



POLICY BRIEF

# LAND AND PROPERTY RIGHTS CRITICAL FOR WOMEN EMPOWERMENT

ADDRESSED TO DISTRICT LOCAL GOVERNMENT LEADERS AND MEMBERS OF PARLIAMENT OF ACHOLI SUB REGION

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**GWED-G**  
Ghana Women's Economic  
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## 1.0 Executive Summary:

**Land ownership is critical for women Empowerment:** Land is a primary source and crucial asset for households, especially women who primarily depend on agriculture for their livelihoods. Ownership and control over land plus control over produce obtained from land use in Northern Ugandan, like most parts of Uganda, is unequal and disfavours women. The greatest disparity being in ownership and decision making over the produce obtained from land use. Gender disparities in land rights are the underlying causes of conflicts and poverty among women. Access, control, ownership and utilisation of land are important factors in poverty alleviation. Inadequate control over the use of land hampers productivity and investment by women yet, they are the main users of land.

*Only 27% of registered land is owned by women yet, 70% of the women are engaged in agriculture. Less than 20% control outputs of their efforts. Women are given small plots of land like the size of a house. Such a practice will not make women shift from the poverty box.*

In Uganda today, only 27% of registered land is owned by women yet 70% of the women are engaged in agriculture and surprisingly less than 20% control outputs of their efforts (UNHS 2012/13). Women, do not enjoy the same opportunities as men in terms of access and participation in social, political, legal-cultural and economic development. In Uganda, 80% of the women usually do not have a say on how land is used unless they have rented it (FAO Country Gender Assessment 2016). When women are given land, they are given small plots like the size of a house, such a practice will not make women shift from the poverty box. To achieve optimal productivity, women must access, control and own land. The ministry of lands needs to consider the obstacles women face with regard to tenure and the associated tenure rights and devise measures to redress the imbalance. It is only in protecting women's rights to land that women productivity can increase then, the health and wellbeing of the family will improve.

Uganda has enacted laws which grant men and women equal rights to land and other property rights, regardless of their marital status. However, application of these laws have been hindered by a number of factors, legal pluralism that stems from the recognition of both customary and national laws, which are often not mediated by statutory provisions as prescribed in the constitution. Lack of knowledge of the laws, poor access to justice, weak institutional and incapacitated legal system, social norms and practices particularly in rural areas. Such dynamics prevent effective enforcement and administration of laws. The land tenure system in Uganda is inappropriate and governed by social norms and practices. Cultural land norms are most important obstacles to agricultural production. Despite the abundance of land, there is a mismatch in land ownership and use. Those that own the land do not use it; and those that use the land do not own it (Bategeka, Kiiza, and Kasirye, 2012). At the household

level, those that own land are usually men but the majority of users are women who mostly access but do not own land.

The policy options are: to dialogue and create or raise awareness on land policy, Land Act 2010 and related policy frameworks, especially the National Land Policy Implementation Action Plan 2015/2016-2018/19; Stakeholders must monitor and evaluate the implementation of Land Policy Implementation Action Plan; Redress historical injustices to protect land rights of women and girls marginalised by history or on basis of gender and other forms of vulnerability.



***WORUDET Board member, during consultative meeting on women land and property rights dialogue in Pader district . “We have suffered and our daughters continue to suffer under culture which does not allow women to own land”.***

## 2.0 Introduction:

Unequal land rights affect women access to other resources, their economic, social and political status. Land relations are critical for women rights in Uganda and Acholi Sub region in particular. This is because of the centrality of land, as a resource for livelihood for majority of the population. Women's livelihoods, those of their families, and ultimately nations are tied to land. Because of their gender roles in providing food for the family, it is important that women rights to land are protected and their land tenure security assured. It is only in protecting women's rights to land that women productivity can increase hence the health and wellbeing of their families will improve.

Although Uganda's land laws grant men and women equal rights to land and other property regardless of their marital status, application of these laws have been mired by a number of factors. First is the legal pluralism that stems from the recognition of both customary and statutory laws, which are often not mediated by statutory provisions as prescribed in the constitution. There is lack of knowledge of the laws, poor access to justice, weak institutional and incapacitated legal system, particularly in rural areas which prevents effective enforcement and administration of the laws. There is ultimate need for alternative policy options like to dialogue on existing land polices.



*Pader District LCV Women councilor and district speaker, during the talkshow on women land and property rights on Luo FM.*





*Figure 1: 20 years in the camp the underlying cause of land conflicts in Acholi sub region*

Some cultural leaders have lost value as they are not respected by the society. There are conflicts within families and between families due to boundary lines. Conflicts between investors and the people are flaring up. This is because the investors do not understand society dynamics. The increasing population is not helping the situation either. The strong appeal remains, stakeholders including Development Partners and Civil Society should support mediation and awareness creation; the government should embark on reviewing weak laws and implementation of the laws.

Although Uganda has enacted a number of land laws during the implementation of agricultural reforms, these laws fall short of a fundamental land reforms, which the country needs to substantially boost agricultural production. Indeed, contemporary Uganda has not had far-reaching land reforms. Instead of implementing radical agrarian reforms, Uganda has embraced the pro-market "willing-seller, willing-buyer" or property rights model of land reform which is characterized by challenges such as idle land, no major reforms that would change the gender imbalance in terms of access and control of productive resources particularly land in the broad framework of land and property rights.

The underlying problem is increasing incidences of land conflict yet dispute resolution mechanisms are not streamlined to help the poor. Therefore reforms in land tenure systems and security, conflict resolution and land titling are very critical for Uganda's development aspiration as envisaged in Vision 2040. The Government must be aware of the implications of ongoing large scale land acquisition by big companies – Madhivan in Amuru for sugarcane. Women and children are more affected by large scale land acquisition than men as Uganda focuses on investment to transform economy.

## 4.0 The Current Measures that are in Place to Curb Inequalities of Women Rights to Land and Property

There are international, regional and national measures against land discriminations. Uganda is a signatory to two key instruments that spells out women land rights, including the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) and The Maputo protocol (the protocol to the African Charter on Human and People's rights, on rights of women). The CEDAW, requires member states under article 14: protection of rights of rural women, to take appropriate measures to eliminate discrimination against women for, women to participate in rural development. The Maputo protocol also requires states to combat all forms of discrimination, recognise the rights of women to acquire property, special protection of widows, elderly and women with disabilities.

*Why not consider the co - ownership clause/ provision to allow co-ownership of land and property by spouses? Then, grabbing of widows, land by relatives will be History.*

The Uganda Constitution protects women's land rights under Article: 21 which states that 'all persons are equal before the law and under the law, in all spheres of political, economic, social and cultural life and shall enjoy equal protection of the law' - no person shall be discriminated on any basis including sex.

The constitution authorises parliament to enact laws that redress imbalances between men and women in order to bring about equality. The constitution protects the property rights of all persons and guaranties equality in marriage between men and women and such equality include decision making in a home.

The Ugandan constitution protects the rights of widows to enjoy property rights of their deceased spouses and to enjoy parental rights over their children. The Ugandan constitution still, recognises specific women rights; the right to full and equal dignity, equal treatment, equal opportunities in political, social and economic spheres. It guaranties the right of access to information in the position of the state or any of its agencies as well as the right to justice, fair, speedy and public hearing before an independent and impartial court or tribunal.

. In 1998, Uganda enacted a land Act pursuant to Article 237 (9) of the constitution, which required Parliament to have a land Act in place. The purpose of the Land Act was to provide a framework for the tenure, ownership and management of land, as well as to improve the delivery of land services to the population by decentralizing land administration.

***The Land Act 2010 contains the following provisions;***

- *Section 40 requires the prior written consent for both spouses in transaction involving family holdings, defined as land on which the family ordinarily resides and from which they derive sustenance.*
- *Section 28 prohibits decisions affecting customary land that deny women access to ownership, occupation or use of any land, as well as decisions that impose conditions violating constitutional provisions protecting women*
- *The Land Act requires land management bodies and institutions to have female representation. The Uganda Land Commission must include at least one female among its five members, one third of the membership of the District Land Boards must be female and Land Committees at parish level must have at least one female among its committee members.*

Whereas these sections are progressive as they relate to women, land and property rights, the co - ownership clause/ provision that would allow co-ownership of land and property by spouses was lacking. This was an empowering clause that would bring to light equal ownership by a husband and wife of the land on which the family's principal place of residence rests, or property from which the family derives its principal source of livelihood or sustenance.

The other measures in place to curb land inequalities is the Women's Land Rights Movement which was born on the 2nd June 2010 with key government ministries (Ministry of Lands, Housing and Urban Development; Ministry of Gender, Labour and Social Development, Ministry of Agriculture, Animal Industry and Fisheries. The National Development Plan (NDP), the Uganda Vision 2040 is geared towards achieving a transformed Ugandan society from a peasant to a modern and prosperous country with in 30years this calls for the government, land sector, local government leaders and politicians to embrace women rights to land and property as reforms are undertaken to facilitate acquisition of land for planned urbanisation, infrastructure development, agriculture commercialisation and other developments



“  The vision 2040 will be achieved if women rights to land are embraced. Government, leaders must undertake reforms to facilitate women acquisition of land for mechanized and commercial agriculture

# The policy recommendations critical for women land rights in Northern Uganda:

## 1 Government should design and implement transformative programs that strengthen access to policy information and enforcement of women land rights

To answer the land question of, women rights, food security and agricultural transformation; in Uganda, a lot must be done and we recommend that,

- Districts should develop bylaws on land use. There is evidence of unutilized land that can be put to productivity by women.
- Sensitise cultural and clan leader's the importance land inheritance rights for women and girls.
- Design specific policy programme initiatives to protect widows from property and land grabbing predominantly by in-laws;
- Institute mechanisms through policy relations and programs to enhance observance of joint spousal co- ownership of family land and property as provided for in the land policy 2013;
- Government and CSOs should sensitize community on legal rights of women and land ownership that are provided for in the Land Act amendment 2010,
- The Land fund should be utilized to buy land from absentee land lords that should be distributed to people who are willing to make it productive.
- Provide affirmative action to enable women access the land fund.
- The government should strengthen the functionality structure at District and sub county levels to deal with land issues.
- The district land board must sensitise the people about the process of acquiring customary land certificates.
- The Parliamentarians should expedite the proposed amendment of 2011 of the succession Act 1906.

### *SUCCESSION (AMENDMENT) BILL 2011 AN ACT RELATING TO SUCCESSION*

- *Section 27 of the Succession Act, which provides for male intestacy and not for female intestacy, is constitutional?*
- *section 27 which also generally grants a widow of the estate 15%; while the widowers enjoy 100% is constitutional?*
- *rule 8 (a) of the Second Schedule to the Succession Act which provides that a widow's right of occupancy in a residential holding terminates upon remarriage while that of a widower terminates upon death is constitutional?*
- *section 43 of the Succession Act which provides that a guardian is appointed by the father and undermines the mothers' parental rights?*
- *section 2 (n) (i) and Section 44 of the Succession which gives preference to the male lineage over female lineage in choosing a legal statutory guardian is constitutional?*
- *section 14 of the Succession Act which awards automatic acquisition of domicile upon marriage to a woman and not to a man is constitutional?; and*
- *section 15 of the Succession Act which terminates a woman's acquired domicile upon legal separation is constitutional?*

## 2 Cultural institutions should institute a cost effective Impartial and unprejudiced conflict resolution mechanism which is accessible, affordable and appropriate.

The need and value of land has increased conflicts in Acholi sub region in Northern Uganda, more especially among the returnees who can no longer establish family boundaries after living in the camp for 20years. There has been a collapse of the cultural systems on land management which was in the hands of the elders. Elders knew the land boundaries. The following is recommended;



- Manage and resolve land disputes and conflicts and adjudicate transparently over land issues.
- Redress historical injustices to protect women and girls land rights and communities marginalised by history or on basis of gender, religion, ethnicity, war, and other forms of vulnerability to achieve balanced growth and social equity.
- Cultural and clan leaders must put in place a mechanism which reintegrates vulnerable, landless Youth affected by the 20 year LRA war.
- Customary certificate of ownership is the ideal document that will help people gain legal ownership.

## 3 Government and stakeholders should operationalize and popularize the national land policy and Land Act 2010

There are land related policy frameworks; National land policy framework, Constitutional and legal framework, land tenure framework, land rights administration framework, land use and land management framework, National land framework and even the land Act. However, these frameworks are not popularised. The Ministry of Lands, Housing and Urban development in implementing the National land policy has to prioritise the operationalization of women land rights. The government must;

- Organise policy dialogue to educate and raise public awareness on, Uganda Land policy 2013, the Land Act 2010 and related policy frameworks, especially the National Land Policy Implementation Action Plan (NLPIAP) 2015/2016-2018/19.

- Monitor and evaluate the implementation of the Uganda National Land Policy Implementation Action Plan (2015/2016-2018/19) and have the plan Localised.
- Translate Land policy, related frameworks especially the Land Act 2010 into local language ( Acholi)
- Title government land including District Local Governments and establish an inventory of all government land. Government land not under production can be allocated to vulnerable landless women for cultivation for livelihood and their families.
- Harmonise all land related laws and strengthen institutional capacity at all levels of local government and cultural institutions for sustainable management of land resources.
- Engage cultural institution political leaders to dialogue and popularise the land (Amendment) Act 2010, advocate, promote ownership and inheritance of land by women and girls.

The District LGs to should enact ordinances to include that households put in place food reserves as provided for by the National land policy on land use for food security .

#### **Civil Society Organisations should;**

- Play an advocacy and watch dog role, to increase awareness on women's land and property in the region.
- Work with other stakeholders to rejuvenate Women's Land Rights Movement, formed in 2010 with support from Uganda Land Alliance.
- CSOs in Acholi should actively involve religious and cultural leaders in their initiatives of women land and property rights.



“Joint spousal co- ownership of family land and property as provided for in the land policy 2013 is important for women full realisation of property rights ”

Annet Kandole  
CARE International in Uganda

## Conclusion:

CARE and CSOs coalitions working on land rights have over the past years amplified initiatives around women's land rights. They have ensured that issues of women land and property rights stand out prominently in the reviewed land policy and the Land Act 2010. Despite the successes and the acceptance of integration of women land rights into policy and law, the practice has not changed. Women are still discriminated against in relation to land access, ownership and control; thus the need to address the issue from a 'practice change dimension'. There is need to do business unusual on issues of women land and property rights. CARE in partnership with WORUDET will strengthen the capacity of CSOs and other stakeholders to dialogue on land policy frameworks for equal access to and control over productive assets, land tenure security for women and girls to support their livelihood diversification choices. The policy dialogue initiative will ensure enhanced capacities of women and girls to actively engage and meaningfully participate in influencing political decisions at local, national and international levels. Policy dialogue will build evidence on Gender-Based Violence, women's land and property rights women's participation in political leadership and decision-making. The documented evidence and lessons learnt will then be used to influence related policies.

There is need for all stakeholders; to come together and rethink the women's land rights question in Uganda and develop common strategy for women land and property rights. The Land Act 2010 be widely disseminated and translated in local language (Acholi/Luo). There is need to strengthen capacity of stakeholders especially, political leaders, Legislators, the media, CSOs and members of the community to dialogue, influence legal and policy frameworks for women and girls on equal access to and control over productive assets (land, property rights), and land tenure security to, support their livelihood diversification.

## 8.0 Referencies

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Cultural and Clan leader's must be sensitised on the importance of land inheritance rights for women and girls. This was agreed upon during the consultative meeting to develop an advocacy strategy for WORUDET and presentation of a policy brief on women land rights in Pader District., August, 3 2016