage these resources to fulfill their aspirations unless women have self-efficacy, a form of critical consciousness. There is work to be done among the women themselves in the different geopolitical units where they subsist.

1.5 Considerations and Recommendations for the S4HL Campaign Strategy

1. The constituency of grassroots women for the campaign should include urban and peri-urban women; and women in minority ethnic groups whose quest for better land rights is magnified by climate change.
2. Donors and funding agencies should be lobbied for flexible (extended) time frames that allow WLR initiatives to reach implementation maturity.
3. The strategy should target decentralized land management and administration institutions:
 - i) Chairpersons LCV and LC III should be lobbied to appoint/ nominate women with reasonable credentials to the DLBs and ALCs affirmative action quotas.
 - ii) Among the duty bearers in these institutions, build capacity for WLRs practice activism go beyond being aware and sensitive.
 - iii) Recognize that politicians, technocrats, and the affirmative action female duty bearers are three separate lines of action, perhaps requiring different engagement modalities.
4. The strategy should provide for renewed efforts to engage with government MDAs and at the parliamentary level for strategic coalition building in the handling of WLRs issues that come up at that level.
 - i) Lobby for partnership and collaborative space to be provided/ allowed on government undertakings for the action and activities of civil society/ non-state actors either as monitors or implementing partners.
 - ii) Rally around a new marriage law to cater to divorced, separated, and cohabiting women.
 - iii) Conduct studies and/or create space for more discussion and consensus building on some controversial/ contentious issues in both policy/law and societal norms. The cases in point are a) cohabitation and its relation to property rights; b) the assumption of community of property upon marriage; and, c) the absence of a provision for a prenuptial agreement in the marriage and divorce bill. These are urgent relevant issues for the marriage and divorce bill when it returns to parliament.

5. The strategy should provide for studies to be conducted or deliberative space for consensus building on:
 - i) How to couple economic empowerment into the WLR intervention actions. The discourse justifies this need but practical options to actualize it are lacking.
 - ii) How to improve awareness creation, sensitization, advocacy, and legal literacy. The discourse acknowledges existing pitfalls but best practices are not documented and consolidated into a standard guide when working on WLRs.
 - iii) How to improve access to WLRs assistive services (probono services, legal aid, paralegals, appropriate IEC materials, and ADR). These are highly circumstantial and continuously changing requirements but there is no mechanism for curated access. Importantly, there is a cost to accessing these seemingly free services on the part of ordinary citizens; anecdotally known; what is entailed and the effect on access needs to be known.
6. A stakeholder analysis coupled with a needs assessment should be undertaken:
 - i) To locate vertical and horizontal capacity needs of various actors for effective delivery of WLRs. This is key to building effective coalitions and partnerships.
 - ii) Identification of societal (not social) influencers that are key to building legitimacy for WLRs at the community level.
7. To overcome societal norms and practices, the strategy should identify and champion WLRs initiatives that:
 - i) Influence at a personal level in private spaces for objectivity.
 - ii) Cultivate societal influencers to build legitimacy for WLRs.
 - iii) Create space for geopolitical consideration and piloting of solutions to WLRs limitations.
8. The campaign should lobby for the timely institution of gazettelement of law/ policy regulations; those for the new succession and inheritance law; and, those to guide land certification are yet to come out.



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ANNEX

ANNEX 1:

WLRs Linkages with Food Security, Climate Change & Development

1.1 Efficiency, Human Rights, and Equity Arguments

- i) In arguing for WLRs, it is claimed that in an environment of secure property rights, agricultural productivity tends to be positively affected by women; as they are more likely to invest in the land they are cultivating, knowing that their investments will be returned. This argument is also employed by those who argue that neglect of women's rights to land is not justified as literature provides no evidence of significant inferior efficiency by women farmers. And, attention to women's land rights will have far-reaching economic consequences as it translates into higher levels of spending on children's education, health, and food. (World Bank 2003: 58). However, critics question this economic benefits inclination: whether there is no need to emphasize women's rights to the land where they are not the main cultivators as the economic benefits are not going to be worth it (Englert 2005: 20). And, whether the much-praised efficiency of owner-operated farms (in contrast to those depending on contractual labor) is due to family labor, which means female labor, and that this is usually not or under remunerated (Manji 2003: 101) or may even entail coercion rather than motivation (Manji 2002:2)
- ii) Drawing on the existing body of international human rights law, human rights principles are used to "temper the impact of free-market forces that over the years have reinforced unequal distribution of resources and created poverty" (Ikdahl et al. 2005: 15). Even though in a strictly legal sense the right to land does not constitute a human right as such, it is critical for the realization of other human rights granted under international law such as the right to life, food, and livelihood without discrimination (Ikdahl et al. 2005: 18). Alden Wily (2006: 14) even goes as far as to state that "Security of land tenure is arguably the most important human right of those who need that land to survive, having no other means of production." However, because of conceptual ambiguities in placing land issues in the human rights discourse borne on the recognition that land rights do not easily/ exactly fit the distinction between civil and political human rights on the one

hand, and economic, social, and cultural rights on the other. Tensions inevitably exist between the political and civil rights of those who own land and do not necessarily need it; and, the economic, social, and cultural rights of those who need land but do not own it. Regardless of these shortcomings, the human rights perspective determines the moral weight of competing claims to land and bears significant potential for the protection of women's land rights as it emphasizes the various rights granted to women under international law (Bibaako and Ssenkumba 2003: 241).

- iii) Equity also features strongly in justifying WLR (Nzioki 2002: 15). Given that women provide most of the agricultural labor force for food and cash crop production, activists have argued that their sheer contribution to the national economy has earned women the right to land. According to the so-called "sweat equity argument", as formulated by the Ugandan women's rights activist Dora Kanabahita, women should be granted the same rights to lands as enjoyed by their husbands as compensation for their efforts and time spent working in the fields and households (Asiimwe 2001: 180).²

1.2 Women in Agricultural Production

- i) The high share of female labor in the agricultural sector has its origins in the colonial period when the introduction of taxes required men only; this coupled with the systematic denial of access to local markets in some areas forced male household members to emigrate to earn cash working at colonialist-controlled plantations or other colonial enterprises. This withdrawal of the male labor force from domestic food production had serious implications for the division of chores within the African household as colonial policy conferred the sole responsibility for subsistence production upon the woman (Koopman 1995: 13).
- ii) Adding to the increased labor burden for women at home, the introduction of cash crops brought about another significant change affecting power relations at the household level. In line with the colonial conception of gender roles the money earned in exchange for cash crop production was directly given to the male head of household (again on account of the imposed tax responsibilities) while women's family labor remained unremunerated. Eventually, the distribution of income within the family came to be a potential source of conflict (Whitehead 1994: 40). And with it, the breakdown in the established gender roles and consequently increased the significance of marital bargaining" (Sorensen 1996: 609).
- iii) To escape the emerging male dominance at home some women started to migrate and look for employment in towns, this development was met with strong resistance on

the part of colonialists who depended on women's labor force for food and cash crop production. Patriarchal power over women was upheld in the interests of colonial profits. (Koopman 1995: 16). As a result, the colonial concept of gender roles led to increased male control over land and further encouraged the subjugation of women in society (Lastarria-Cornhiel 1997: 1320).

- iv) Agriculture in Uganda is mostly rain-fed (rainfall in most parts of the country allows for double cropping), and the country's rural population is preoccupied with smallholder agriculture in which low-cost inputs and traditional, labor-intensive farming techniques are applied. Characterized by low education and weak government institutions (USAID, 2008).
- v) In Uganda, agriculture is the main economic activity contributing about 26% of the country's GDP and employing approximately 69% of the population, of which over 50% are women. However, there is an agricultural productivity gap between men and women estimated at 10.3% (UBOS, 2012). Studies show that the gender productivity gap is partly due to gender gaps that exist in accessing (controlling) and using agricultural inputs and assets, especially land (Hill and Vigneri, 2011). The land is a key resource in agricultural production and yet, according to UBOS (2013), women own only 28%. Women are more than half (51%) of Uganda's population and constitute about 56 % of all agricultural labor in Uganda³ but own less than 10% of all land in Uganda⁴.
- vi) Out of 72% of the population employed in the agricultural sector in Uganda, 77% are women and 63 percent are young people (NPA, 2015). Uganda ranks 73rd out of 102 countries on the OECD's Social Institutions and Gender Index (SIGI), which measures discrimination against women in social institutions according to formal and informal laws, social norms, and practices (OECD, 2015). The gender gap- female farmers' lower access to productive resources and services in comparison to male farmers - in Uganda's agricultural productivity gap is 13 percent which equates to losses of 1.6 percent of agricultural gross domestic product (GDP), or about USD 58 million, and losses of 0.42 percent of the total GDP, or nearly USD 67 million, including the multiplier effects of benefits to other sectors in the economy (UN Women and World Bank, 2016).
- vii) Overall, per capita agriculture production in Uganda has declined. While available statistics show that Uganda's agricultural sector registered growth at 1.8 percent and 1.5 percent in 2012/13 and 2013/14, respectively (The World Bank, 2015), agricultural growth does not cope with the population growth rate of about 3.0 percent (UBOS, 2016). Hence, it is not surprising that estimates show that over two-thirds of the country's population is food insecure. What is clear is that with about 90% of Uganda's rural households participating in agriculture, which is the economic mainstay, land remains central in promoting rural livelihoods either directly or indirectly.

3 Food Policy: Volume 67, February 2017, Pages 52-63

4 Philippa Lewis: Think Africa Press 20 November 2012: Uganda: The Fight for Women's Land Rights

- viii)** Land offers a wedge for the poor to mobilize their power to chart their development destiny. Yet, for fostering growth in the rural economy to support Uganda's overall growth, farmers must register significant improvements in productivity, market access, and competitiveness. Overall, a vibrant agricultural performance in rural areas is a springboard for the sustainable growth of urban centers. It is likely to be very difficult, however, to imagine improved agricultural competitiveness in a complex and fragile system of land tenure complete with inequitable access to land and weak security of land rights. Equitable access to land and security of land tenure is vital for realizing food security and sustainable development⁵.
- ix)** The World Bank Group; Women, Business, and the Law, indicated that women's property rights are constrained by the legal system which is pluralistic in nature (World Bank, 2018). Legal Pluralism refers to the application of different sources of law, including formal and informal laws. The different sources of law are usually in conflict with each other, creating tensions that hurt women's land rights. Therefore, the removal of these constraints faced by women would work to end the gender gaps in agricultural production and promote women's land rights⁶. These disparities stem from the differences women experience between statutory and customary tenure frameworks. Women are marginalized in the agricultural development process when local authorities fail to recognize women as equally capable and deserving of support.
- x)** According to Mayra and Hein (2012) & UN (2016,) securing women's land rights is repeatedly explained as means to enhance food security in rural communities in developing countries. FAO(2010 & 2016) emphasize that if women had access to productive resources as men, they would increase yields on their farms by 20-30%. In addition, such gains in agricultural production could uplift 100-150 million people out of hunger. Thus, there exists a positive correlation between women's secure land rights and food security in that women will be motivated to invest much time and possibly resources in food production.

1.3 Food Security and WLRs

- i)** The UN Food and Agriculture Organization (FAO) defines food security as "a situation that exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life" (FAO, 2017).

⁵ Land Tenure and Its Impacts on Food Security in Uganda: Empirical Evidence from Ten Districts: Samuel Mabikke1, Moses Musinguzi2, Danilo Antonio1, Oumar Sylla1 United Nations Human Settlement Programme, Kenya

⁶ The IWV: International Women's Initiative: Inclusive Land Rights: Tackling Legal Pluralism to Reduce Its Effect on Ugandan Women Policy Briefs 28 November 2019.

- ii)** Food security is an essential part of the international development agenda as stated in the Rome Declarations of the World Food Summit in 1996 and 2001 (FAO, 1996 & 2001). The Millennium Declaration reflected the World Food Summit target by making hunger part of Millennium Development Goal No.1 (UN 2000). Food security is also recognized as part of the 2030 Agenda for Sustainable Development and is reflected in Goal number 2 (zero hunger) of Sustainable Development Strategies (SDS) of the UN (UN, 2016). This is in recognition that food access continues to be one of the global challenges in this century. According to United Nations (2016), about 800 million people lacked access to adequate food, and more than half of the adult population in sub-Saharan Africa had severe food shortages by 2015. Six million children die of hunger every year and 17,000 every day. In 2001-03, FAO estimated there were still 854 million undernourished people worldwide and stated that there was no progress made so far to meet the target of ending hunger by half in 2015 (Skoet & Stamoulis, 2006).
- iii)** Due to rising incomes and a rapidly expanding population, Uganda is facing a food-insecure future. Hunger in Uganda was reported to have increased from 24 percent of the population in 2004 to 39 percent in 2015 (FAO, 2017). Uganda's food security situation remains alarming since nearly half of Uganda's 7.3 million households in the country are food insecure.
- iv)** Women who are the main producers of food in most developing countries lack secure land rights to enhance food production (Bikaako and Ssenkumba 2003; FAO 2013 and FAO 2016). The European Commission underscores the importance of land rights for women and specifically refers to food security (Europa, 2020). In Uganda, women account for 80% of agricultural laborers and produce more than 90% of the food (Shively & Hao, 2012).
- v)** Poor households have limited access to credit and savings services, constraining their ability to acquire agricultural capital, technology inputs, and land they can control. What is produced and who consumes it depends greatly on tenure security. Clear and secure property rights for owners and users reduce the potential for conflict and the threat of eviction; provide incentives to conserve and improve these assets; encourage land-related investments; allow land rental and sales markets to transfer land to more productive uses and users; and, if coupled with cost-effective systems of land administration, reduce the cost of credit by leveraging these assets as collateral (World Bank 2008).
- vi)** A large proportion of the poor, however, lack adequate access to quality land, and when they do have access, they have limited rights to it. For example, they might be able to use the land for cultivation but not be able to use it as collateral, rent it, sell it, or hold the land for a long enough period to recoup labor and capital investments. Others are unable to enforce the rights they do have because they are unaware of those rights, cannot afford the required paperwork, or the legal or customary authorities do not recognize them. Creating an environment conducive to agricultural growth and food security hinges

upon the prioritization of securing land and property rights of smallholders, investors, and other resource users (USAID 2013).

- vii)** The degree to which a woman's land rights are legitimate depends on who recognizes these rights. A woman's land rights are secure if they are not vulnerable to changes in her family structure or changes in her clan or community. For rights that are granted for a fixed period, the longer the period, the more secure her rights. Fourth, a woman must be able to enforce her rights for them to be secure. Lastly, a woman's land rights are more secure if they can be exercised without being subject to conditions that men would not be asked to fulfill⁷.
- viii)** Women engaged in small-scale rural agriculture in Uganda for household food security and/or income generation face challenges in creating sustainable livelihoods. Women's ownership and control over assets can affect what households produce and how the proceeds from production are allocated within the family. Studies have found that increases in female landholdings are associated with increases in household food expenditure. Despite their (potential) contributions to all three pillars of food security, women's roles in the agricultural system are often compromised because of their weaker access and rights to resources, including land.
- ix)** Global trends suggest that without adequate measures to respond to the growing demand for land, , tenure insecurity is likely to become worse. Efforts to secure land and property rights effectively and inclusively must rely on multi-stakeholder partnerships between government, private sector, and civil society actors, and must operate at all levels, from the local to the global. The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security (Voluntary Guidelines) emerged from these partnerships and offer a roadmap for action. The members of the UN Committee on World Food Security (CFS) unanimously endorsed the Voluntary Guidelines in May 2012. That same year, the CFS launched a multi-stakeholder Working Group to develop and negotiate principles for Responsible Agricultural Investment (RAI).
- x)** Men own productive resources including land compared to women, and this asymmetry in ownership of productive (livelihood resources) negatively affects food production. Granting land rights to women is therefore likely to enable them to make more productive decisions on land, and invest more time and resources and this will contribute to sustainable rural household food production. Land rights of access give women rights and authority to control household resources including financial resources and household property including buildings. Therefore, granting women secure land rights would be one way of increasing food production and food security in general. Despite women's significance in food production, they have limited land rights. Women's land

rights in Uganda are limited by the patriarchal system and the multiple land laws existing in Uganda (Namanya 2019).

- xi)** Land is a source of women's livelihoods and survival; they grow food and it is a means through which women can provide for the family. At a rural household level in most developing societies; in Uganda inclusive, a woman is the one expected to provide food for the family. Secure land rights for women, therefore, improve family livelihoods. Jacobs (2009) provides three basic reasons why women's land rights are important: Equity, welfare, and efficiency. Regarding efficiency, Jacobs contends that constraints facing rural women such as decision-making power often affect their capacity to farm to the best of their abilities and can act as a disincentive toward food production. Regarding equity, she contends that giving rights to the tiller of land is natural justice. Moreover, the principle of natural justice requires that women be equal to men. Women in Uganda, are the main cultivators of land and are responsible for providing household food, as such women should thus be the main owners of the land, with control of land and proceeds from agriculture.
- xii)** In Uganda, laws have been enacted to this effect and provide for secure women's land rights. The 1995 Constitution, National Land Policy 2013, the Land Act 1998, and the subsequent 2010 Amendment provide for women's land rights (Kasirye, 2005). The Constitution in article 33 states that women shall be accorded full and equal dignity of the person with men. They shall have the right to equal treatment with men and that right shall include equal opportunities in political, economic, and social activities. Laws, cultures, customs, or traditions which are against the dignity, welfare, or interest of women or which undermine their status are prohibited. In the Land Act, Burke & Kobusingye (2014) argue that it was ensured that the issues of women stand out prominently. Despite the successes and the acceptance of integration of these into policy and law, the discriminatory practices against women have not changed. Women are still discriminated against concerning land access, ownership, and control due to customary inheritance laws. Uganda is majorly a patriarchal society, women's rights to land under customary law are grounded in assumptions that women are dependent on men and cannot own land under customary tenure, and have what many call "secondary rights" to own and access land (Kibwika, et al., 2009).⁸
- xiii)** Contrary to the popular belief that Customary Land Tenure discriminates against women (Manji, 2006; Lastarria-Cornhiel, 2006) and that a land tenure system exacerbates food insecurity and poverty and is an obstacle to development (Deininger & Binswanger, 1999), Thorley (2015) agrees with Veit (2011) propose that Customary Land Tenure is not universally discriminatory, as all categories of women are afforded access to land. Ultimately women belong either to the clan of their fathers or to the clan of their husbands. Women experience difficulties in land access and retention if they do not conform to

8 Rwangire, M & Muriisa, K. R. (2021). Dynamics of women's Secure Land Rights for Sustainable Rural Household Food Security in Uganda. *Journal of African Interdisciplinary Studies*, 5(1), 4 – 31.

social expectations that pertain to behavior. It is these gender roles that exist beyond land tenure. It is how women perform being women, in particular ways, and at what stage of their life cycle, that is of importance. Thus, it is the patriarchal ideologies and social norms that are of concern, especially those that encourage women to be subordinate and to conform to certain codes of behavior. It is the payment of bridewealth that in numerous instances is at the heart of this, though it can also afford women security. Even within a predominantly patriarchal society, there are many contradictions, which are to be expected as these are people's lived experiences. In the international development policy arena, this is difficult to change as patriarchal ideologies are deeply embedded in social norms that are intrinsic to culture and identity. It is also clear that even if there is state legislation in place to support women, even these favor certain categories of women. The policies of the state on so many levels are merely moralistic ideas and full of contradictions⁹.

xiv) Quisumbing (1996), concludes that if women have the same access to key agricultural resources and land, their food security will increase and the yields of key staple crops increase by as much as 22%. Gilbert et al. (2002), if women can use the same amounts of inputs as men, the yields that they produce would be the same. This supports what Chant (2010) asserts about female headed households, it is not gender that affects crop production; it is how women access resources and inputs that negatively affect crop production. Landesa (2020) observes that there is a 20% increase in productivity associated with legal awareness of land rights in Uganda. Primarily though, even within the vast literature that is concerned with crop production and gender there is no clear agreement within the academic and policy community on how the gender of the producer influences a farmer's productivity and the subsequent outputs from their labor.

1.4 Climate Change and WLRs

i) The National Climate Change Policy of April 2015, deplores reliance on rain-fed agriculture in Uganda and invokes the need for a concerted effort to improve the status of women regarding the right to make their own decisions to reduce vulnerability to the effects of climate change but also to enhance their effective participation in the piloting and roll-out of adaptation and mitigation strategies whilst recognizing their limited control over resources¹⁰. Both rural men and women are aware of climate change and many are taking action to deal with its adverse consequences. But women are more constrained in doing so than men due to their lack of access to information on options for adaptation and even to information on the need to be investing in measures, such as soil and water conservation, for example. This puts everyone, not just women, in a

⁹ Holding on: gender relations, food security, and women's options and strategies for maintaining access to land in the Acholi region of Uganda Lisa THORLEY University of Bradford 2015

¹⁰ National Climate Change Strategy, April 2015

more vulnerable position concerning livelihoods and food security in the face of an increasingly variable climate, than probably needs to be the case.

- ii) Having access to weather and agricultural information is essential to overcoming this challenge. Women do not get equal access to key information needed to produce food more effectively and efficiently. If women continue to be much less aware than men of appropriate practices, strategies, and options that can enhance their resilience to a changing climate, investments in climate and agricultural adaptation will not reap the benefits they are set out to generate. Encouragingly, when women, as well as men, have access to appropriate information, most say they can make use of it. This suggests that interventions that improve access to, and more equitable reach of, information will have positive impacts in terms of facilitating adaptive behavioral changes.¹¹
- iii) Coping and adaptation decisions within households are undertaken either as sole or joint decisions. Sole decisions are made either by the husband or by the wife while joint decisions are made by the spouses together or with other household members. However, most coping and adaptation decisions were often made either by the husband or by both the husband and wife. Seldom are decisions made individually by the wife or jointly with other household members. Either men or women may make decisions on certain coping and adaptation practices and not others implying that the kinds of coping and or adaptation practices will also determine who makes decisions.¹² In addition, female-headed households tended to be more vulnerable than male-headed households to the vagaries of climate change with marked disparities in adaptive capacity. Thus, underscoring the importance of proactive interventions rather than protectionist approaches to building resilience.¹³
- iv) It is also apparent that although many local actors in Uganda identify local norms and culture as major barriers to gender equality, however, their proposed solutions often do not address local gender norms, but rather focus on formal policy and do little to address underlying causes of gender inequalities; therefore 'the local' should be reconstructed as a deliberative space where a wide variety of actors, including local feminist organizations, critically engage, assess and address local gender inequality patterns in agriculture and climate change adaptation processes¹⁴.

11 Gender And Climate Change Adaptation in Uganda: Insights from Rakai Project Note No. 03 | October 2015
Authors: P. Kristjanson, Q. Bernier, E. Bryan, C. Ringler, R. Meinzen-Dick, E. Ampaire.

12 Gendered decision making and adaptation to climate change in Mt. Elgon Region, Eastern Uganda International Research Journal of Environmental Sciences and Studies 1(1): p 1-23 (2016) Bomuhangi, A.; Nabanoga, G.; Namaalwa, J.; Jacobson, M.; Gombya-Ssembajjwe, W.

13 Kenneth Balikoowa, Goretti Nabanoga, David Mwesigye Tumusiime & Michael S. Mbogga (2019) Gender differentiated vulnerability to climate change in Eastern Uganda, *Climate and Development*, 11:10, 839-849, DOI: 10.1080/17565529.2019.1580555

14 Mariola Acosta, Margit van Wessel, Severine van Bommel & Peter H. Feindt (2021) Examining the promise of 'the local' for improving gender equality in agriculture and climate change adaptation, *Third World Quarterly*, 42:6, 1135-1156, DOI: 10.1080/01436597.2021.1882845

- v) When women hold secure rights to land, efforts to tackle climate change are more successful – and responsibilities and benefits associated with climate change response programs are more equitably distributed. Regardless of the indicators used, evidence shows that women are significantly disadvantaged relative to men in terms of recognition and the enjoyment of secure tenure rights. Globally, less than 15% of all landholders are women. Women are less likely to have a legal document proving ownership of their plots – or to have their names on the land ownership document – than their male counterparts. Women face diverse and context-dependent challenges and barriers in terms of land rights, and these are often shaped by history, conflict, and political and legal reforms. Some of the issues recur in different contexts, including i) legal barriers emerging from implementation gaps, a lack of awareness, and the enforcement of policies and laws at a local level; ii) overlaps and contradictions between customary regimes and formal arrangements, and iii) discriminatory social norms and practices at institutional and community levels that limit the recognition and realization of women's legal rights. Secure rights to land and the ability to make decisions over productive resources are vital for women's ability to respond to climate change and is a key pillar for strengthening climate action and building resilience.¹⁵
- vi) The impacts of climate change in Uganda are already being felt as the frequency and intensity of disasters increase. These impacts are, however, not experienced equally across the population. Women face greater risks and carry a heavier burden concerning their ability to respond and adapt to climate change due to the inequalities they face in Ugandan society. Women in Uganda experience gendered structural inequalities across economic, political, environmental, and social systems.
- vii) Cultural and social gender roles that dictate women's responsibilities in household production and reproduction contribute to women's vulnerability to climate change. This gendered division of labor means that women often experience heavier time and work burdens, spending, on average, 48 hours a week on unpaid domestic and care work, compared to 36 hours for men. Increased pressure on natural resources means that women often must walk long distances in search of water and firewood. These gendered differences mean that women and female-headed households are more likely to be vulnerable to poverty, have a weakened voice in the policy and governance processes affecting their communities, and therefore are less resilient to the impacts of climate change¹⁶.

15 Monterroso I, Paez-Valencia AM, Gallagher E, Chesterman S, Meinzen-Dick R, Enokeba Baa O and Elias M. 2021. Enhancing women's resource rights for improving resilience to climate change. Women Resource's Initiative Project Brief. Bogor, Indonesia, and Nairobi, Kenya: CIFOR-ICRAF and International Fund for Agricultural Development (IFAD). <https://doi.org/10.17528/cifor/008268>

16 Gender and Climate Change Alliance (GCCA). 2016. Gender and climate change: A closer look at existing evidence. <http://bit.ly/2xAtNaV>

- viii)** Landesa (2020), asserts that women with land rights are 19% more likely to invest in soil conservation efforts and twice likely to increase investment in soil conservation and at the same time are 33% less likely to have malnourishment in their households¹⁷.
- ix)** These stark inequalities severely limit the adoption of improved technologies and women's potential to effectively adapt to climate change. In addition to these barriers, crop and livestock value chains should be seen as gendered; men dominate high-value cash crops and larger livestock assets such as cows while women have more authority over food security crops and smaller livestock such as poultry. While the type of crop and livestock deemed suitable for people varies regionally, women are often sidelined in the marketing and value addition stages of production. This limits their ability to participate in higher nodes of value chains and restricts their capacity to grow within the sector. In the face of growing climatic threats to agricultural production, the specific barriers women face must be prioritized in adaptation efforts as well as identify mitigation opportunities in the agricultural sector¹⁸.
- x)** The major issue about land was the prevailing structural inequalities in ownership and control that were rooted in social-cultural norms and traditions that marginalize women. Women face discrimination and violations that make them more vulnerable to shocks and stresses. This is especially so when they are (or are not) able to make decisions about what they want to do with the land including choice of livelihood activities and climate change responses¹⁹. It is therefore imperative to recognize the important role of women, men, and youth as change agents in climate change agricultural adaptation, not only as vulnerable groups. Address structural gender challenges, unequal gender relations, and power dynamics, including the lack of ownership of land and other production assets, unequal division of labor, and inequitable decision-making, that inhibit adaptation technologies and practices by women.

17 Landesa (2020): Women Gaining Ground: Securing Land Rights as a Critical Pillar of Climate Change Strategy accessed from https://cdn.landesa.org/wp-content/uploads/LCWLR_WomenGainingGround.pdf on 29th/06/2022.

18 UNDP-NDCSP Uganda Gender Analysis: <https://www.ndcs.undp.org/content/dam/LECB/docs/pubs-reports/undp-ndcsp-uganda-gender-analysis.pdf?download> accessed on 27th/06/2022

19 Climate Change Vulnerability and Women's Land Rights ACODE Policy Research Paper Series No.106, 2021 The Case of Arua District file:///C:/Users/rugad/Downloads/PRS106_1.pdf accessed on 27th/06/2022

ANNEX 2:

Existing Policy and Legislative Landscape on WLRs in Uganda

2.1 Extent of Domestication of International Frameworks and Principles

There are numerous international and regional conventions, treaties, instruments, and frameworks that have been developed to guide the promotion, protection, and actualization of women's land and property rights; whose overarching principles are non-discrimination and equality across political, social, economic, cultural, and civil spheres of life. Regarding women's land and property rights, the following frameworks are pertinent:

- a) The Universal Declaration of Human Rights (UDHR) 1948;
- b) The International Covenant on Civil and Political Rights (ICCPR) No. 14668 (1966)
- c) The CEDAW 1979;
- d) African (Banjul) Charter on Human and Peoples' Rights 1981;
- e) The African Charter on Human and Peoples Rights (The Maputo Protocol-2003);
- f) The Beijing Declaration and Platform for Action, 1995;
- g) Sustainable Development Goals (SDG) 2015; and Many others.

Once ratified, States Parties are required to incorporate the articulated principles that promote non-discrimination, equality, and equity in national policies and laws; this involves drafting policies, reviewing existing policies, amending existing laws, and drafting new laws. Uganda is a signatory to most of these conventions, treaties, instruments, and frameworks; and has gone ahead to domesticate these frameworks by developing and implementing policy, legal and regulatory regimes that expressly and deliberately focus on the need to close the gender gap on land and property to advance equality and equity amongst men and women.

GoU has made tremendous steps towards domestication of these conventions, treaties, instruments, and frameworks, this end, policies, and laws that are progressive and gender-responsive have been developed to advance WLRs. This can be seen in the use of gender-neutral language, disregarding the use of discriminatory words, and outlawing sections upholding discrimination in policy and law. The 1995 Constitution, the 1998 Land Act, the Registration of Titles Act (Cap 230), the Succession Amendment Act 2021, the Marriage and Divorce Bill 2009, and the National Land Policy 2013 are examples of the policy and regulatory framework directly concerned with WLRs.

1. The Constitution (1995)

It paved way for meaningful reforms aimed at strengthening women's land and property rights under statutory regimes (Hannay 2014:3) by providing the minimum threshold upon which all other laws governing land and property rights should conform; it opposes and nullifies laws and practices that violate women's dignity. Importantly, its provisions aimed at promoting gender equality are based on international frameworks like the CEDAW-1979 and is generally in line with the Maputo Protocol-2003; these two signal a successful enunciation of women's rights as human rights and impose the main obligation on member states to review, amend, draft, and implement policies and laws to their conformity. The following Articles are pertinent:

- a) Article 21(1) states that all persons are equal before and under the law in all spheres of political, economic, social, and cultural life and every other respect and shall enjoy equal protection of the law. Same as Article 15 (1) of CEDAW; Articles 2, 2a, and 2 (c) of CEDAW; Article 18 (3)-Banjul.
- b) Article 21 (2) states that a person shall not be discriminated against on the ground of sex, race, color, ethnic origin, tribe, birth, creed, religion, social or economic standing, political opinion, or disability: Article 1 of CEDAW; Article; Article 2 (1) of the ICCPR; Article 3 of the ICCPR; Para 13 (c) Habitat III; Para 37 of PGIESCR.
- c) According to Article 21 (3) "discriminate" means to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race, color, ethnic origin, tribe, birth, creed, religion, or social or economic standing, political opinion, or disability. Article 1 of CEDAW.
- d) Article 26 (1) Every person has a right to own property either individually or in association with others. Article 17 of the UDHR; Article 2 of CEDAW; Goal 1, Target 1.4 of the SDGs; Goal 5, Target 5 (a) of the SDGs;
- e) Article 26 (2) No person shall be compulsorily deprived of property or any interest in or right over property of any description. Article 17 of the UDHR;

- f)** Article 31 (1) Men and women of the age of eighteen years and above, have the right to marry and to found a family and are entitled to equal rights in marriage, during the marriage, and at its dissolution. Article 16 (1), 16 (1) (a), and 16 (h) of CEDAW; Article 7 of the Maputo Protocol, and Article 20 of the Maputo Protocol.
- g)** Article 31 (2) Parliament shall 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. Article 16 (1), 16(1) (a) and 16 (h) of CEDAW.
- h)** Article 32 (1) The State shall take affirmative action in favor of groups marginalized based on gender, age, disability, or any other reason created by history, tradition, or custom, to redress imbalances that exist against them. Article 9 (1) of the Maputo Protocol.
- i)** Article 33 (1) Women shall be accorded full and equal dignity of the person with men. Article 1 and 2 (a) of CEDAW.
- j)** Article 33 (3) The State shall protect women and their rights, taking into account their unique status and natural maternal functions in society. Article 2 (c) of CEDAW.
- k)** Article 33 (4) Women shall have the right to equal treatment with men and that right shall include equal opportunities in political, economic, and social activities. Para 61 (b) and (f) of the Beijing Declaration.
- l)** Article 33 (5) Without prejudice to article 32 of this Constitution, women shall have the right to affirmative action to redress the imbalances created by history, tradition, or custom. Article 9 (1) of the Maputo Protocol.
- m)** Article 33 (6) Laws, cultures, customs, or traditions which are against the dignity, welfare, or interest of women or which undermine their status are prohibited. Article 2(f) of CEDAW.

2. The National Land Policy (NLP) 2013

- a)** In paras 65-68, the policy provides strategies aimed at resolving inconsistencies, contradictions, and conflicts in the existing legal framework (Land Act, Succession Act, and the various marriage laws) responsible for violating and denying women's land rights (during marriage, at divorce, and at succession); most importantly para 68 (ii) advocates for "domestication of all international conventions ratified by GoU which outlaw discrimination against women and children".
- b)** The concerns of the NLP (2013) in Paras 65, 66, 67, and 68 have been incorporated in Sections 27 and 201 (1) of the Succession Amendment Act 2021, clauses 115 & 116, and sections: 13(1), 14(1 & 2), 116, 128 (a&b), 129 and 155 of the Marriage and Divorce Bill 2009.

3. The Land Act, Cap 227

According to Hannay (2014:4), the Land Act 1998 (as amended) is progressive in establishing protections for women's land rights, but it stops short of establishing co-ownership rights among spouses. There are only two sections of the Land Act that directly address gender, land, and property rights, that is, Section 38a of the Land (Amendment) Act 2004 which provides for a spouse's security of occupancy on family land, and section 39 which requires spousal consent for any land transaction on which the spouse resides on and uses for sustenance (Hannay 2014:4).

- a) Section 5 (1) (g) provides for safeguarding the interests and rights in the land which is the subject of the application of women, absent persons, minors, and persons with or under a disability.
- b) Section 16 (4) (b) states that "where not less than 60 percent of the group determine so to incorporate themselves, elect not more than nine nor less than three persons, of whom not less than one-third shall be women, to be the officers of the association." Same as Article 9 (1) of the Maputo Protocol and Para 13 (c) Habitat III.
- c) Section 27 states that any decision taken in respect of land held under customary tenure, whether in respect of land held individually or communally, shall be in accordance with the customs, traditions, and practices of the community concerned, except that a decision that denies women or children or persons with disability access to ownership, occupation or use of any land or imposes conditions which violate Article 33 of the 1995 Constitution on any ownership, occupation or use of any land shall be null and void. Article 2(f) of CEDAW; Para 37 of PGIESCR and Para 55 (h) of PGIESCR.
- d) Section 39 (1) (c) (i) states that no person shall give away any land inter vivos, or enter into any other transaction in respect of land, in the case of land on which the person ordinarily resides with his or her spouse and from which they derive their sustenance, except with the prior written consent of the spouse.
- e) Sections 57 and 65 state that at least one-third of the members referred to in the relevant statutory bodies shall be women. Article 9 (1) of the Maputo Protocol and Para 13 (c) Habitat III.

4. The Succession (Amendment Act) 2022

One of the major objectives of the review of the Succession laws (The Succession Act cap 162 and The Succession Act 1906, as amended, 1972) was to bring the provisions of the laws of succession in conformity with the changes in the policy and legal arenas which have taken place at national and international levels over decades (Parliament 2021:3). The Succession Amendment Act 2021 is among others applauded for adopting a gender-neutral language and adopting articles and principles articulated by international and regional legal frameworks

which emphasize equality, equity, and non-discrimination in all its form. The objective of the Succession (Amendment) Bill, 2021 was to align the Succession Act to Article 31 (Rights of the family), Article 32 (affirmative action in favor of marginalized groups), and Article 33 (Rights of women) of the Constitution of the Republic of Uganda.

Sections 27 and 201 (l) of the Succession Amendment Act 2021 are a fulfillment of Articles 2 (a), 2 (c), 15 (l), and 16 (l) of CEDAW; Article 3 of the ICCPR; Para 61 (b) of the Beijing Declaration; Paras 55 (h), 79 (P) and 82 (e) of PGI/ESCR; Articles 20 (b), and 21 (1 and 2) of the Maputo Protocol; Goal 5, Target 5a of the SDGs.

Section 27 on distribution on the death of an intestate states as follows

- a)** Section 27 (l) (a) (i) where the intestate is survived by a spouse, a lineal descendant, a dependent relative, and a customary heir, the spouse shall receive 20 percent (20%).
- b)** Section 27 (l) (c) (i) states that where the intestate is survived by a spouse, or a dependent relative, and a customary heir but no lineal descendant, the spouse shall receive 50 percent (50%).
- c)** Section 27 (l) (d) (i) states that where the intestate is survived by a spouse or a dependent relative but no lineal descendant, the spouse, or the dependent relative, as the case may be, shall receive one hundred percent (100%), of the whole of the property of the intestate.
- d)** Section 201 (l) states that the surviving spouse shall have preference over any other person in the administration of the estate of the deceased intestate.

5. The Marriage and Divorce Bill, 2009

If passed and assented to, the Marriage and Divorce Bill (2009) will have fully domesticated the following provisions of international covenants: Article 18 (3) of Banjul; Articles 16 (l) and 17 of the UDHR; Article 2(a, c and f) and 16 (l) of CEDAW; Articles 6 and 7 of the Maputo Protocol; Paras 37, 55 (h), 79 (p, q), 94, 95 (h, h14, l and j) of PGI/ESCR; Article 23(4) of ICCPR and Article 3 of ACHPR. The following are sections of the bill that advance WLRs:

- a)** Section 13 (l) states that widow inheritance is prohibited. Article 2 (a and f) of CEDAW; Article 20 (b), 21 (l) of the Maputo Protocol;
- b)** Section 14 (l) states that marriage gifts are not an essential requirement for any marriage under this Act.
- c)** Section 14 (2) states that where a marriage gift has been given by a party to a marriage

under this Act, it is an offense to demand the return of the marriage gift. Article 2 (a, c, and f) of CEDAW.

- d) Clauses 115 and 116 on matrimonial property are comprehensive and introduce an element of “express agreement” (Akullo, 2019: 6). This resolves decades of impasse in policy, law, and practice that has contributed to the violation of women’s land and property rights. Article 16 (l) (h) of CEDAW.
- e) Section 116 states that matrimonial property as defined in section 115, shall be owned in common by the spouses. Article 17 of UDHR; Article 15 (l) of CEDAW; Article 16 (l) of CEDAW; Para 61 (b) of the Beijing Declaration; Paras 55 (h), 94, 95(h, h14 and j) of PGIESCR.
- f) Section 128 (a) states that matrimonial property acquired by the husband and the first wife shall be owned in common by the husband and the first wife in respect of the matrimonial property acquired before the husband married the second wife.
- g) Section 128 (b) the subsequent wives shall take an interest only in the husband’s share of the matrimonial property.
- h) Section 129 has introduced an element of consent on transactions related to matrimonial property.
- i) Section 155 provides for the distribution of property at termination of cohabitation or marriage with phrases such as “equitably distribute property jointly acquired during the cohabitation or marriage” and “take into consideration the particular circumstances of each case when distributing the property”. All the provisions embodied in section 155 replicate principles of non-discrimination, equality, and equity amongst men and women.

The Marriage and Divorce Bill (2009) intends to reform and consolidate the laws relating to marriage, separation, and divorce and therefore addresses issues like matrimonial property, divorce, bride price, cohabiting, and polygamy (Akullo, 2019:1); the presentation, discussions, and advocacy around these issues has proved to be very contentious, especially amongst religious leaders. This has resulted in the bill stalling in parliament for 19 years (2003-2022). It is also important to note that, the bill in its current state addresses several human rights concerns articulated in numerous international, regional, and national frameworks and policies advocating for the elimination of discrimination and gender equality during and after marriage, all of which Uganda ratified (Akullo, 2019:1).

6. Registration of Titles Act 1924

The Act recognizes that any person has a right to own property as long as it is lawfully in his or her name, sections that are pertinent to WLRs include:

- a) Section 2 (2) states that “this Act shall not be construed as limiting or abridging the provisions of any law for the time being in force in Uganda relating especially to the property of married women”.
- b) Section 77 states that any certificate of title, entry, removal of encumbrance, or cancellation, in the Register Book, procured or made by fraud, shall be void as against all parties or privies to the fraud.
- c) Section 87 on limitation of actions “... except in the case of a married woman entitled to bring the action...”

Section 94 states that the “proprietor may vest estate jointly in himself or herself and others without limiting any use, etc.)”

2.2 Existing Policy and Legal Gaps/ Inconsistencies that limit WLRs.

1. The Constitution 1995

Although the Constitution brought about far-reaching policy and legal reforms aimed at securing women’s land and property rights and advancing gender equality and women’s empowerment, it does not specifically or explicitly recognize women’s land and property rights (MLHUD 2018:3). This gap presents a challenge to efforts aimed at protecting and promoting WLRs.

2. The Marriage and Divorce Bill 2009

- d) The Marriage and Divorce Bill (2009) intends to reform and consolidate the laws relating to marriage, separation, and divorce. The law regarding marriage and divorce in Uganda is currently split among 6 Acts: The Marriage Act, The Divorce Act, The Registration of Customary Marriages Act, The Marriage of Mohamedians Act, and the Marriage of Hindus Act. Consolidation and harmonization to remove conflict and competition is long overdue (Akullo, 2019:2). If or when passed, this bill will go a long way in resolving the impasse around women’s land rights during and at dissolution of marriage. The bill has stalled in parliament for 19 years (2003 to date). Failure and delay in passing the Marriage and Divorce Bill (2009) present a big gap in protecting women’s land rights, especially those in cohabiting relationships.
- e) Cohabitation is an increasingly common practice in Uganda and presents a serious challenge to women’s land tenure security (Adoko et al, 2011:4; Hannay 2014:14). Interpretation Clause

(3) of the Marriage and Divorce Bill 2009 defines cohabitation to mean a man and a woman living together as husband and wife. According to Akullo (2019:10), the bill does not recognize cohabitation or legalize it as a form of marriage, it simply provides for the different proprietary rights of the parties in cohabitation, the same argument advanced in para 67 (v) of NLP (2013). To resolve this issue, Akullo (2019:11) proposes an amendment to interpretation clause 3 to define cohabitation as “a man and woman with the capacity to contract a valid marriage living together as husband and wife for a period of 3 years or more.

- f) Attempts to outlaw polygamy to conform to international covenants has been one of the causes of delays in passing the Marriage and Divorce Bill 2009 (Para 95 (i) of PGIESCR). Polygamy in Uganda thrives as a cultural practice among all ethnic groups and by some religious groups (Akullo, 2019:4). Permitting polygamy for men only, the Marriage and Divorce Bill goes against the principle of equality and non-discrimination as articulated in Article 21 of the 1995 Constitution; Articles 1, 2, 15 (1), and 16 (1) of CEDAW and Article 3 of ICCPR.

3. Land Act, Cap 227

The Consent clause as articulated in section 39 (1) (c) (i) of the Land Act (amended) states that no person shall give away any land inter vivos, or enter into any other transaction in respect of land, in the case of land on which the person ordinarily resides with his or her spouse and from which they derive their sustenance, except with the prior written consent of the spouse. The issues render this clause inapplicable or segregative and unable to protect WLRs.

- a) The fact that the right to consent is premised upon an existing marriage, means that women who are most vulnerable to land rights abuse have been automatically excluded from any potential benefits associated with this clause (Garber 2012: 131), that is, widows, separated, divorced, unmarried, and cohabitantes.
- b) The protection granted to married women is rather unsatisfactory because it only safeguards their interests in family land on which the family resides and “on which is situated the ordinary residence of the family and from which the family derives sustenance.” In a situation where the family resides on a piece of land other than the one cultivated, the woman’s interests in the latter are not protected (Garber2012: 130).
- c) Married women have not benefited from the protection provided by this clause of the inherent power imbalance eminent at the household level. The typical power inequalities shape decision-making at the household level (Adoko et al 2011:5-6; Garber 2012:120-121) to the disadvantage of married women. The law assumed equality amongst couples- that is, a woman can freely decide on an intended land transaction, this assumption invalidates the implementation of the consent clause (Rugadya 2008:14).

- d) Even where consent has been obtained, the probability that it is coerced is also not implausible; threats of domestic violence, separation, and divorce are common weapons used against women by men (Adoko et al, 2011:5; Garber, 2012:131); therefore, sometimes what appears as consent may be involuntary.
- e) Attempts by duty bearers to implement this clause are frustrated by the inability to determine whether there is a married woman to consent and whether the woman consenting to a land transaction is the actual spouse (Garber 2012:131).
- f) Under customary tenure the situation is more challenging because, first, customary tenure is not documented, second, customary marriages are not documented either and lastly, there is no designated institution to implement the clause(Garber 2012:131).

4. Registration of Titles Act, Cap

Hannay (2014:5) makes the following observations:

- a) Section 2 (2) specifically disclaims any intentions to limit the application of laws providing for the property of married women;
- b) The Act only explicitly lists fraud as a means for rebutting the strong evidentiary weight of the certificate, and lastly,
- c) It is unclear how a married woman's rights to marital property would be protected if her name is not on a certificate.

5. The National Land Policy (NLP) 2013

GoU has been slow in implementing many of the amendments proposed by the NLP 2013 the Land Act (1998) has never been amended to incorporate the policy proposals.



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ANNEX

ANNEX 3:

Status of Implementation of Strategies to Advance WLRs

3.1 Existing Efforts and Initiatives Implemented to Advance WLRs

According to Kabanda (2022), several activities and actors are participating in the implementation of the National Land Policy and its Action Plan. The following are the specific activities that directly impact women's land rights:

1. Certificates of Occupancy (COO) on Titled land

The MLHUD in partnership with GIZ is currently implementing a project on securing land rights of tenants on registered land through the issuance of Certificates of Occupancy in the districts of Mubende, Kassanda, and Mityana. These tenants are descendants of persons whose interests were ignored during the 1900 land allocations and titling. Over time, land has changed hands through sale and inheritance introducing a new set of property owners and tenants with little knowledge and appreciation of the original landlord-tenant arrangements; secondly, layers of land conflicts also became inevitable (Kabanda et al, 2018:3). Section 33 of the Land Act (1998) provides for the issuance of Certificates of Occupancy on registered tenure; hence a pilot project to secure the land rights of tenants on mailo tenure. One of the successes of the project has been the involvement of women in the recording of their land rights; participation in the whole process of sensitization, mediation, and mapping. For several women, their names have also been included on the Certificates of Occupancy either as individuals or as families. Women's confidence in decision-making has been introduced and enhanced pilot area (Kabanda et al, 2018:11)

2. Certificates of Customary Ownership (CCO)

Over the years, several civil society organizations in partnership with the Ministry of Lands Housing and Urban Development have taken advantage of the provisions in the Land Act

(1998) to issue CCOs using simplified approaches (Musinguzi et al. 2020:217). To date, CCO issuance activities are taking place (have taken) in the districts of Apac, Oyam, Kole, Nwoya, Katakwi, Soroti, Kasese, Kabale, Adjumani, Pader, Buliisa, Agago, Maracha, Namutumba and Butaleja.

3. Review of the National Land Policy (2013)

The review is expected to analyze the gaps, successes, challenges, and draft strategies for the revised NLP for the next 10 years. Activities are expected to start in July 2022 and end in June 2023. A three days National Land Platform meeting involving state and non-state land sector actors will be convened and stakeholders will highlight successes, challenges, and lessons learned during implementation; identifying gaps and making recommendations for the next priority areas for the revised National Land Policy will be the objective of the review.

4. Systematic Land Adjudication and Certification

The Systematic Land Adjudication and Certification (SLAAC) Project consists of two phases; the Pilot Phase (Phase-I) work was carried out in 44 Parishes (rural and peri-urban) in the districts of Oyam, Mbarara, Kiruhura, Rwampara, and Ibanda. The main objective was to enhance the security of tenure, ownership, and management of land to uplift the livelihoods of the poor and vulnerable groups in Uganda. A total of 6500 freehold land titles are yet to be given to beneficiaries (MLHUD 2022). SLAAC phase II will adjudicate, demarcate, map, process, and issue 830,000 certificates of Title to customary land rights holders in rural areas and 100,000 Certificates of Title to land rights holders in peri-urban areas of Uganda (MLHUD 2022).

- 1.** Legal Reforms: All major land laws are under review: Registration Titles Act, Survey Act, Land Act, and Land Acquisition Act; taking into consideration proposals made by the NLP (2013).
- 2.** Affirmative action on the Marriage and Divorce Bill 2009: The bill is currently at the committee level in parliament, and further consultations are taking place. There are 189 Women MPs (out of 556) in the 11th Parliament. The bill needs 1/3 to be passed into law.

3.2 Key Barriers to Implementation of Progressive & Responsive Laws and Policies

The legal landscape on land rights in Uganda has been designed to favour women, however, despite the existence of a conducive legal atmosphere, women's land rights especially ownership and inheritance rights have continued to be violated and denied. This anomaly can be attributed to the following factors:

- a) **The heterogeneous nature of women:** this stems from factors such as -level of education, religion married into, economic status, age, relationship to power, duration in marriage, polygamy or monogamous marriage, inheritance regime, residence (rural or urban), etc. (Adoko et al 2011: 4-6; Garber 2012:115-120-121, 123; Chigbu et al 2019:8-9). Adoko et al (2011:3) enrich the discussion by stating that "in patrilineal societies, a woman is viewed as a "variable" in family relations rather than a "constant" because she is "in transit" moving from her maiden home to her husband's family and sometimes back again to their natal home"; the consequence of this mindset is that neither her martial or maiden home seriously provides for and protects her land rights.
- b) **Decision-making at the household level:** Married and cohabiting women fail to enjoy the protection provided in policy and legal framework because of power imbalances in decision-making processes at the household level, the possibility that a married or cohabiting woman will stand up against her husband to negotiate or oppose land transactions that deny or limit her land rights is almost non-existent Adoko et al (2011:5-6) and Garber (2012:120-121). This is one of the pitfalls of the consent clause.
- c) **Customary norms and institutions related to land access and use rights:** These have continued to predominate statutory law (MLHUD 2018:6-7). It is important to note that under customary tenure or law, women have access and use rights to land (Nyamu 1999:32,51; Polavarapu 2013:104,111; Rugadya, 2020) contingent upon marital status, polygamous relationships, payment of bride price, or bearing a son (MLHUD 2016:6-7). Statutory law guarantees a higher right-ownership, but it has remained a delusion for women because of lack of information among customary leaders, communities, and the women themselves; limited access to decision makers; or their lower status within the community, making it difficult for women to enforce their land rights (Polavarapu 2013:111, MLHUD 2016:6-7).
- d) **Formal legal framework and institutions:** According to MLHUD (2016:7) "even where legislation is generally positive towards women's land rights, the institutional structures, capacities, internal co-ordination, and attitudes are often weak. The state also lacks or is unwilling to commit, resources to advocating, promoting, enforcing, and protecting women's rights to land and property. In the absence of state institutions to enforce equal rights for women as well as other laws, local customs, norms, and practices predominate", the classic example is the consent clause-section 39 (1) of the Land Act 1998 (as amended); sections 27 and 201 (1) of the Succession Amendment Act 2022 are also bound to fail into the same challenges. (Garber 2012:130-131; MLHUD 2016:7). Failure to pass the Marriage and Divorce

Bill (2009) is also contributing to the continued violation of women's land rights especially those in cohabiting relationships (Hannay 2014:9,14; Akullo 2019:9-11).

- e) Socio-cultural difficulties with women exercising land rights:** Women who participate in activities demanding land rights have often faced household conflict and the loss of support from extended family (Adoko 2011:6; Garber 2012: 119,130), social costs that women may not be unwilling or unable to bear (MLHUD 2016:8); to the extent that wives and daughters may not insist on having their names included on the title to household land because of potential conflicts with husbands or their family (MLHUD 2016:8; Rugadya 2020:16-17). Achieving gender equality around land rights will to a greater extent depend not only on their legal provisions but to a greater extent overcoming social and cultural restrictions (MLHUD 2016:8).
- f) Land market:** Women experiencing landlessness or having limited access to land can also acquire land rights through purchase at market value; however, seldom have money to undertake such huge capital investments because they lack savings, have difficulties accessing credit, engage mainly in household work which is often un-numerated and lack information on land parcels available for sale (MLHUD 2018:10).
- g) Lack of gender disaggregated data:** Most research and data collection efforts are placing emphasis on different variables such as comparing "female and male headed households"; "titled land and untitled land"; "collecting data at household level"; "treating women as a homogenous group" (Stevens et al, 2020:63). Yet resolving issues contributing to violation and denial of women's land rights requires data on variables such as household bargaining power, decision making, nuances of customary tenure, the heterogeneous nature of women and collecting data at individual level (Meinzen-Dick et al. 2019:80; Stevens et al, 2020:63). The current practice of collecting data at household level results into "obscuring critical differences in perceptions and experiences of tenure security" (Stevens et al 2020:34), for example where a household has a land title a conclusion might be drawn that the woman (women) in that household is tenure secure as the man (men) (Meinzen-Dick et al. 2019:72), knowledge on the distribution of land rights within households is paramount if projects and programmes aimed at tenure security are to deliver meaningful results (Stevens et al, 2020:60).
- h) Legal Pluralism:** The NLP (2013) in para 100 describes how the customary and the statutory systems of land administration operate alongside each; a practice which has resulted in multiplicity, competition, confusion, corruption, and contradiction (Kobusinge et al 2016:243,248&251; Nakayi Twesiime-Kiryia 2017:34;) because of the rise of forum shopping (Rugadya 2008:10;). Lack of a streamlined hierarchy of accessing these systems results in people preferring to work with only those (or that) they presume will give them a favorable outcome (Kobusinge et al 2016:250,243, 251; Anying & Gausset 2017:3). For example, customary law does not "allow" women to own or inherit the land, yet statutory law provides for equal rights to land ownership (MLHUD 2018:17). Secondly, although the Land Act 1998, in Section 88 (1) states that disputes on customary tenure can be resolved through mediation

by traditional authorities, the statutory system equally assigns the role of land dispute resolution at the village level to the Local Council (LC) I. To this end, Nakayi (2011:26), Anying (2012:13), and Anying & Gausset (2017:2) observe that the same case can be heard by both systems simultaneously “without either knowing of the involvement of the other.” Nakayi (2011:26) further explains that the possibility of continued conflict is very real “especially if each institution comes up with a different decision”. The possibility that women will get land justice under such a system of operation can be described as an illusion. Delay or failure to streamline the legal framework is a big loophole exploited to the disadvantage especially of women because it is not clear who is conclusively in charge; claims are questionably resolved either because decisions continue to be contested or decisions are never implemented. And as such, land disputes remain undecided, which undermines not only tenure security but also livelihoods and agricultural productivity.

- i) **Land Titling and Registration:** It should be noted that land titling means the absolute determination of proprietary land rights and it is mainly concerned with the ultimate right which is “ownership”; Titles do not record ‘specific nuances’ that segregate the bundle of rights under customary tenure (Rugadya, 2020). For Adoko (2017), one of her key concerns is “in whose names” –since the legal implication is that those whose names are not on the certificate do not own the land anymore. CSOPNU (2004:7-8) also shares the same concern when they state that “when formalization of land rights is unfolding, the name (s) of the person (s) to be printed on the certificate is a big question. Rugadya (2020) emphasizes that in titling, whatever is not recorded or reserved is irreversibly lost, therefore, once women’s names are omitted from the record of the land title, they are consequently extinguished, this position is equally presented by Nyamu (1999:32, 51), Polavarapu (2013:114) and Betge (2019:6). A land title or purchase agreement is good evidence for tenure security only if it bears your name. (CSOPNU 2004:8). In most land titling projects, women’s names are rarely included on title deeds (MLHUD 2018: 21). Therefore, one of the practical issues that partners participating in CCO issuance and SLAAC processes must contend with, that will have lasting implications on women’s land rights is determining “in whose name” a certificate of title should be issued, because it completely alters the terrain in which women negotiate their land rights, as it seizes being through male relations and marriage as the case has been (Adoko et al 2011:4; Atkinson et al 2016:10).



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ANNEX

ANNEX 4:

Purpose and Methodology of the Analysis

UCOBAC under the Stand for Her Land Campaign (S4HL) global collaboration is desirous of undertaking a desk study framed as a background/ situation analysis.

- i) **Overall, the background/ Situation analysis:** Will through mainly secondary sources supplemented by selected key informant interviews create a rationalized basis for the development of the Stand for Her Land Campaign five (5) year strategy on account of the country's context and status regarding implementation gaps on women's land rights.

- ii) **Guided by the S4HL campaign theory of change (project objectives, outcomes, and vision), the background analysis should specifically bring out:**
 - a) The Status of Women's land, property, and inheritance rights in Uganda. Highlighting the nexus between WLR and food security, climate change, and sustainable development
 - b) The Existing policy and legislative landscape on women's land rights in Uganda. The extent of domestication of international and regional frameworks and principles on WLR in the national level legislative framework. Existing progressive and gender-responsive laws, policies, and strategies to advance women's land rights. Existing policy and legal gaps and inconsistencies limit women's land rights. Identify legal, policy, procedural or regulatory WLR reform priorities to support stronger implementation (including those that will extend beyond the life of the project) and possible road maps to achieve all priorities.
 - c) Status of implementation of the existing progressive and gender-responsive laws, policies, and strategies to advance women's land rights. Existing efforts to advance women's land rights/existing implementation efforts. Implementation gap on WLR/Gap between law and policy. Key barriers to implementation of progressive and gender-responsive laws and policies.

- d) Key recommendations for policy and practice advocacy interventions to close the implementation gap on WLR by the S4HL campaign.

iii) The issues highlighted in ii), above should be analyzed and presented thematically to bring out

1. Political Will/National and global actors providing needed resources (human, financial, technical) to realize WLR
2. Government land actors and other leaders' knowledge, resources, and incentives to realize WLR
3. Social norms limiting WLR at the individual, community, and systemic (political spaces, land governance institutional structures, laws, and policy) levels
4. Women's legal literacy and agency with regards to WLR.

iv) Methodology

According to the TOR, this study will make use of mainly document review supplemented by validation with KIs. For this purpose, a systematic read of scholarly, technical, legal, policy, and practice papers, publications, and reports was undertaken using themes based on specific objectives of the study as the main source data and the key informant interviews undertaken on account of identified gaps in the data after the first draft. Specific Study Actions included:

Sourcing of Documents: The documents will be identified on account of topic and content alignment to the general subject of gaps in realizing/ implementing women's land rights. The sourcing will be both online and via hard copies wherever available and accessible. This will make use of key search words and/ or phrases derived from the objectives of the study.

Review of Documents, Compilation, and Writing: In the specific documents, thematic reading assisted by the computerized search for logical catchwords in MS-Word will be used to process documents while gaining analysis, synthesis, deduction, and induction insights to formulate convergencies and divergences of findings and conclusions concerning:

- a) The Status of Women's land, property, and inheritance rights in Uganda
- b) The Existing policy and legislative landscape on women's land rights in Uganda
- c) Status of implementation of the existing progressive and gender-responsive laws, policies, and strategies to advance women's land rights.

Whilst drawing:

- d) Key recommendations for policy and practice advocacy interventions to close the implementation gap on WLR by the S4HL campaign

In writing the conclusive text, framing arguments will have to be made as to whether the elements expressed in 2 (iii) above pertain to every finding.

Key Informant Interviews: After the first draft of the report, gaps in literature will determine the specific key informants that were interviewed. They included practitioners in the WLR arena and practicing family lawyers.

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