

MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT



THE GENDER STRATEGY FOR NATIONAL LAND POLICY IMPLEMENTATION

LAND AND PROPERTY OWNERSHIP

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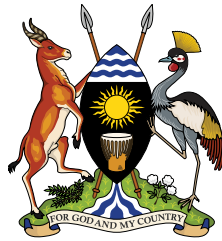
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The National Gender Strategy on Land was developed by the Ministry of Lands, Housing and Urban Development (MLHUD) of Uganda, with support from the Land and Global Land Tool Network (GLTN) as facilitated by UN-Habitat.





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FOREWORD

Uganda's National Land Policy, which was approved by Cabinet in February 2013, provides a framework for articulating the role of land in national development, land ownership, distribution, utilization, alienability, management and control of land in Uganda. This is intended to ensure that the country transforms from a peasant society to a modern, industrialized and urbanized society within the next ten years.

Land is central to human existence and contributes greatly to the socio-economic transformation and development of the country. The National Land Policy articulates several reforms geared towards the creation of a streamlined land sector that contributes to growth in agriculture, industry and other productive sectors.

As the Government pledged to implement the National Land Policy in a sequenced and phased manner, the Ministry of Lands, Housing and Urban Development developed a costed, three-year Implementation Action Plan that considers the strategies and actions to be implemented. The action plan prioritizes 12 areas including the development of programmes to protect and improve women's secure rights and access to land.

To ensure that the land policy's pledge to protect and enhance the land rights of vulnerable people, including women and children, through remedial actions against historical and cultural injustices and inequalities, the Ministry of Lands, Housing and Urban Development has developed a National Gender Strategy on Land. This will guide implementation of the National Land Policy, outlining clear actions and undertakings for all land policy, sector stakeholders to ensure that all land rights and other gender-related reforms are included in programme design, planning, budgeting and implementation.

I am confident that when this National Gender Strategy on Land is implemented, and we realize secure rights to land, women and girls will improve food security, education, health and economic development for themselves, their families and the entire community. Gender equity and equality in

land tenure relations are critical for the achievement of the goals and objectives of our national development agenda as outlined in the National Development Plan, Vision 2040 and the National Resistance Movement Manifesto. Improving women's access to land and control over economic resources, including land, has a positive effect on a range of development goals; it reduces poverty and contributes to socio-economic transformation.

The Government is committed to providing an enabling policy environment through the establishment of relevant structures and the provision of sufficient financial support to ensure that the National Gender Strategy on Land is fully implemented. Other stakeholders are called on to partner with the ministry and other relevant agencies in the implementation of this strategy so that we can realize gender mainstreaming in the land sector, transform those norms that reinforce gender inequalities, and improve gender equity and equality in the processes, institutions and activities of land tenure governance in Uganda. When all this is done, we shall be able to achieve the vision, goals and objectives of the National Land Policy.

Finally, I wish to thank UN-Habitat/Global Land Tool Network for supporting my ministry in implementing the National Land Policy, particularly the support for the development of the National Gender Strategy on Land. I am also indebted to all those who contributed to the development of this strategy, particularly Ms. Naome Kabanda the head National Land Policy Implementation Secretariat and her team for guidance and coordination of the process to the strategy the stakeholders whose views shaped the strategy; the consultant who prepared the strategy; the team of land experts for their invaluable input; and the National Land Policy Working Group for the strategic guidance given to the development of the strategy.



Amongi Betty Ongom, M.P



LIST OF ACRONYMS AND ABBREVIATIONS

AIDS	Acquired Immune Deficiency Syndrome
CSOS	Civil Society Organizations
CCOS	Certificate of Customary Ownership
HIV	Human Immunodeficiency Virus
GEC	Gender Evaluation Criteria
GLTN	Global Land Tool Network
MLHUD	Ministry of Lands, Housing and Urban Development
NLP	National Land Policy
NLP-IAP	National Land Policy Implementation Action Plan



GLOSSARY OF KEY TERMS USED IN THE STRATEGY

MINISTER OF LANDS, HOUSING AND URBAN DEVELOPMENT

- a) **Gender:** This refers to the different roles, rights and responsibilities of men and women and the relations between them. Gender does not simply refer to women or men, but to the way their qualities, behaviours, and identities are determined through the process of socialization. Gender is thus an acquired identity that is learned, which changes over time, and varies widely within and across cultures. Women and men are defined in different ways in different societies; the relations they share constitute what is known as gender relations. Gender relations constitute and are constructed by a range of institutions, such as the family, legal systems or the market. Gender relations are hierarchical relations of power between women and men, and tend to disadvantage women. These hierarchies are often accepted as “‘natural’ but are socially determined relations, culturally based and subject to change over time. Gender relations are dynamic, characterized by both conflict and co-operation, and mediated by other axes of stratification, including caste, class, religion, power, income, age, marital status or position in the family.
- b) **Mainstreaming gender concerns:** This refers to deliberate efforts to integrate strategies and actions that address gender inequalities into policies, plans, programmes/projects, institutions, and laws. The goal of gender mainstreaming is equal participation in and benefit from development initiatives for both women and men. It involves identifying and removing women’s and men’s constraints that may deter their effective participation or benefit in the process.
- c) **Gender analysis:** Gender analysis recognizes that gender is a critical variable in the development process. The gender analysis of a development programme involves identifying the gender issues in a problem or situation and the obstacles to its progress – so that those issues can be addressed in interventions. This usually involves identifying and classifying the different roles of women and men in a sector or activity, their relations, and access to and control over resources and benefits. It may also refer to a systematic way of examining the different effects and impacts of development programmes on women and men, particularly taking stock of their participation as service providers and beneficiaries. Gender analysis has been established as a basic requirement for mainstreaming gender.
- d) **Gender balance:** This is an ideal situation where women and men, boys and girls live harmoniously, enjoying equal opportunities and with mutual respect.
- e) **Gender imbalance:** The situation where access and control over resources, development services and benefits are inequitably distributed between groups in society.
- f) **Gender-based discrimination:** This is a distinction based on sex, race, religion, disability etc. that leads to exclusion of groups of people and individuals/ or preference being given to others.
- g) **Gender equity and equality:** Gender equity means justice or fairness in the treatment of women and men. It is a remedy intended to overcome discrimination, bias, or favouritism based on sex. Gender equality on the other hand is a principle that all (women and men) are equal before and under the law; women and men have equal dignity (worth); and women and men should have equal opportunities in economic, political, cultural and social life. Equity is a means of achieving equality (ultimate goal).
- h) **Gender issues/concerns:** Gender issues, concerns and problems arise when there is inequality, inequity or differential treatment of an individual or group purely based on the social expectations and attributes of their sex. This is often a result of old attitudes persisting



in situations where they are no longer valid. Gender issues are characterized by gender discrimination and gender oppression. Such practices create gender gaps in which one gender is discriminated to such an extent that it is prevented from getting its fair share of resources or services.

- i) **Gender responsiveness:** This is the ability of individuals and institutions to consider the social relations and different needs of men and women in the process of striving to achieve institutional objectives.
- j) **Gender sensitivity:** This is being aware that men and women perform different roles and have different needs which must be planned for accordingly.
- k) **Gender stereotypes:** These occur when men and women are regarded according to rigid thinking about social and cultural expectations of their gender, rather than a more flexible consideration of their individual capacities and potentials.
- l) **Resources and benefits:** These include a) economic or productive resources, such as land, equipment, tools, labour, cash and credit, employable or income-earning skills, employment or income-earning opportunities; b) political resources, such as representative organizations, leadership, education and information, public-sphere experience, self-confidence and credibility; and c) time, which is particularly critical and a scarce resource for women. On the other hand, benefits include: provision of basic needs, such as food, clothing and shelter; cash and income; asset ownership; education and training; political power, prestige, status and opportunities to pursue new interests.
- m) **Gender-sensitive indicators:** These demonstrate changes in gender relations (i.e. relations between men and women) in a society over a period. They are used to assess progress in achieving gender equality by measuring changes in the status of women and men over time.
- n) **Sex- disaggregated data:** This is information classified on the basis of sex, age; e.g. men, women, boys or girls. This data provides important indicators of gender needs.
- o) **Productive activities:** This refers to the production of goods and services for consumption or trade – for example, farming and fishing. When people are asked what they do, the response is usually related to productive work, especially work which generates income. Both men and women can be involved in productive activities but, for the most part, their functions and responsibilities will differ according to gender divisions of labour. Women's productive work is often less visible and less valued than men's.
- p) **Reproductive work:** This refers to the care and maintenance of the household and its members – including bearing and caring for children, preparing food, collecting water and fuel, shopping, housekeeping and family health care. Although reproductive work is crucial to human survival, it is seldom considered to be “real work”. In poor communities, reproductive work is usually labour intensive and time consuming. It is almost always the responsibility of women and girls.
- q) **Sexual harassment:** Unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature constitutes sexual harassment to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment.
- r) **Sector-wide approach to planning:** This approach recognizes the need for a partnership if one is to increase effectiveness by focusing resources around negotiated programmes.

1. INTRODUCTION

1.1 BACKGROUND

Uganda's National Land Policy is an opportunity to protect and enhance the land rights of vulnerable people through provisions that expressly seek to take remedial action against historical and cultural injustices and inequality between men and women. The policy environment in Uganda further embraces gender equality and equity through the National Gender Policy (2007) and the Constitution (1995).¹

The Land Act (CAP 227), on the other hand, introduced legal reforms to operationalize positive constitutional provisions largely through express spousal consent provisions before mortgaging and transfer of family land, and the affirmative action quotas on representation in land governance institutions. These efforts have, however, largely remained on paper and have had limited practical impact on policy and legal implementation.

There is a glaring gap between policy and legal text and the reality of implementation on the ground.² Adequately addressing the gender differences in Uganda's land sector requires proactive, targeted strategic planning and resources to ensure that positive policy and legal provisions are translated into real progress in gender equality and equity for all vulnerable people. To ensure that the National

Land Policy does not become a victim of the trend in high-sounding statements and dismal achievements, a gender strategy to guide its implementation with activities by the many sector stakeholders is critical to unlock the policy's potential and ensure the uptake of all land rights and other gender-related reforms in programme design, planning, budgeting and implementation.

The Ministry of Lands, Housing and Urban Development (MLHUD), with support from the Global Land Tool Network (GLTN) as facilitated by UN- Habitat, is implementing measures and reforms to attain the vision, goal and objectives of the National Land Policy. Part of this support was to develop a gender strategy on policy implementation that would guide sector stakeholders on key issues that require redress and possible appropriate actions to achieve the objectives of the National Land Policy. It is important to emphasize that MLHUD is responsible for guiding the many land sector actors on the way the NLP benefits can trickle down to deserving citizens; the strategy on gender is crafted in that spirit. In addition, the sector has never had a consolidated sector-specific strategy on gender, which has often created a problem of attribution of actions and results in trying to discern progress made on the gender equality front.

The Gender Strategy for NLP Implementation is presented with the following chapter outline:

- Chapter 1: Introduction with a background and rationale for the strategy;
- Chapter 2: Current status of gender and land rights in Uganda with legal / policy achievements, a synthesis of the gap in implementation and an analysis of constraints to gender-equitable land tenure relations; ending with key considerations of the gender strategy for NLP implementation.

¹ The constitution stressed three inter-related principles: non-discrimination, gender equality and women's empowerment; The key in relation to women's rights are:

- The Uganda Constitution under Article 31(1) entitles women and men to equal rights during and after marriage.
 - Article 21 states that all people are equal before the law in all spheres of political, economic, social and cultural life and in every other respect and shall enjoy equal protection of the law.
 - In addition to this, Article 32 of the Constitution mandates the state to take affirmative action in favour of groups marginalized because of gender or any other reason created by history, tradition or custom.
 - Article 33(4) further provides that the state shall provide facilities and opportunities necessary to enhance the welfare of women to enable them to realize their full potential and advancement.
- ² Implementation has been poor primarily due to discriminatory social/cultural practices, women's limited access to justice and women's lack of awareness of their rights.



- Chapter 3: The strategic direction of the gender strategy for NLP implementation with a vision, goal, objectives and actionable interventions;

1.2 RATIONALE OF THE GENDER STRATEGY FOR NLP IMPLEMENTATION

Land is a critical resource for both women and men in Uganda. It has many values and functions, and these overlapping characteristics make it even more critical for people's livelihoods. Land is not only a material and productive resource that enables survival, livelihoods and agricultural production, it is also a symbolic resource that strongly influences status and identity. Across Uganda, many women tell a similar tale: they till the land produce the food, yet they lack secure rights to land and are denied equal rights to inheritance. With secure rights to land, women and girls can improve food security, education, health and economic development for themselves, their families and the community. Gender equity and equality in land tenure relations is critical for the achievement of the goals and objectives of the national development agenda. Improving women's access to and control over economic resources, including land, has a positive effect on a range of development goals, including poverty reduction and economic growth.

To achieve gender equity and equality in land tenure governance requires the many proclamations and rhetorical statements in the calls for a transformative agenda to be translated into actions and activities. This also means moving beyond the norm of formal land rights to substantive land rights that can be

attained in secondary rights and other forms of rights validated by community and customary legitimacy and practice rather than law only. A reflective stock-taking of actions and activities that deliver for women and vulnerable groups implies reviewing what has been achieved in the last 20 years of reforms and with the key milestones, such as the Beijing Declaration and the Platform for Action (1995), the Uganda Constitution (1995) etc.

This type of review would clearly show the urgent need for strategic interventions to realize gender equality and equity in land tenure relations and eliminate the extensive gender disparities in access to, use of and control over land. The appropriate response to these disparities is a holistic approach that commits to:

- gender mainstreaming in the land sector;
- examining, questioning and transforming those institutions and norms that reinforce gender inequalities;
- designing mechanisms, strategies and actions to improve gender equity and equality in the processes, institutions and activities of land tenure governance;
- considering gender and women's empowerment. Consideration of gender at all stages of policy, law and programme development, including in assessment and analysis, programme planning and design, budgeting and financing, implementation, monitoring and evaluation.

2. THE CURRENT STATUS OF GENDER AND LAND RIGHTS IN UGANDA

2.1 CONSTITUTIONAL AND LEGAL ACHIEVEMENTS

(A) THE CONSTITUTION 1995

The 1995 Uganda Constitution heralded far-reaching policy and legal reforms aimed at securing women's land rights and advancing gender equality and women's empowerment. The principles of non-discrimination, gender equality and women's empowerment are enshrined in the policy and legal frameworks. Specifically, in:

- Article 21: all persons are equal before the law in all spheres of political, economic, social and cultural life and in every other aspect and shall enjoy equal protection of the law.
- Article 31 (1) of the Constitution entitles women and men to equal rights during and after marriage.
- Article 32 of the Constitution provides for affirmative action in favour of groups marginalized on the basis of gender or any other reason created by history, tradition or custom.

- Article 33 (4) the state shall provide facilities and opportunities necessary to enhance the welfare of women to enable them to realize their full potential and advancement.

While the Constitution provides for gender equality, it does not specifically or explicitly recognize women's land and property rights.

(B) THE LAND ACT CAP 227

The Land Act Cap 227 contains several provisions that provide for security of tenure and safeguard the land rights of women and children. The most significant are section 28, which makes it unlawful to discriminate against women and children in respect of ownership, occupation and use of any land, and section 40, which requires mandatory consent by spouses to transactions involving matrimonial land (where the family ordinarily resides) and land from which the family derives sustenance. The provision also covers minors, dependent children of majority age and orphans. The Land Act also provides for the mandatory representation of women on land tenure governance institutions as follows:

- Uganda Land Commission: at least a third of the members should be women.



A meeting between the Ministry of Lands, Housing and Urban Development and the GLTN at the Ministry Offices in Kampala Uganda. Photo © UN-Habitat.



- District Land Boards: one third of the membership must be women.
- Area Land Committees: at least one third of the membership must be women.
- Communal Land Management Associations: at least one third of the members must be women.

(C) THE NATIONAL LAND POLICY (NLP) 2013

The NLP commits itself to “redress historical injustices to protect the land rights of groups and communities marginalized by history or on the basis of gender, religion, ethnicity and other forms of vulnerability to achieve balanced growth and social equity”. One of its core principles is “equity and justice in access to land irrespective of gender, age, disability or any other reason created by history, tradition or custom”. NLP stresses the importance of considering socially and culturally acceptable tenure relations as a means of expanding opportunity for rights for women and other vulnerable groups. It also commits to ensuring recognition of, strengthening and education on the rights of women, children and other vulnerable groups in all existing and emerging land tenure regimes. In describing the tenure systems in Uganda, the NLP recognizes that the structure of tenure and the attributes of the bundle of rights under the mailo, freehold, leasehold and customary regimes shall be guided by the principles of a good tenure system which must, among other things, ensure equity in the distribution of land resources and eliminate discrimination in ownership and transmission of land resources.

The NLP makes specific commitments to act as follows:

- Para 37: (III) Guarantee that the transfer of land

under all tenure regimes does not deny any person rights in land on the basis of gender, age, ethnicity, social and economic status; and (IV) Ensure equity in the distribution of land resources and preserve and conserve land for future generations;

- Para 41: Government shall: (III) Modify the rules of transmission of land rights under customary land tenure to guarantee gender equality and equity and (IV) Make provision for joint ownership of family land by spouses;
- Para 42: (IV) Develop guidelines and procedures under customary land law for the allocation and distribution of land complying with the principles of equality and natural justice;
- Para 65: (a) Government commits itself to protect women’s and children’s legal right to inherit and own land; and (b) Government, further commits to ensure that both men and women enjoy equal rights to land before marriage, in marriage, after marriage and at succession without discrimination. On this note, Paragraph 65 becomes operational in 66, 67, 68 as follows:
- Para 66: Government further commits itself to review and regulate customary law and practices in access to and ownership of land, through a number of actions including;
 - (I) Ensuring that rules and procedures relating to succession do not impede transmission of land to women and children;
 - (II) Educating and sensitizing the public on discrimination against women and children with respect to access, use and ownership of land;
 - (III) Reviewing and regulating customary rules to avoid violation and abuse of family land held in trust for the family;

- (IV) Restoring the power of traditional leaders in matters of land administration, conditional on their sensitivity to rights of vulnerable groups; and
- (V) Ensuring that the head of family is held to account on his/her fiduciary duties over family land held in trust.
- Para 67: To redress gender inequity and inequality to inheritance and ownership of land in statutory law, government will:
 - (I) Design and implement a regime of matrimonial property law aimed at the protection of spouses;
 - (II) Make legal provision for joint or spousal co-ownership of family land and the matrimonial home;
 - (III) Amend the succession Act Cap 162 to provide for the right to succession and inheritance of family land by women and children;
 - (IV) Amend the Land Act Cap 227 to restore the consent clause to protect children below 18 years;
- Para 68: To ensure that women are fully integrated in all decision-making structures and processes in access to and use of land, government will take special measures to:
 - (I) Mainstream gender into development planning to improve the status of women;
 - (II) Domesticate, all international conventions ratified by the Government of Uganda which outlaw discrimination against women and children and enforce all the principles therein;
- (III) Support the implementation of the Equal Opportunities Commission as a specialized institution to advocate for and, where relevant, implement strategies in the National Land Policy; and
- (IV) Solicit the support of faith-based institutions and cultural leaders to accept and implement measures in the National Land Policy designed to protect the rights of women and children.
- In para 73, the government asserts that (a) Legislation and management practices shall accord all vulnerable groups equal land rights in acquisition, transaction and use of land and (b) The state shall regulate land markets to curtail distress land sales and ensure that the land rights of the vulnerable groups are protected. To operationalize para 73, Para 74 and 75, the following strategies will apply:
 - Para 74. To protect the rights of all vulnerable groups, government will take legislative and other measures to:
 - (I) Guarantee that access to land, by way of transfer or transmission, is not denied on the basis of gender, disability, ethnicity, social or economic status;
 - (II) Prevent the appropriation of the land rights of vulnerable groups through regulation and control of the land markets;
 - (III) Mitigate the distress of land sales involving persons infected and affected by HIV/AIDS and terminally ill persons;
 - (IV) Sensitize and encourage vulnerable groups to hold their ownership rights and interests in family or community trusts; and



(V) Mainstream gender, HIV/AIDS and disability interventions in strategic land sector activities.

- Para 75: To protect the land rights of internally-displaced persons, government will take special measures to:
 - (I) Consider restitution of land, housing and property or adequate compensation or resettlement; and
 - (II) Put in place mechanisms and structures for claiming restitution, compensation or resettlement.
- Para 102: (IV) Develop mechanisms for full and effective participation by landowners and users, especially women, in all land rights administration functions;
- Para 116: (VII) Provide free legal aid to the vulnerable sections of society through a system of partnerships and incentives to private and civil society organizations to deal with the ever-increasing land litigation.

The provisions detailed above are the driving force for this strategy and entail a commitment to action that needs to be realized through this strategy.

2.2 THE GAP BETWEEN POLICY, LEGAL PROCLAMATIONS AND IMPLEMENTATION

The NLP states the fact that women are generally unable to own or inherit land due to restrictive practices under customary land tenure. Customary practices in some areas override statutory law and attempts to redress this by outlawing discriminatory cultures, customs and practices in land ownership, occupation and use, and requiring spousal consent to transactions, have not been effective due to a

failure in implementation and enforcement. The NLP addresses the glaring gap between formal land rights/de jure land rights and substantive land rights/de facto land rights thus remains a challenge in many parts of Uganda. The NLP also highlights the gender disparities in access to, use of and control over land and associated resources. The gender structure of land rights in Uganda varies across the country but is highly unequal, with women's rights being less secure than those of men, which has major consequences for women.

In addition, available statistical data on women's land rights and the status of gender in land matters is confusing and unhelpful. There is no available data on women's status on customary land, however with regard to registered land, women's ownership is between 5 per cent and 26 per cent. The absence of sex-disaggregated data on land and ownership hinder the development of effective policies and programmes to redress gender inequalities in land ownership. It is also the case that although women constitute 52 per cent of the Ugandan population and contribute between 70 and 80 per cent to the agricultural labour force, a small percentage of women own land.

- Evidence shows that, particularly for rural women, this gender inequality of access to the key productive asset is a fundamental determinant of poverty and social disadvantage. Gender inequality is intimately related to women's poverty, experience of domestic violence and exclusion and; Gender inequality in land ownership is attributed to male preference in inheritance, male privilege in marriage and gender inequality in the land market.

Several laws and legal instruments reviewed are discriminatory, such as the Divorce Act and the

Succession Act, and customary laws and practices which discriminate against women (in respect of marriage, divorce and inheritance) are common. There is a lack of access to remedies, information or decision-making processes and a lack of awareness of rights generally for both women and men. It is also common practice for land tenure rights to be recorded in the names of men, leaving women dependent on their male relatives for tenure security. Even where collective tenure rights can include women, the decision-making processes are dominated by men.

2.3 CONSTRAINTS TO GENDER EQUITY AND EQUALITY IN LAND-TENURE RELATIONS

Gender relations determine differences in the relative status and power of women and men. Gender and gender roles shape the opportunities and constraints that women and men face in securing their livelihoods, including access to land, decision-making about land, and the institutions that administer land. Gender equity and equality in the governance of land tenure ensures that women and men can participate equally in their relationships to land, through both formal institutions and informal arrangements for land administration and management.

Women and men have three mechanisms for obtaining rights to land: (1) through social and kinship relations at the local level, (2) on the land market, or (3) from the state. These mechanisms are embedded in institutions that create, modify and influence land tenure systems: sociocultural institutions, state institutions and a market economy. An examination of how they influence land-tenure rights is useful in understanding gendered rights to land and in proposing and implementing gender-

sensitive laws, policies and programmes. All three institutions influence and interact with each other in determining the specific tenure relations of a society. With all these institutions, it is important to understand the gender differences in land rights, uses and priorities, what rights men and women claim, and women's needs.

Although women comprise 43 per cent of the agricultural labour force in developing countries and nearly half of agricultural labour force in parts of Africa and Asia (FAO, 2012), women are significantly less likely to own land than men, and the land they own is usually smaller and of poor quality than that owned by men. In Uganda, women provide over 70% of the labour force that is engaged in agricultural production however they control less than 20% of the outputs (Agricultural Sector Strategic Plan (2015/16 to 2019/20)). Several reasons lie behind the gender disparity in ownership, access and control of land.

These include:

(I) CUSTOMARY NORMS

Customary laws have significant implications for women's rights to land. Cultural prohibitions against women's ownership of land are often more powerful than statutory laws that allow women to own land. These norms may determine which rights to land a woman can exercise freely: for example, women may have a right to use a parcel of land or the right to gather fruit from it, but not the right to bequeath it through inheritance; that is a right limited to their brothers and husbands. In all customary tenure regimes in Uganda, women's land rights are secondary to and weaker than those of men.



Both men and women have rights to ancestral land. Men gain rights by lineage and their rights last for life. In contrast, women gain rights through a relationship with a male of that lineage (often her father or husband). This means that women's rights to land are weaker than those of men. These rights may change in scope or duration when relationships change because of marriage, separation, death, or because the husband has another wife. Women's rights to land may be contingent on other cultural practices and norms attached to those relationships, such as payment of bride price at marriage or bearing a male heir. Under customary law and marriage practices, residence after marriage is patrilocal (the couple and their children live in the husband's community and family land is handed from father to son). Women who marry into the community do not have rights to their husband's family land or community land.

Women may have more difficulty than men in enforcing their rights because of a lack of information among customary leaders, communities and the women themselves, their limited access to decision makers, or their lower status within the community. Furthermore, a woman may have less influence over how her rights to land are exercised because of her subservient role in the household.

Land is usually transferred through inheritance and it is almost always men who inherit it by it being handed down from father to son; if a man does not have any sons, his brother, nephew or another female relative in his lineage often inherits his property. Daughters do not inherit land from their fathers, even though they are of the same lineage. Marriage and divorce practices also create barriers to women's land rights. In the unlikely case that a female inherits anything from her father, it is only use rights that are inherited; such use lasts only if she remains unmarried and it cannot devolve to her

heirs. Generally, women do not have the right to sell land unless they purchased that land in their own name, which is rare. Because the men in the community usually control land allocation, they can claim individual rights when land scarcity converts land into an asset and when family land becomes private property.

(II) LEGAL AND INSTITUTIONAL FRAMEWORK

In Uganda, the formal legal framework and institutions are challenging because there are two sets of legal frameworks and institutions; that manage ownership issues for community and private land (formal and the customary). Unfortunately, the formal and systems, the sporadic enforcement of the law is sporadic. Additionally, attempts by women to have the law enforced can be painfully difficult. The reasons for this failure of enforcement include conflicting legislation, institutional weakness, and the pervasive influence of gender bias. While the land law guarantees gender equality regarding land rights, other laws, such as family or customary laws, undermine or directly contradict the concept of equal rights by not giving wives equal rights to marital property or daughters equal inheritance rights. Even when legislation is generally supportive of women's land rights, 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.

Although the Land Act on the one hand, does not explicitly recognize women's rights and on the other hand, the constitution prohibits discrimination based on gender, there is ineffective implementation

and enforcement of the Act and thus limited gender equality when it comes to land. As stated above, there is glaring gap between de jure and de facto protection of women's right to land. Implementation is too often hindered by sociocultural norms and women's lack of knowledge about their entitlements. Other laws, such as the traditional or customary laws and the inheritance laws, are inconsistent with the Constitution, which guarantees equal rights; sections of the Succession Act and the Divorce Act were declared inconsistent with the constitutional provisions by the Constitutional Court. Legislative intervention alone cannot provide women with independent and effective land rights if they are not accepted and enforced culturally and socially.

(III) SOCIO-CULTURAL HINDERANCES FACED BY WOMEN IN ACCESSING LAND RIGHTS

Social norms about appropriate behaviour and roles for women do prevent them from realizing land rights conferred by customary or formal laws. Claiming a right to land may result in household conflict and the loss of support from the extended family, social costs that women may be unwilling or unable to bear because women's secondary status, undervalued work, and illiteracy often make them reluctant to claim legal rights and participate in those institutions and activities seen as men's domain.

In addition, women incur significant social costs for going against cultural norms; these costs include social ridicule and the possible loss of social benefits. In some cases, domestic violence is experienced by women who claim their land rights. 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.

Also, even when women have legal rights, such as inheritance rights, they may not claim them because

they prefer long-term social support from brothers and other family members rather than secure an asset that may not provide long-term economic security. Other, more structural constraints include women's low literacy (including legal literacy) and lack of skills in the official language.

Customary biases often mean that women will not be able to exercise their rights until there is a shift in the thinking attitudes and understanding of men and women, state officials and customary authorities. Customary norms frequently do not give equal ownership of land to women and are typically resistant to change the power relationships. Legislation to address this exists, but there are several limitations to its implementation, including conflicting legislation, inadequate regulatory and management systems, lack of capacity to implement changes at the local level, staff and community antagonism towards women's equal rights, and lack of will or resources to address gender biases.

Women often do not possess the financial resources, knowledge and capacity to go against social norms and may not exercise their legal rights. Formal land titling programmes may also ignore the need for gender equity if it is not an explicit objective of the programme.

The attainment of gender equity regarding land rights consequently depends not only on legal recognition of those rights but also overcoming social and cultural constraints. Some useful instruments include regulations for implementing formal land, property and family legislation in ways that address gender bias regarding land access and land rights; legal education programmes for women and men; legal assistance programmes; gender training for programme implementers and beneficiaries, and last (but most important), participation by women in designing, planning and implementing programmes.



(IV) LAND MARKET

Market economy institutions also play a significant role in allocating land rights. Market economies are generally based on private property rights and their marketability. Consequently, land rights are usually acquired through the market (for example by buying, selling and leasing) at market values.

Capital (either savings or access to credit) is needed to purchase land on the market, and thus the ownership of assets is crucial. Women who wish to participate in the market, particularly those from landless and smallholder families, are unlikely to have such assets. If they engage in waged work, their earning power is generally insufficient to accumulate savings and the productive work they perform in their household is usually unremunerated. Men are more likely to control the few assets that low-income households have. In addition, women often lack information about the land market, such as the availability of parcels for sale and land prices. For these reasons, women find it more difficult than men to participate in the land market.

In the process of market formation, however, the increasing privatization of land rights generally has a negative effect on women's traditional rights to access land. Customary societies find it more difficult to enforce their rules and practices for allocating community land, based on the need to provide land to community households for their welfare and sustenance. During this transition period, what are regarded as customary norms and practices begin to change as social actors adapt their behaviour to changing conditions, often at the cost of groups, such as women and minority ethnic groups, who are considered as secondary members of the community.

2.4 KEY CONSIDERATIONS OF THE GENDER STRATEGY

Having analysed the commitments of the NLP on gender and discussed the constraints for equity and equality in land tenure relations, the following issues emerge as pertinent to the gender strategy:

1. **Women are not homogeneous:** While most policy documents and legal instruments refer to women as a group, women are a heterogeneous group with varied opportunities and challenges shaped by many characteristics (e.g. religion, ethnicity, geography, economic class, marital status) that define their experience. For example, the experience, circumstances and opportunity of young adult women is not the same as that of elderly widows. The strategy needs to differentiate actions for the different classes or social groups of women with a view to efforts at equality that embraces the majority of this socio-economic group.
2. **Power and social relations:** Deeply ingrained socio-cultural practices and power imbalances play a major role in undermining women's access to, use of and control over land. It is important to examine the distribution of land rights by gender; it is not a women's issue but is one that also affects everyone and achieving equality will benefit both women and men – socially, politically and economically. Consideration of gendered land relations requires assessing the multifaceted relations and power dynamics that underpin land governance systems and practices.
3. **Women and human rights:** Lack of access to land has a negative impact on the enjoyment

of various human rights. To ensure that women enjoy their rights, a broad conceptualization of land rights and access to productive resources that is pro-poor, gender inclusive and responsive to human rights is vital. Equitable access to land is a human rights issue as the United Nations Commission on the Status of Women states “land rights discrimination is a violation of human rights” (Report of the Forty-Second Session, 2-13 March 1998). Women’s right to land entails the ability of women to own, use, access, control, transfer, inherit and otherwise take decisions about land and related resources. It also encompasses women’s rights to secure land tenure and to meaningfully participate at all stages of law, policy and programme development from assessment and analysis, programme planning and design, budgeting and financing, implementation, monitoring and evaluation. Women must be meaningfully included in the design and implementation of policies, programmes, projects and other interventions to secure their land rights.

4. **Legal plurality:** Recognizing and understanding the legal plurality governing women’s rights to land is critical for assessing the gender relations that mediate access to, control of and benefit from land, and is central to identifying potential interventions to redress inequitable gendered property relations. This plurality also plays into the effectiveness of solutions, especially those that require institutional enforcement. Not all laws are in harmony and harmonization is important to ensure that any gaps in legal frameworks or legal protection are appropriately filled and that existing laws and policies do not discriminate against women or otherwise prejudice their situation owing to either conflict or incoherence.

5. **Mechanisms to support the legal framework:** For a law to be enforceable women need legal awareness (knowledge of what is legally possible), legal information (specific and detailed knowledge, for example how to record land rights and engage in land transactions) and legal empowerment (the social and institutional ability to assert claims and secure rights). Legal solutions are effective only if they are socially accepted and enforced. This strategy realizes the fact that legal reform is not a complete answer, and thus there is a need to complement law reform with awareness raising and legal literacy. Changing attitudes and awareness raising must go along with any attempt to enforce formal legal rights. There are limits to laws in engendering social transformation and there is need to engage in other types of strategies to bridge the gap between law and practice.
6. **Bias and discrimination:** Due to the legacy of historical inequalities, structural disadvantages, biological differences and biases in how laws and policies are implemented, formal equality is not enough to ensure that women can enjoy the same rights as men. To achieve substantive equality, therefore, requires both direct and indirect discrimination to be addressed. It also requires specific measures to be adopted that redress women’s disadvantages and, in the longer term, the transformation of institutions and structures that reinforce and reproduce unequal power relations between men and women.
7. **Engage entire populations and groups:** There is need to engage entire populations, communities or groups, including men, boys and traditional leaders, to ensure that the benefits of women’s land rights are understood by all.



There is a need to change mind-sets, especially among men, and for men to become active change-agents themselves.

8. **Inheritance:** This is the main way to acquire and access land and its resources in Uganda. Men are guaranteed land rights for life by virtue of being part of a lineage. This custom and practice must be gradually modified to attain equality by engaging the custodians of communities and groups, especially cultural leaders and faith-based organizations or institutions, that hold the residual power in determining inheritance matters. The targeting of such institutions - beyond formal state institutions and their arrangements - is particularly important, as these drive practice and determine the enforcement of women's rights.

9. **Evictions:** Women as caretakers of households

in urban and peri-urban areas face the brutal force of evictions, with significant loss of secure housing and other psycho-social effects, environmental safety and household nutrition.

10. **Women's economic advancement:** The achievement of substantive equality requires action in two inter-related areas: redressing women's socio-economic disadvantages and strengthening women's agency, voice and participation. A gender-transformative approach to reducing gender disparity is recommended as it explicitly engages both women and men to examine, question and change those institutions and norms that reinforce gender inequalities. The achievement of gender equality in practice, especially for poor and marginalized women, requires the dismantling of structural barriers to their economic achievement.



Acting Commissioner Land Administration, Naome Kabanda (Right) guiding the Area Land Committee member how to fill the Certificate of Customary Ownership application forms. Photo © Government of Uganda.

STRATEGIC DIRECTION FOR GENDER EQUALITY IN NATIONAL LAND POLICY IMPLEMENTATION

3.1 VISION, GOAL AND OBJECTIVES OF THE GENDER STRATEGY

The vision of the NLP is “a transformed Ugandan society through optimal use and management of land resources for a prosperous and industrialized economy with a developed services sector”. While the goal of the policy is “to ensure efficient, equitable and optimal utilization and management of Uganda’s land resources for poverty reduction, wealth creation and overall socioeconomic development”.

This strategy is designed to fulfil the Government of Uganda’s commitments to realizing gender equality in the implementation of the NLP.

The goal of this strategy, therefore, is:

“To ensure that women, men and vulnerable people are guaranteed access to, control of, use of and inclusion in the management of land resources to derive equity and equal opportunity to transform their lives”.

STRATEGIC OBJECTIVES

1. To create a level ground and equal terms upon which men and women can make, hold and enjoy legitimate land rights claims.
2. To build the capacity of men and women to participate effectively and on equal terms in decision-making processes concerning land management and administration.

3. To build the capacity of people working in customary and statutory land management and administrative institutions to operationalize, respect and enforce provisions of policy and law concerning gender equality.
4. To strengthen and streamline the collection, analysis and use of gender-disaggregated information/data in the land sector.
5. To promote and build partnerships with other institutions / stakeholders for the effective implementation of the strategy.

3.2 GUIDING PRINCIPLES OF THE GENDER STRATEGY

The Gender Strategy is premised on the following guiding principles:

- I. **Gender equality:** The strategy will ensure the equal rights of women and men to land, while acknowledging the differences between women and men, taking specific measures aimed at accelerating de facto gender equality where necessary and ensuring that women and girls have equal tenure rights and access to land, independent of civil and marital status.
- II. **Gender equity:** Recognizing that equality between men and women may require acknowledging differences between them, and taking positive action, including empowerment, to promote equitable land tenure rights and access to land for all women and men, youth and vulnerable and traditionally marginalized people.
- III. **Non-discrimination:** No one should be subjected to discrimination under law and policies as well as in practice.



IV. Transparency & participation: The processes and institutions for land tenure governance should be transparent, consultative and participatory. The strategy calls for active, meaningful and effective participation which is free and informed at all stages of law, policy and programme development.

3.3 STRATEGIES AND INTERVENTIONS

The full enjoyment of land rights by women and other vulnerable groups³ must be secured through a variety of tools and a series of discrete steps: recognizing rights (through policies and laws, awareness raising), recording rights (registration & titling, certification), defending rights (access to justice and legal aid) and realizing rights (enforcement and recognition).

1. ENSURING EFFECTIVE PARTICIPATION OF WOMEN IN DECISION PROCESSES

The right of women to active, meaningful and effective participation in legal and policy development is not only crucial to ensuring good laws and policies, it is also an essential component of the human rights-based approach to land governance. For participation to be active, meaningful and effective, it must first and foremost be free and informed, and decision-making bodies must be accessible to women. It also entails the provision of information that is pertinent to decision-making processes prior to decisions. Participation also broadly entails both direct participation in decision-making as well as effective and fair representation of women's interests and rights in decision-making bodies and institutions. The following actions pertain:

- a) Provide for gender-sensitive physical, virtual and electronic platforms and mediums to facilitate the full participation of all categories of women, in all stages of law, policy and programme development, including assessment and analysis, programme planning and design, budgeting and financing, implementation, monitoring and evaluation;
- b) Provide women and women's rights groups, traditional institutions and state institutions charged with the enforcement of women's rights with full, accurate and relevant information about decision-making processes relevant to land;
- c) Put in place capacity building programmes (bottom-top) to support women's participation in technical, practical, mechanical, procedural and methodological decisions on land-related law, policy and programming;
- d) Support women's access to information and training to prepare them for engagement in participatory processes in land-related law, policy and programming;
- e) Train women on their rights to increase their awareness of the claims they can make, rights that need to be protected and opportunities for enhancing their social, economic and political capital off land in decision-making processes;
- f) Support women's access to gender-sensitive programmes for economic empowerment.

³ People infected with and affected by HIV/AIDS, the terminally ill, people with disabilities, elders and internally-displaced persons are prone to loss of land rights and are threatened by landlessness due to poverty-induced asset transfers, distress land sales, evictions, land grabbing and abuse of land inheritance procedures

2. COMBATING INTERSECTIONAL AND MULTIPLE FORMS OF DISCRIMINATION

Women are not a monolithic group and they may be affected differently by intersectional and multiple forms of discrimination. Women are differentially impacted by discrimination related to marital status, economic status, widowhood, abandonment, racial/ethnic identity, health status, geographical location, disability, age, displacement or other issues. Each of these groups of women encounters different barriers with respect to their ability to access, use and control land, and each must be considered within the scope of policy and programme development, including assessment and analysis, programme planning and design, budgeting and financing, implementation, monitoring & evaluation. The NLP recognizes the land rights of women, children, ethnic minorities, pastoral communities, dwellers in informal settlements and slums, as well as other vulnerable groups, including people living with or affected by HIV/AIDS, people with disabilities, and internally displaced persons. The following actions shall be undertaken;

- a) Reorient state institutions and agencies, cultural/traditional and religious institutions, to recognize the dividends for eliminating discrimination and bias to women on access to, use, ownership and development of land and its resources;
- b) Involve institutions and agencies, cultural/traditional and religious institutions in identifying marginalized groups with respect to access to, use of and control over land, and to develop specific protection measures for them – including temporary special measures;
- c) Develop mechanisms and tools for a bottom-up baseline assessment, informed by grass-roots perspectives, to measure the status of women on land, especially those on customary land, and

devise tools for protection of their rights to land;

- d) Design implementation plans that recognize the special position of women, particularly marginalized or excluded women, and provide specific resources and budgets to support all categories of marginalized women to have equal access to land and associated resources;
- e) Design specialized outreach programs to support women's access to land, regardless of their personal or marital status;
- f) Design and implement specialized programs which recognize social, cultural, economic and political differences amongst women.

3. HARMONIZING EXISTING LAWS, POLICIES AND PROGRAMMES

Women's access, use and control of land are best protected when laws, policies and programmes pertaining to their rights are reviewed and harmonized. Most women gain access to land primarily within the context of marriage and family or through inheritance. This means that many forms of laws are relevant to the protection of women's land rights, including marriage and family law (which addresses issues of marital property, divorce and inheritance) as well as land law and property law. The following actions shall pertain;

- a) Design and implement a programme for a harmonized legal regime to support the implementation of women's land rights, their recognition and conformity with international human rights standards and their inclusion in the management of productive resources on land by reviewing and amending laws, policies and programmes across ministries, departments and agencies of government;



- b) Design and implement a programme to harmonize tools and mechanisms to protect women's land rights as women go along the path of life (single, married, divorced, separated and at death) including, but not limited to, Justice Law and Order Sector (JLOs) institutions led by the Law Reform Commission;
- c) Working in partnership with Justice Law and Order Sector agencies and other responsible departments of government, provide guidelines for law reviews and amendments that recognize women's equal and independent right to acquire, administer, control, use land, and transfer property irrespective of their marital and family status;
- d) Manage and steer actions for simultaneous changes to both family law and property law, to protect women's rights to land as divorcees, separated partners or heirs;
- e) Strengthen state institutions and build the capacity of traditional/ cultural / religious institutions to recognize and enforce women's rights over land.

4. ENSURING WOMEN'S RIGHT TO LEGAL SECURITY OF TENURE

The NLP seeks to harmonize and streamline the complex tenure regimes in Uganda to ensure equitable access to land and security of tenure. It states clearly that a good land tenure system must guarantee security of tenure and correct provisions which constitute discrimination against women. Because women most often gain access to land through their relationship with a man, widowhood and domestic violence are a serious concern from the point of view of women's security of tenure.

The following actions shall pertain:

- a) Provide information, educate and orient state institutions and agencies, cultural/traditional leaders and religious leaders responsible for enactment and implementation of laws, policies and programmes, to recognize legal security of tenure across the "continuum of land rights" (e.g. customary, collective, leasehold, freehold, mailo) and enforce it for women on an individual basis, irrespective of marital or other status;
- b) Create partnerships with institutions and organizations working on domestic violence to provide the victims of domestic violence with the basic right to security of tenure and "a right to reside" in their marital home, regardless of who owns these homes;
- c) The land fund, when operationalized, should specifically target women for the purposes of acquiring and registering land;
- d) Review and amend guidelines on compensation processes, especially on appropriation for public purpose and public good, to specifically seek out women as beneficiaries when transacting in family land (as detailed in Section 40 of the Land Act, Cap 227);
- e) Amend the relevant law to enable the judiciary to refer land cases to customary institutions and recognize them as courts of first instance;
- f) Design and undertake a focused capacity building programmes for customary/traditional institutions to deal with land disputes on customary tenure in accordance with recognition of women's land rights in law, policies and programmes.

5. PROTECTION OF WOMEN AGAINST FORCED EVICTIONS AT THE HANDS OF PUBLIC AND PRIVATE ACTORS

The practice of illegal evictions should be prohibited as this constitute gross violations and the abuse of a range of human rights, including the human rights to adequate housing, food, water, health, education, work, security, and freedom from cruel, inhuman and degrading treatment. The basic principles and guidelines on development-based evictions and displacement provide procedures and ways on protecting women's and children's rights in the event of eviction. Property grabbing or disinheritance, at the hands of private actors, may also be considered as a form of forced eviction perpetrated against women and children. The following actions shall pertain;

- a) Partner with law-enforcement agencies and law-reform institutions of government to amend the penal code, so that all forms of illegal evictions (without a legitimate court order) at the hands of both public and private actors particularly perpetrated against women (for example, "property grabbing") are illegal and should be subjected to prosecution.
- b) Partner with agencies, departments and ministries responsible to amend the Succession Act to impose criminal penalties on those who wrongfully deprive rightful heirs (legal and customary) of their property, including but not limited to a deceased spouse's relatives, and subject them to criminal prosecution;
- c) Create gender-sensitive and effective enforcement mechanisms, such as special police units, special courts and fast-tracking of land

and property cases that support women to claim their rights when they have been subjected to forced eviction, disinheritance or property grabbing.

6. LEGAL PLURALISM FROM A GENDER PERSPECTIVE

In Uganda, formal and customary land tenure regimes overlap in jurisdiction, which results in situations in which more than one institution has authority over legal rights, and multiple bodies can resolve disputes. Legal and institutional pluralism can give rise to contradictions and ambiguities between statutory and customary rules and legal norms. The current legal regime lacks clarity on the geographical domain and policy scope of the customary judicial system, and the customary dispute-resolution bodies are not fully embedded in the formal body.

Legal pluralism can be disadvantageous for some groups, such as the poor and uneducated women, for whom formal state institutions are distant, expensive and conceptually foreign. It also offers opportunities for forum shopping by those whose financial and educational status enables them to operate in both customary and statutory legal systems. Women are often disadvantaged in the contradictions and adjustments arising between customary and statutory legal systems.

Customary law does not allow women to own land, but formal law provides for equal rights to land ownership. The presence of different legal systems creates confusion when different laws and customary norms and practices conflict. This makes it a complex legal framework of overlapping rights, competing authorities and often contradictory rules, with potential negative implications for



gender-equitable governance of land tenure when statutory laws and customary norms and practices conflict. There is therefore need to:

- a) Build capacity of all justice mechanisms, including customary mechanisms, to respect, protect and fulfil women's rights to land and hold relevant authorities / institutions accountable when they fail to do so.
- b) Educate and support religious and traditional / cultural leaders to promote gender equality.
- c) Seek effective ways to bring coherence to formal, religious and customary systems, to advance gender equality and women's empowerment, particularly as related to ownership, access, use and control of land.
- d) Educate and support all professionals in the land sector, family justice and other productive sectors to be aware of how land laws intersect with family laws.
- e) Engage traditional institutions and local councils to recognize the judicial appeal process that can supersede formal institutions and processes that embrace the role of traditional institutions in actualizing women's rights

7. ACCESS TO JUSTICE AND ENFORCEMENT BY WOMEN

Access to justice mechanisms for women means that women can access legal processes that are legitimate, gender-sensitive, affordable, easy to follow and physically accessible. Furthermore, the person filing a case / claim must believe that there is a chance that the claim will have a favourable outcome or have faith in the fairness of the

results. Judgments upholding rights must also be adequately enforced. With formal legal systems, evidence suggests that justice chains can become more responsive to women's needs through one – stop shops and legal aid, investing in women service providers, and providing specialized courts and gender-sensitive judicial decision-making (Progress of the World's Women 2011-2012: In Pursuit of Justice). State institutions and officials, however, are often reluctant to enforce women's rights to land because of lawmakers' and state officials' own patriarchal values and norms.

The following actions shall pertain:

- a) Design and conduct legal literacy campaigns that support women to benefit from and can access formal avenues of justice that protect their rights;
- b) Design and implement programmes for women to access courts or low-cost or free legal aid and other legal services in their own language;
- c) Support non-state actors to advocate for accessible and affordable court services for all women, especially marginalized and vulnerable cohorts and sub-groups;
- d) Work with responsible departments, agencies and ministries to make the case for adequate human, financial, legal, technical and other resources to make justice mechanisms effective for women;
- e) Design, promote and encourage the conduct of regular training on women's land rights for legal professionals, including judges, prosecutors and lawyers;

- f) Provide customary justice authorities with training on women's rights within the scope of their jurisdiction and encourage fair decision-making about women's land rights;
- g) Support, through financial and other means, positive local initiatives which affirm women's equal rights to land, including community-led paralegals, watchdogs (e.g. grassroots women's groups) and other community-based strategies;
- h) Put in place legal empowerment programmes to improve knowledge and awareness of customary and community leaders on women's property and inheritance rights through training, advocacy, outreach and community dialogues;
- i) Partner with legal-service providers and the formal justice systems to support appeals or to seek redress from formal courts of law when women's land rights are threatened, abused or repressed.

8. PROMOTE POSITIVE ASPECTS OF CUSTOMARY SYSTEMS FOR WOMEN

The NLP commits to reform customary law, to modify the rules of transmission of land rights under customary land tenure, to guarantee gender equality and equity, and to ensure that the decisions of traditional land management institutions update constitutional rights and obligations regarding gender equality. Aspects of customs and norms that actively promote women's rights should be promoted.

The positive aspects of customs and traditions should be highlighted, cultivated and strengthened. Reinforcing positive aspects of customary land tenure systems that encourage and support women's access to land can produce good results and outcomes.

The following actions need to be undertaken:

- a) Support research and community dialogues to identify and promote customs and practices that support natural justice, equity and good conscience;
- b) Engage communities in discussions on a gender-sensitive interpretation of religious law, customary law and statutory law;
- c) Partner with civil society organizations to promote and support community awareness on good practices, norms and values that recognize and highlight the rights of women to land.

9. MARITAL PROPERTY RIGHTS AND DIVORCE

In the NLP, government commits itself to ensuring that both men and women enjoy equal rights to land before marriage, in marriage, after marriage and at succession. The proposed key strategy is to design and implement a regime of matrimonial property law aimed at the protection of spouses. Marital property is a key issue in understanding the status of women's rights related to land and property. It provides for rights within the context of marriage. Division of property in the event of death is closely related to the issue of the marital property regime and is generally subjected to marriage and family law.



Women's property rights in divorce situations are critical since divorce could lead to poverty, and unequal rights in divorce are a real barrier to women leaving abusive relationships.

The following actions shall be undertaken:

- a) Support judicial and law enforcement institutions to uphold the principles of equity and equality of land and property rights in adjudication, arbitration and judgment for men and women in the event of divorce and dissolution of marriage;
- b) Partner with the Justice, Law and Order Sector to support the enactment of the Marriage and Divorce Bill to provide for partial or limited community of property, with each spouse having equal rights to administer common property and to administer his or her own separate property, and further specify that in the event of dissolution, common property should be divided equally between the spouses;
- c) Support faith-based and cultural institutions to manage land and property rights during divorce and strengthen them to understand and appreciate their role.

10. ADVOCATING FOR GENDER-EQUITABLE INHERITANCE

Inheritance has emerged as a key issue in the struggle for women's land, housing and property rights, including within the context of HIV/AIDS, which has accelerated the practice of property grabbing, or "disinheritance" against widows. For many women, law and/or custom too often precludes

their benefiting equally - if at all - which renders them unable to tap into the economic benefits and security that inheritance can bring. Another impediment to women's inheritance rights is the lack of proper documentation to establish a legal basis for claims, such as birth and death certificates. In the NLP, government is committed to protect, by legislation, the right to inheritance and ownership of land for women and children.

The following actions shall be undertaken:

- a) Support law enforcement and monitoring agencies/institutions with tools and mechanisms available in the legal framework to explicitly recognize the inheritance rights of widows (and widowers);
- b) Organize public sensitization and awareness-raising sessions on existing laws, so that people - especially women - know about the laws that protect them;
- c) Partner with other state agencies, departments, ministries and non-state agencies to train customary authorities on statutory inheritance laws;
- d) Promote community discussions on: marriage and inheritance practices, friction between these practices and statutory law, and possible solutions for aligning the two;
- e) Develop the capacity of organizations supporting women's rights and recognize their role in raising awareness and taking strategic interventions to support widows;

- f) Support legal empowerment through better access to justice, dispute-resolution mechanisms and legal support that enables widows to claim their rights.
- g) Promote will writing

11. PROMOTING GENDER-SENSITIVE LAND LAWS AND PROGRAMMING

For land laws and programmes to benefit women, they need to be designed from the outset with an integrated gender perspective. There is need to consider the specific challenges faced by women when it comes to access, use and control over land and the many types of discrimination women do face. Care should also be taken to ensure that laws that seem to be gender neutral do not, in practice, have a negative impact on women's rights.

The following actions shall pertain:

- a) Apply GLTN's Gender Evaluation Criteria (GEC) to assess whether a large-scale tool is sufficiently gender-responsive, to identify where work needs to be done and possible entry points to make a tool equally beneficial to women and men;
- b) Support the harmonization of policies and laws to reinforce the efforts to respect, protection and fulfillment of women's rights to land, including land titling and registration, access to loan and credits;
- c) Design mechanisms for participation and inclusion in land laws and programmes, including assessment and analysis, programme

planning and design, implementation, monitoring and evaluation of women's rights, needs and perspectives;

- d) Provide and support the adoption of a full range of land tools (e.g. plans, guidelines, operational manuals, training modules, land tenure instruments, land records databases, monitoring and evaluation instruments) with an integrated gender perspective that promotes women's effective, secure and equal enjoyment of their land rights;
- e) Government facilitates the gender sector in local governments to operationalize and implement existing laws, policies and programmes on gender equality.

12. MAKING LAND REGISTRATION AND TITLING MORE ACCESSIBLE AND GENDER-EQUITABLE

Titling and registration programmes have historically not benefited women to the same degree that they have benefited men. Efforts need to be taken so that land tenure formalization does not result in women losing the secondary rights – access, use, collection or cultivation rights - that they enjoyed under customary law. By undermining pre-existing land rights, titling can increase insecurity. Joint titling/ registration has several advantages and should be encouraged. It acknowledges the contributions of all spouses to the household economy (which, for women, is often in the form of labour not cash). It also offers greater protection to women should the marriage break down. Joint titling/registration also provides for automatic continuity when one spouse dies.



The following actions should be implemented:

- a) Prior to land registration, assess existing rights focusing on women's rights (registered and unregistered) and inheritance, marriage and divorce patterns to inform titling or certification programmes (whether systematic or sporadic);
- b) For all titling and registration programmes, design and conduct effective awareness-raising aimed at educating women and men about women's rights to access, use and control land as an integral part of the initiatives;
- c) Make recommendations and support the adoption of titling /registration legislation, regulations and guidelines that oblige joint titling/registration of marital property;
- d) Train and provide guidelines for titling/registration officials regarding marital property rights, co-ownership and joint titling/registration;
- e) Decentralize land registration and reduce the red tape on all forms of land registration.
- f) Install gender-sensitive monitoring and evaluation systems, and collect best practices and gender-disaggregated data to track the long-term impacts of gender equality.

13. ENSURING GENDER-EQUITABLE LAND INSTITUTIONS

There is a huge gap between the law and its implementation, which may be for several reasons. Yet, in all cases, effective institutions are pivotal to the implementation of laws, policies and

programmes aimed at securing women's land rights. These institutions need to have the internal capacity, expertise and commitment to make women's access to, use and control of land a reality. Governing land for women and men, fairly and responsibly and in ways that also provide positive gains for society requires equitable inclusion of both genders in all land institutions and governance processes. Protecting women's rights effectively begins with providing capacity-building and training on women's rights and gender mainstreaming to all state officials charged with implementing land policies, laws and programming. In addition, state institutions should adopt clear, transparent and participatory gender-planning processes, in line with women's rights to participation, and they should be held accountable for effectively mainstreaming these into all programmes.

- a) As a broad and pragmatic approach, support change in male-dominated, discriminatory and exclusive customary institutions, assist them to overcome obstacles to change and accept principles of gender equity and equality;
- b) Identify customary practices, processes and institutions that support gender-equitable land tenure governance; promote them and seek to eliminate those that are discriminatory or exclusive;
- c) Sensitize customary leaders on the importance of gender-equitable land tenure governance, and support them in adapting to new governance processes;
- d) Provide training in women's rights, gender mainstreaming and participatory gender planning for all authorities and institutions responsible for land administration and tenure;

- e) Build the capacity and raise the levels of awareness in institutions responsible for the implementation of laws, policies and programmes related to the observance of women's rights to land for them to attain coherence and clarity of functions and authority amongst themselves;
- f) Sensitize members of land institutions on the importance of gender equity in their processes and composition.

14. COMMUNICATION, MEDIA ENGAGEMENT AND COMMUNITY AWARENESS:

Communication, media engagement and awareness raising are critical to change values and attitudes, including those related to gender and land tenure governance. However, focus on communication and media channels implies that one should be conscious of content, context and solutions for women on land rights. Broad awareness campaigns are necessary to inform the public about women's land rights generally and to rally support. Lack of knowledge on legal protection is a formidable barrier to claiming rights, and sociocultural norms may hinder the realization of women's rights. Communication can mobilize people for development actions such as claiming their land rights, while helping to build consensus on problems and their possible solutions through the participation of all stakeholders. People need to be aware of issues and rights so that they can exercise both voice and choice effectively. Effective awareness raising on land and gender issues is particularly important in the implementation of land sector projects and reforms. Important factors for success include using carefully targeted interventions, in collaboration with civil society organizations, facilitating women's clear leadership at awareness-raising meetings, and

adopting a participatory approach that works with local beneficiary communities. Effective gender sensitization should target both women and men, across ages, religious, ethnicities, and social strata.

The following actions will be undertaken:

- a) Sensitize both women and men, to change deeply held values and attitudes.
- b) Foster discussion of gender and land issues in a neutral forum and ensure that effective and culturally appropriate mechanisms are in place for identification of discussion, negotiation and conflict resolution on gender related issues.
- c) Provide equal opportunities for women and men in gender sensitization, education and training.
- d) Provide special training on gender issues to women to foster new skills and resources for challenging their traditional roles and participating fully in the processes and institutions of land tenure governance.
- e) Support community awareness-raising by civil society, including women's groups and non-government organizations.
- f) Sensitize the media, to facilitate sustainable change at the community, local government and national levels.
- g) Involve the entire community in any communication strategy for gender-equitable governance of land tenure land that stresses the benefits of gender equity to all.



- h) Use communication to support advocacy work with cultural leaders at grassroots level
- i) Provide special training on gender issues to women and men to foster new skills and resources to challenge their traditional roles and participate fully in the processes and institutions of land tenure governance. Men should specifically be encouraged and supported to use the land other than leaving this to women only.

15. LEGAL EDUCATION AND LITERACY

Even when legal and regulatory frameworks exist to protect women's land rights, women must know and understand their rights for them to be effective in practice. Legal literacy must go beyond just knowing what one's rights are. Rather, women must also know how they can exercise and enforce their rights. Good practices include understanding the different information needs of women and men, and in overcoming any barriers that may prevent women from participating in events or processes which provide information. For example, women might not speak out and ask questions in a public meeting where men are present so women's only discussion groups or meetings can be useful for providing a conducive environment for women to speak. Good practices also pay attention to other factors, such as age, language, literacy, economic status, disability, marital status, and factors which might affect a woman's participation in an event even with other women. Civil society and government partnerships

can be very powerful in achieving legal literacy. Different forms of media may also be used to inform women about their rights and how to claim them.

The following actions shall pertain:

- a) Undertake targeted and accessible legal literacy campaigns and programmes in a language that women understand, to assist them understand their rights to access and control land resources, and where to claim them.
- b) In partnership with legal literacy institutions, design and conduct legal literacy programmes in general and include a women's land rights component.
- c) Translate all relevant laws regarding women's land rights into major local languages.

16. GENDER-SENSITIVE DATA COLLECTION, MONITORING AND EVALUATION

Not only should law, policy and programmes related to land resources incorporate women's rights into their design and implementation, they must also incorporate this perspective throughout all phases, including monitoring and evaluation. Gender-sensitization, monitoring and evaluation ensure that the policy, law or programme is being effectively implemented and that it benefits women and men equally. To accomplish this task, gender-sensitive data and sex-disaggregated data are useful diagnostic tools.

The following actions shall pertain:

- a) Design, implement and analyse gender-sensitive and sex-disaggregated data on access to, use and control of land by women in laws, policy and practice programmes;
- b) Undertake monitoring and evaluation that involves women, and design frameworks that support the participation of women in the identification of qualitative and quantitative indicators to be monitored, the monitoring process itself, and the analysis and evaluation of the results.
- c) Harmonize and coordinate data-collection approaches – adopt them, including the use of research data for decision-making, and disseminate it for purposes of decision-making.
- d) Undertake a baseline on the status of women and their land rights under all tenures, beyond registered tenure and more especially in informal, traditional/customary land holding, and harmonize the data related to women's land rights, gender equity and equality in land governance.



Jubilant recipients of Certificates of Customary Ownership in Adjumani district, Uganda. The handover ceremony was presided over by the Vice President of Uganda, H.E Edward Kiwanuka Ssekandi, on the 11th of July, 2019. Photo © UN-Habitat.



3.



Women celebrating and showing off their Certificate of Customary Ownership in Pader, Northern Uganda. The certificates were presented by the Minister of State Lands, Hon. Persis Namuganza. Photo © UN-Habitat.





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