

Who Owns the Land?

Perspectives from Rural Ugandans and Implications for Land Acquisitions

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ABSTRACT

Rapid growth of demand for agricultural land is putting pressure on property rights systems, particularly in Sub-Saharan Africa where customary tenure systems have provided secure land access. Patterns of gradual, endogenous change towards formalization are being challenged by rapid and large scale of demands from outsiders. Little attention has focused on the gender dimensions of this transformation. Based on a study of land tenure in Uganda, this paper analyzes how different definitions of land ownership, including household reports, existence of ownership documents, and rights over the land, provide very different indications of the gendered patterns of land ownership and rights. While many households report husbands and wives jointly own the land, women are less likely to be listed on ownership documents, and have fewer rights. A simplistic focus on “title” to land misses much of the reality regarding land tenure, and could especially have an adverse impact on women’s land rights.

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INTRODUCTION

The sudden increase in global food prices in 2008 precipitated increased demand for agricultural land from countries dependent on food imports (notably Gulf countries, but also China and India) seeking to secure their food supplies without depending on fluctuating world markets. This, along with growing European demands for biofuels and speculative demand from other investors have increased pressure on agricultural land, especially in Africa. A World Bank (2010) study found land deals accounting for 46.6 million ha reported in 203 projects in 81 countries, with 32.0 million ha in Sub-Saharan Africa; by July 2011, the International Land Coalition had verified over 1200 large-scale land transactions of over 500 ha in rural areas of 96 countries, involving transformation of land use rights from communities and smallholders to commercial use (International Land Coalition, 2011).

The rapid growth of demand for agricultural land is putting pressure on property rights systems, particularly where the vast majority of land is under customary tenure. Prior research has indicated that customary tenure can provide sufficient tenure security to allow farmers to take a long-term interest and invest in their land (John Bruce and Shem Migot-Adholla 1994). Others, following the evolutionary theory of land rights, see property rights evolving toward more formalized systems due to increasing competition and demand within the system (e.g. Harold Demsetz 1967; Kei Otsuka and Frank Place, 2001; see Jean-Philippe Platteau 2008 for a critical review of this literature with regard to Africa).

However, much of this evolutionary theory is based on assumptions of relatively gradual, endogenous change. These assumptions do not hold for many of the changes that are taking place now: the pace is much more rapid, the scale of land deals much larger, and demands are largely from outsiders, not current land users. Even where the investors are domestic, rather than

foreigners, they are usually not from the communities themselves. Moreover, there are large power imbalances between those seeking to acquire land now and the current land holders, which shape the nature and outcomes of any land deals. This calls for a re-assessment of tenure security, especially under customary tenure systems.

From a gender perspective, most customary tenure systems in Africa favor men, granting women rights primarily through a father, husband, brother, or son (see Susanna Lastarria-Cornhiel and Zoraida García-Frías 2005). Although statutory land rights systems in many countries do allow women to own land, titling programs do not necessarily improve women's land tenure security. There is ample evidence of women losing out in the processes of formalization, particularly in land titling programs (Lastarria-Cornhiel 1997). There are now efforts to address women's land rights in new land registration and formalization programs (Global Land Tools Network 2008). Because of the recent nature of these reforms, the evidence to date is fragmentary and focuses more on women's security of tenure vis a vis localized challenges to property rights from within the family, rather than external challenges. There is thus considerable debate about whether customary or statutory systems are more gender equitable (or gender inequitable) (see Igunn Ikdahl et al. 2005; Cecile Jackson 2003; Ann Whitehead and Dzodzi Tsikata 2003). But rather than arguing this based on assumptions or preferences for one (often idealized) system or another, it is important to understand current land tenure patterns, by gender.

The rapid increase in foreign and domestic investors' demand for agricultural land in recent years provides a different context and increases the urgency of considering how to make land tenure more secure for women (as well as men). There is considerable media attention and growing research on large-scale land deals (often termed "land grabs" in the press (e.g. Lorenzo

Cotula 2010; Lorenzo Cotula et al. 2009; Caren Smaller and Howard Mann 2009; Joachim von Braun and Ruth Meinzen-Dick 2009; Liz Wiley 2010; World Bank 2010), which highlights that those with customary and common property are particularly susceptible to losing their land and livelihoods where the state can claim “ownership” of the land, and therefore negotiates with the would-be investors, in some case without even consulting local land users and customary rights-holders. Even if these deals are considered legal under national law, they are often not considered socially legitimate if the key stakeholders, especially customary landholders, were not consulted and did not agree.

Relatively little attention has been given to the gender implications of these land deals (a few exceptions are Elizabeth Daley 2010; Julia and White Ben 2010). Julia Behrman, Ruth Meinzen-Dick and Agnes Quisumbing (2011) point out that the strength and distribution of land rights is one of the most important factors influencing who will have a seat at the table in negotiations over large-scale land acquisitions, and the subsequent claims to any benefit streams. Undocumented land rights that are not recognized by the state and by outsiders are especially vulnerable to expropriation. But the rapid pace of large-scale land acquisitions is, in many places, outstripping the efforts to register customary land rights, including (or especially) women’s land rights. This is particularly problematic when external investors bring their own lens through which to view land rights and gender roles in agriculture. They often only recognize titled land ownership and fail to recognize the wide range of property rights that exist, and the complexity of men’s and women’s roles with independent and interdependent rights and responsibilities.

This paper presents findings from a detailed study of the gendered nature of land tenure in Uganda, using three districts with different tenure systems and pressures on land. While none

of the study sites has been a direct target of large-scale investors, the study shows the range of rights that men and women can claim, and how a simplistic focus on the holder of “title” to land can miss much of the reality regarding land tenure. The paper begins with a review of key concepts related to land tenure, that are important for understanding men’s and women’s tenure security, then reviews the types of land tenure and women’s rights to land as formally recognized by the state in Uganda. This is followed by a discussion of the methodology and study sites, and a brief review of pressures for land acquisitions. The subsequent section presents the understanding of property rights by men and women in these communities. We conclude with implications of our study for policy on land-based investments in Sub-Saharan Africa.

KEY CONCEPTS FOR UNDERSTANDING LAND RIGHTS

Property rights over land are important for a whole host of reasons, especially in rural areas where agriculture and natural resource-dependent livelihoods are the mainstay of the economy. In addition to providing incentives for investment and careful management of resources, property rights provide the decision-making authority to make investments in the land, and to regulate what others do with the resource. The distribution of property rights also affects welfare, providing people with a source of livelihoods and fallback options that reduce vulnerability. In addition to these economic values of property rights, rights to land are also often associated with social identity. Property rights are therefore empowering: they give status to communities, to households, and to individuals within the household.

Thus, it is critical to examine not only household-level property rights, but also the distribution of property rights within the household. In many parts of the world, especially in

Africa, women obtain access to land through men—fathers, husbands, or sons—and are not recognized as landholders in their own right. This makes them vulnerable to losing their access to land if their husband leaves, remarries, or dies. Women’s lack of land ownership and tenure security feed into a cycle where women are not viewed as real farmers. This perception limits their access to agricultural services, including credit, extension and other inputs. The result can be an endless cycle whereby women are not given land because they are seen as less productive and they are less productive because they have less access to land and other inputs (Carmen Diana Deere and Cheryl Doss 2006). Women’s land rights have been found to be positively correlated with both net farm income and off-farm income (Carmen Diana Deere, Rosaluz Duran, Merrilee Mardon, and Tom Masterson 2005), higher rates of autonomous decision-making (Merrilee Mardon 2005), and higher shares of expenditure on food (Cheryl Doss 2006). Finally, ownership of assets, particularly land, may reduce women’s vulnerability to AIDS (Richard Strickland 2004).

To understand the different rights that persons have to land, it is conceptually and empirically useful to think beyond ownership, or ultimate control of land and the benefits that derive from that land. In practice, full ownership rights are rarely held by one individual or institution. Rather, it is more appropriate to think of “bundles of rights” that may be held by different holders of the rights. There are many ways to identify specific rights, but a useful classification used by Edella Schlager and Elinor Ostrom (1992) includes:

- *Access*: the right to be on the land, such as the right to walk across a field¹

¹ This definition of access differs from the common discourse on land rights for women, which often refers to women having “access” to land, implying some set of (unspecified) rights that are less than full ownership (Bruce 1993), although it usually includes some decision making power over production process, products and use of that land.

- *Withdrawal*: the right to take something from the land, such as to collect water, firewood, or other produce
- *Management*: the right to change the land in some way, such as to plant crops or trees, clear bush, or make improvements to the land
- *Exclusion*: the right to prevent others from using the land
- *Alienation*: the right to transfer land to others through rental, bequest, or sale

Access and withdrawal are considered use rights, while management, exclusion, and alienation are control or decision-making rights. Each of these bundles of rights can be further broken down and specified in terms of what products, times, and other conditions apply to the right, and whether it can be exercised alone or in conjunction with others. The complex interrelationships among those holding different bundles of rights can be thought of as a “web of interests” (Food and Agricultural Organisation 2002; Anthony Arnold 2002, cited in Stephen Hodgson 2004). “While it is important to look at the distribution of interests among individuals, including women and youth, this does not imply that they exercise those interests primarily as individuals. Rather, they are embedded in social relations and identity” (Ruth Meinzen-Dick and Esther Mwangi 2008:37).

Migot-Adholla and Bruce (1994) define land tenure security as a perception of having the right to a piece of land on a continuous basis, free from imposition or interference from outside sources as well as the ability to reap the benefits of labor and capital invested in that land, either in use or upon transfer to another holder. Frank Place, Michael Roth, and Peter Hazell (1994) identify three key components of tenure security:

- *Duration*: rights have a sufficient time horizon to allow the holder to reap the benefits of investments
- *Breadth*: the number and strength of the bundle of rights held
- *Assurance*: institutional frameworks capable of enforcing rights (which implies the ability to withstand challenges to rights).

Finally, to understand property rights on the ground, it is essential to recognize the existence of legal pluralism—the coexistence of multiple types of law (Ruth Meinzen-Dick and Rajendra Pradhan 2002). This includes both statutory laws enacted by the government (which may themselves be contradictory) and customary laws—both long-standing traditions and newly evolving customs, written and oral, as well as international law, religious law, and project regulations. Each of these may be further subject to local interpretations—referred to by legal anthropologists as “local law”.

In many communities, land ownership is governed by both statutory and customary laws. In instances when conflicts exist between traditional norms and national laws, as is often the case when women’s rights are considered, local norms generally prevail and are enforced by community members. Written national laws granting women equal ownership to land are essential but for these rights to be legitimate and adhered to, it is necessary to secure the support of the local community. Thus “having a law” does not necessarily mean that women have equitable recourse to remedies should the law be broken. In the following section we examine the range of law that affects property rights in general, and women’s property rights, in particular, in Uganda.

LAND TENURE AND WOMEN'S PROPERTY RIGHTS IN UGANDA

In Uganda according to the 1995 Constitution and the 1998 Land Act, land is managed under four basic land tenure regimes. These regimes confer different land rights to the owners and therefore have different implications on security of tenure. The four basic land tenure regimes are:

Customary tenure is the most common tenure system in Uganda whereby access to land is “governed by the customs, rules, and regulations of the community.” Holders of land under the customary system do not have a formal title to the land they use although Article 237(4a) of the 1995 Uganda constitution stipulates that all Ugandan citizens owning land under customary tenure may acquire certificates of ownership in a manner prescribed by parliament. Over 80% of the land in Uganda is held under unregistered customary tenure. Despite the lack of registration, customary tenure is recognized by the state (Article 237(1) of the 1995 constitution of Uganda).

Mailo tenure is a quasi-freehold tenure system established in 1900 by the British colonial government to reward colonial agents who advanced British interests with large estates of land. It is found in the Central Region and parts of central Western Uganda. *Mailo* ownership rights are well recognized by the state (Article 237(1) of the 1995 constitution of Uganda). An important feature of *mailo* systems is that much of the land is used under a *kibanja* tenancy system (peasant tenancy), which may or may not be documented with *kibanja* certificates. Tenants do not hold full ownership rights; they must pay rent to the *mailo* owner (Busuulu and Envujjo law of 1927) and face some restrictions on what they can do on the land. However, reforms under the Land Act Amendment (Government of Uganda 2010) have strengthened

tenants' rights by limiting the rent they must pay to a nominal amount and made it more difficult for *mailo* owners to evict the tenants. The *kibanja* tenants have rights indefinitely.

Freehold tenure is a system whereby owners of the land have a deed to their land which allows them to hold the registered land indefinitely. The landowner is given complete rights to use, sell, lease, transfer, subdivide, mortgage and bequeath the land as they see fit, so long as it is done in a manner consistent with the laws of Uganda, and these rights are well respected by the state. However, freehold interests in land are not widespread as they were formerly established and limited to a small category of individuals - kings, notables and chiefs; large scale agricultural estate developers; and some special interest groups such as the Protestant and catholic churches (Winnie Bikaako and John Ssenkumba 2003).

Leasehold tenure is a system where the owner of the land grants the tenant exclusive use of the land, usually for a specific period of time. Land may also be leased from the state to individuals for typical lease periods of 5, 45, or 99 years. In return, the tenant usually pays an annual rent or service under specified terms and conditions. Leaseholders may or may not hold formal contracts with the owner. It is not required that leaseholders be Ugandan citizens; the other forms of tenure are only available to Ugandan citizens.

In addition to these four tenure categories, ***public tenure*** applies to lands that are designated for public use. This includes not only land for public buildings, roads, etc., but also to all designated wetlands, even if these fall within otherwise designated customary or *mailo* lands. These lands have restrictions on what can be done, such as prohibitions against cultivation or other uses of wetlands.

Uganda's constitution provides that all land in Uganda is owned by the people of Uganda, not by the Ugandan State (GoU 1995). In the context of defining who owns land,

Uganda's land laws and the 1995 Constitution and 1998 Land Act have enshrined legal pluralism by recognizing the customary land tenure system. When conflict arises between customary and statutory laws with regard to land ownership, the Constitution mandates that state law prevails. However, this stipulation is often unheeded, resulting in the continuation of ownership conflicts.

Overlaid on these officially-recognized forms of tenure are the provisions of statutory and customary law that directly affect women's property rights. Uganda's 1995 constitution prohibits discrimination based on gender and accords men and women the same status and rights. In addition to the guarantee of property rights "without bias to gender or marital status," the Ugandan Constitution also decrees equal land rights for men and women during marriage and at its dissolution. However, as noted above, customary law is also recognized with regard to land rights and customary law usually accords women fewer rights to land.

A provision requiring co-ownership of land by husbands and wives was proposed, but not included in the final version of the 1998 Land Act. Thus, equal land rights during marriage do not necessarily constitute joint ownership of land. The Act does contain a clause that requires spousal consent before land acquired during marriage is sold, but this law has been difficult to enforce in Uganda (ILC 2008).

Although women have the legal right to own and inherit land, in practice, their access to land continues to be limited by cultural norms, particularly in rural areas. Rather than being landowners in their own right, women typically access through male relatives, usually their husbands or sons. Only a few women have been able to purchase land individually. Women's limited income generating activities are one reason that they are unable to purchase land (Margaret Rugadya 2007). Yet, even when women can accumulate the financial resources to

purchase land, the social norms discourage it. Many husbands expect that women only acquire land individually when they are preparing to leave the marriage (Bikaako and Ssenkumba 2003).

Given these complexities, it is challenging to understand the range claims to land held by men and women. It is critical to examine different definitions of ownership and to understand them from the perspective of the people in local communities.

STUDY METHODOLOGY AND DATA

This paper is part of a larger project on women's access to land and other assets. In Uganda, both quantitative and qualitative data were collected in a total of eleven communities in three districts. Initially, focus groups and key informant interviews provided information on the assets held by men and women in these communities and the patterns of acquisition and social norms around asset ownership and inheritance.

The second phase was a household and intrahousehold survey. A total of 770 individuals in 381 households were interviewed in the three districts, Kapchorwa, Kibale, and Luwero. In each district four villages were chosen to ensure that we had the various land tenure systems represented. Households were chosen randomly from the villages. We interviewed up to three adults in each household. These adults include male and female household head (if both are present) and one or two other adults, including adult children, parents or siblings of the heads.

In each household, one member was asked about all of the household assets including land, dwellings, livestock, agricultural equipment and consumer durables, businesses, and financial assets. Sixty percent of these primary respondents were women. For land, this primary respondent was asked to list all of the parcels of land owned or farmed by anyone in the household. This respondent was then asked to identify the owners of each parcel of land. There

was provision for them to list multiple owners and to identify them as household members or individuals outside of their household. This is the only place in the survey where the term “owner” is used in the context of land. We then ask numerous questions to identify the various components of ownership. The primary respondent was asked about the uses of each plot and about who makes a set of decisions, including who decides what to grow, what inputs to use, whether to sell the output, and who keeps the revenue from the sales of any of the crops. A final question is whether there is an ownership document for the plot, and if yes, the type of document and whose names are listed on the document. For all of these questions, multiple individuals could be listed, including both those within and outside the household.

In addition, all respondents, including the primary respondent who had just answered the above questions and the additional interviewed members of the household, were asked about their rights over each parcel of land. They were asked if they could sell the plot, bequeath it, or rent it out. If they said that they could do these, they were asked if they could do so alone, in consultation with someone else, or with the permission of someone else.

The basic descriptive data on the respondents is in Table 1. The average age for male respondents was 40 years and for female respondents, 38 years. The majority of respondents were either married or in a consensual union. Customary marriages were most prevalent in Kapchorwa District. More women than men reported themselves as being widowed or divorced.

One District was chosen in each of the Eastern, Western and Central Regions of Uganda.² They were chosen to represent the different land tenure systems of the Region.

Situated on the slopes of Mt Elgon in the Eastern region of Uganda, Kapchorwa district is characterized by a mountainous terrain. A third of the area is public land that comprises Mt. Elgon National Park (National Environment Management Authority 2008). Approximately 97%

² The Northern District was not included due to the insecurity at the time of the survey.

of the arable land outside the park is under customary tenure. With high levels of population density, there has been conflict over the public areas. Some groups that had been encroaching on the park reserve have been resettled in an area that was degazetted to address land shortages. One of the communities that we had planned to survey had to be dropped because they were in the midst of conflict with government over land issues.

Kibale district lies in the Western region of Uganda approximately 215 kilometers from Kampala. Situated in Uganda's Central Plateau, forests, savannah and swamps are plentiful. All the four land tenure systems can be found in this district with *mailo* tenure as the most common. This area has a history of conflicts over land. During the 1960 and 1970's, the government resettled a number of people into this area. Migrants have continued to move into this district, raising tension with the original Batoro inhabitants. The conflict is increased by a number of absentee landlords who are demanding to repossess land from the tenants.

Luwero District lies in the Central region of Uganda about 75 kilometers to the north of Kampala. Much of Luwero is savannah with some forests in the south. The soil in the southern area of the district supports a diversity of crops, while the northern soils are more suitable for cotton and cereal production and cattle rearing (NEMA 2008). Most of the land in Luwero is under the *mailo* land tenure system, with some leasehold and freehold and customary tenure systems. Luwero is the most urban of the three districts and has more developed land markets. Although fewer conflicts have been reported in this district, the increasing land values may put tenants at risk of having landlords reclaim the land.

LAND ACQUISITIONS IN UGANDA

Following Uganda's rapidly growing liberalized economy and favorable investment climate, there has been an increase in land acquisitions by foreign private companies. This has been supported by the Constitution of the Republic of Uganda 1995 (and as amended in 2005) which provides a legal policy and physical infrastructure for private investment to flourish. For example, the Ugandan Government has adopted a policy of converting public land to private use in order to encourage investment and economic growth. However, this process, known as degazetting, has become a source of conflict between the government and local communities over ownership and rights to use the land (Rugadya 2009). One example of a land acquisition that has provoked conflict is that by Bidco oil refineries, a Nairobi based firm with interests in oil and food processing in Kenya, Uganda and Tanzania. They acquired about 26,500 hectares of land in Bugala Island, Kalangala district for the production of palm kernel oil (World Rainforest Movement 2006).

While the above applies to government owned land, other forms of land tenure are also facing pressure from both within and outside communities. With the development of land markets, the economic value of land has increased. Under *mailo* tenure, there are growing tensions between the land lords and tenants (Rugadya 2009). As pasture lands with better soils and access to water have become individualized, pastoralists find themselves pushed on to marginal, more arid areas. This individualization of land ownership has threatened the right of access to common grazing land and water and the livelihoods of agro-pastoral communities.

These pressures are reflected in the results of our qualitative work: when asked in the focus groups whether they faced threats to or pressure on their land, all but two of the communities reported that they faced internal pressure on their land while five of the eleven communities reported facing external pressure. Growing tensions between the landlord and

tenants, ethno-political conflict, government displacements, improved land markets and clan/family conflicts were identified as some of the drivers of the pressures on land. In these contexts of growing internal and external pressures, it becomes all the more important to understand existing concepts of property rights over land, which we turn to in the next section.

WHO OWNS THE LAND? PERSPECTIVES FROM THE LOCAL LEVEL

In the context of changing land tenure patterns, it is important to understand the perceptions of local people about land ownership. There are multiple ways of considering land ownership and various levels of analysis. We can consider the unit of analysis to be the plot and ask about the distribution of the owners. Thus, individuals who own multiple plots would be counted more than once. A second approach is to consider individuals and ask whether or not they own any land. Each individual would be counted once, regardless of the amount of land that he or she owned.

Table 2 shows the distribution of owners of plots by the form of ownership. The 381 households reported that they owned a total of 505 plots of land. The first row is based on the answer to the question to the primary respondent, “who are the owners of this parcel?” Of those 505 plots of land, there were ownership documents for 364 of them. The second row (a subset of the first row) shows the distribution of these 364 by whose names are on the ownership documents. And only 22 of the 505 plots had a registered deed; the final row of table 2 shows the distribution of those 22 plots by form of ownership.³

³ Table 2 does not consider the marital status of the respondents and we might expect that individual ownership for a woman who is married may have different implications than for a woman who is unmarried. The patterns of ownership (and inheritance) by marital status are explored in depth in a companion paper, Doss et al. 2011.

The first point to note is the dramatically different picture one gets, depending on whether the definition of “ownership” is left to local interpretation, or is limited to documented rights, or to legally recognized, registered deeds. Only 72 percent of the 505 plots that people reported as “owning” had any form of documentation, and that included wills, sales invoices or agreements and unregistered deeds. Only 22 plots (4 percent) had registered deeds.

Given that neither the Land Act or family law requires joint ownership of land between husbands and wives and that the customary systems typically have only provided men with land, the number of households in which it is reported that the husband and wife own the land jointly is noteworthy.

Since only the primary respondent answered the question about whether land was owned jointly, it might be expected that men and women differ on whether they report that the land is owned jointly. Our expectation was that women would be more likely to respond that the land was owned jointly, while men would claim to own it individually. However, of the women primary respondents, 46% reported that they own land jointly with their spouse while 53% of the male primary respondents did so. A probit analysis of whether the primary respondent reported owning any land jointly with their spouse did not find any statistically significant impact of the gender of the respondent.

Yet, while over half of the plots are reported as jointly owned by a husband and wife, in only seven percent of those with ownership documents are the names of the husband and wife both listed on the document. And none of the registered deeds were in the name of the husband and wife. Thus, while there is a common understanding of joint ownership in many cases, there is no formal documentation to back it up.

Despite the lack of documentation of land rights, the majority of our respondents felt reasonably secure in their land rights. Each respondent was asked, “Can you count on having access to this land in five years?” Only eleven percent of those who had access to land answered no for at least one of their plots (See table 3). Women were more likely than men to respond that they would not have access to a plot in five years. A follow up question stated: “We know that people worry about their access to land. What could make you lose your access to this land?” Twenty-two percent of all respondents answered that they could lose at least one plot due to eviction by landlord or extended family or because someone with political influence wanted the land. There were not gender differences in these responses. And twelve percent of all female respondents said that they could lose access to at least one plot of land due to the death of the household head.

What, then, does “ownership” mean? And who should be considered “owners?” In the remaining tables we use individual respondents as the unit of analysis to be able to explore whether or not they would be considered owners using these different understandings of ownership. We compare the three different sets of definitions of ownership. The first is whether or not there are documents for the land. The second is based on decision-making over the land and the third is based alienation rights. This analysis is done using the 770 respondents as the unit of analysis. When a respondent has multiple parcels of land, we count whether or not they own at least one plot of land using the particular definition. Thus, if a woman owns two parcels and says that she has the right to sell one, but not the other; we report that she has the right to sell a plot of land. Because the tenure arrangements differ across districts in Uganda, we have reported these by District as well as the overall incidence.

One other point is worth noting here. The data for tables 4 and 5 were obtained from the primary respondent. For comparative purposes with table 6, the information is generated for all of the respondents based on the answers of the primary respondent. Only the primary respondent was asked about whose names were listed on the documents and who made decisions about the use of the land. The data for table 6 was based on the answers of each respondent. Each one of the 770 respondents was asked about his or her rights over each plot of land that was reported as owned or accessed by anyone in the household.

Table 4 shows the incidence of reported land ownership as well as the incidence of names included on any ownership document and a registered deed. Each column is the percentage of respondents, by sex and district, who would be owners using that definition. Because the total sample is not necessarily representative, it is not appropriate to say that 63 percent of adults in these districts own land. However, the comparisons across columns provide important insights into the patterns of ownership using different understandings of the concept of ownership. While 69% of the women interviewed in Kapchorwa are reported as owning at least one plot of land, only 20% of them have their name on an ownership document and only 1% have their name on a registered deed. The patterns are similar for Kibale and Luwero. Overall, 69% of the men are reported as owning plots and 52% of them have their names on ownership documents. While 58% of women are reported as owning at least one plot, only 20% have their name on an ownership document and less than one percent of women have their name on a registered deed.

The information on how the agricultural decisions are made and who keeps the revenue from sales was also asked only to the primary respondent, who listed all household members who were involved in these decisions. There is no statistically significant difference in the proportion of women and the proportion of men who are reported as making these decisions.

This reflects women's high level of involvement in agriculture. In fact, overall we see that more women are reported as being involved in the decisions about using inputs than are reported as owners.

While the primary respondents were asked to identify the owners of each plot of land, the individual respondents were each asked whether they considered each plot to be theirs. Above, the responses from the primary respondents were used to identify the owners of each plot of land. For each of the individual respondents, a comparison was made of whether the primary respondent in their household listed them as an owner and whether they themselves said that they considered the land to be theirs. There was agreement for 80% of the female individual respondents and for 84 percent of the male individual respondents. When they disagreed, it was much more common that the individual responded that the land was theirs, even though the primary respondent had not listed them. This was true for both male and female individual respondents. The column on individual reported owning land combines measures that are slightly different for the primary and individual respondents; the individual reported owning land either by listing him or herself as an owner (if a primary respondent) or saying that he or she considered the land as his or her own (if an individual respondent).

Every respondent was asked about his or her rights over each plot of land. The rights of alienation are presented in two ways. The first is whether the individual claims to have the particular right of alienation at all and the second, which is a subset of the first, is whether he or she has that right individually, without consultation or asking permission.

The question about whether the individual has the right to sell the plot confounds two pieces of information: an individual may report that he or she cannot sell the plot because the plot cannot be sold, either due to social norms or the lack of a market for land or because the plot

can be sold but the individual respondent is not the one with this right. However, even plots that cannot be sold can usually be passed on to the next generation, so the issue of whether the respondent can bequeath the land does not face this same concern.

Overall, only four percent of respondents claimed that they could individually sell any of their household plots of land. A slightly higher proportion reported that they could individually bequeath land, but this is driven primarily by the male respondents in Luwero. However, the dramatic drop in proportion of respondents between those who report each type of alienation right and those who report that they can sell, bequeath, or rent land on their own shows that land rights are not highly individualized, as associated with western notions of “ownership”, but are rather socially embedded, with spouses and other family or community members having some decision-making rights.

The responses about sales is consistent with the legal requirement that land cannot be sold without spousal consent. Note that these are the respondents understanding of their rights, but does not provide information on how actual decisions are made.

Thus, while women are frequently considered to be owners of land in Uganda, they lack the formal ownership that comes with having ownership documents and they have fewer of the alienation rights than the men.

CONCLUSIONS AND POLICY IMPLICATIONS

The data presented in this study demonstrate that local understandings of gendered land ownership are considerably more complex than externally-imposed definitions, especially those based on titles. Both men and women report a relatively high degree of joint “ownership” of

land, even though women's names are rarely on the documents and women may lose these claims if their marriage dissolves. Women do have recognized use and decision-making rights to land; conversely, neither men nor women report having independent decision-making rights to land. Thus, "ownership" is not associated with full rights to do anything one wants with the land independently. Yet our respondents perceived themselves as relatively secure in their land rights and most expected to have access to the same plots of land in five years.

But as we probe more in detail on particular bundles of rights, we see that women have fewer recognized rights compared to men, especially alienation rights (to sell, bequeath, or rent land). And if we consider documented rights, the gender gap becomes even more apparent. Whereas 69% of men and 57% of women in our sample are reported as landowners, the proportion of those having any documents showing land rights in their own name falls to 52% for men and only 18% for women. If we further consider registered deeds in their own name, it falls to only 2% of men and 1% of women.

Although respondents claim that they have relatively secure use rights to land under present conditions, there are serious questions about whether such rights will be robust enough to withstand challenges from powerful outside interests seeking to acquire land. The answer to this will depend, to a large extent, on what land rights are recognized in the context of large-scale land acquisitions. Will investors and government agents involved in brokering deals recognize and deal with only those with registered deeds, or will they acknowledge the legitimacy of a broader range of claims? Depending on how land owners are defined, different groups will be considered stakeholders. Our study demonstrates that the majority of men and women have a stake in the land, but very few have registered deeds, and hence are susceptible to being sidelined

if land deals take a narrow definition of legally recognized—rather than socially legitimate—rights.

The dangers of women being marginalized in land deals are particularly acute. Although we found (surprisingly) high reported rates of land ownership by women, either independently or (more commonly) with their spouse, these rates fall dramatically if only documented land rights are considered. Yet women play a key role in agricultural production and household food security. Both the welfare and the social legitimacy of large-scale land deals are likely to be undermined, if the complex forms of local land rights for women and men are not taken into account.

Table 1: Descriptive Statistics of Study Districts

	Men	Women
Age (average years)	40	38
Education (average years)	8	6
Customary marriage (%)	44	39
Statutory or religious marriage (%)	15	13
Consensual union (%)	22	17
Divorced (%)	1	6
Widowed (%)	2	16
Single (%)	16	10
N=	346	424
Kapchorwa		
Age (average years)	41	37
Education (average years)	8	7
Customary marriage (%)	65	66
Statutory or religious marriage (%)	3	3
Consensual union (%)	21	21
Divorced (%)	1	2
Widowed (%)	0	8
Single (%)	10	1
N=	113	125
Kibale		
Age (average years)	39	37
Education (average years)	8	5
Customary marriage (%)	34	29
Statutory or religious marriage (%)	27	21
Consensual union (%)	19	14
Divorced (%)	2	7
Widowed (%)	0	16
Single (%)	18	13
N=	122	149
Luwero		
Age (average years)	41	39
Education (average years)	7	6
Customary marriage (%)	32	25
Statutory or religious marriage (%)	14	12
Consensual union (%)	26	17
Divorced (%)	2	10
Widowed (%)	6	21
Single (%)	19	15
N=	111	150

Source: Uganda Gendered Access to Assets Survey, 2009.

Table 2: Distribution of plots, by form of ownership

	Male only	Female only	Principle couple	Other joint within household	Joint outside household	N=
Reports owning agricultural land	26%	18%	52%	2%	2%	505
Has ownership documents	73%	19%	7%	0%	1%	364
Has registered deed	77%	14%	0%	0%	9%	22

N=505 plots in total are reported as owned by anyone in surveyed households.

Source: Uganda Gendered Access to Assets Survey, 2009.

Table 3: Percent of respondents with access to land who expect to lose access to at least one plot of land in the next five years.

District	Men	Women	Total
Kapchorwa	6%	15%	11%
Kibale	1%	5%	3%
Luwero	13%	21%	18%
Total	7%	14%	11%

Source: Uganda Gendered Access to Assets Survey, 2009.

Table 4. Incidence of Ownership, by sex and definition of ownership, as reported by primary respondent.

	N=	Reported as owning at least one plot	Own name on ownership document	Own name on registered deed
Kapchorwa Men	113	80%	59%	3%
Kapchorwa Women	125	69%	20%	1%
Kibale Men	122	67%	57%	3%
Kibale Women	149	60%	22%	0%
Luwero Men	111	61%	39%	0%
Luwero Women	150	49%	17%	3%
Total	770	63%	34%	1%
Total Men	346	69%	52%	1%
Total Women	424	58%	20%	0%

N=770; the total number of individuals surveyed.

Source: Uganda Gendered Access to Assets Survey, 2009.

Table 5. Incidence of Ownership, by sex and definition of ownership, as reported by primary respondent.

	N=	Reported as owning at least one plot	Makes decisions about:			Keeps revenue
			Crops to grow	Inputs to use	What to sell	
Kapchorwa Men	113	80%	58%	80%	54%	50%
Kapchorwa Women	125	69%	49%	67%	50%	39%
Kibale Men	122	67%	34%	52%	41%	39%
Kibale Women	149	60%	40%	66%	46%	40%
Luwero Men	111	61%	40%	58%	45%	44%
Luwero Women	150	49%	35%	62%	39%	38%
Total	770	63%	42%	64%	45%	41%
Total Men	346	69%	44%	63%	47%	44%
Total Women	424	58%	41%	65%	45%	39%

Source: Source: Uganda Gendered Access to Assets Survey, 2009.

Table 6. Incidence of Reported Ownership and Rights over Land, by sex and definition of ownership, as reported by each respondent.

	N=	Reported by primary as owning plot	Self reported as owning plot	Has right to:					
				Sell any plot	Sell any plot alone	Bequeath any plot	Bequeath any plot alone	Rent out any plot	Rent out any plot alone
Kapchorwa Men	113	80%	81%	57%	2%	64%	3%	57%	4%
Kapchorwa Women	125	69%	72%	42%	2%	42%	2%	42%	3%
Kibale Men	122	67%	76%	39%	4%	47%	5%	45%	3%
Kibale Women	149	60%	65%	19%	4%	19%	5%	28%	6%
Luwero Men	111	61%	73%	28%	5%	38%	18%	33%	7%
Luwero Women	150	49%	62%	15%	5%	16%	9%	20%	6%
Total	770	63%	71%	32%	4%	36%	7%	36%	5%
Total Men	346	69%	77%	41%	4%	49%	8%	45%	5%
Total Women	424	58%	66%	25%	4%	25%	5%	29%	5%

Source: Uganda Gendered Access to Assets Survey, 2009.

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