



**Women's Land Rights in Busia District:
Land Rights Tenure Systems and Women's Awareness of the Law**

A Research Paper presented by:

Cheromoi Clare

Uganda

in partial fulfillment of the requirements for obtaining the degree of

MASTERS OF ARTS IN DEVELOPMENT STUDIES

Specialization:

Human Rights Development and Social Justice

Members of the Examining Committee:

JEFF HANDMAKER (Supervisor)

HELEN HINTJENS (Second Reader)

The Hague The Netherlands

December 2012

Disclaimer:

This document represents part of the author's study programme while at the Institute of Social Studies. The views stated therein are those of the author and not necessarily those of the Institute.

Inquiries:**Postal address:**

Institute of Social Studies
P.O. Box 29776
2502 LT The Hague
The Netherlands

Location:

Kortenaerkade 12
2518 AX The Hague
The Netherlands

Telephone: +31 70 426 0460

Fax: +31 70 426 0799

Dedications

I dedicate this to my beloved Father Wilson who was taken away from us in cold blood by unknown people. Despite this, God has seen us through the trying times. I hope one day we shall meet again. To my dearest family, you have always been there for me especially mummy, my big brother and his family, my sister Sarah. You guys are such wonderful people. May God reward you all abundantly.

Acknowledgements

To God be the glory I am deeply grateful to Dr, Helen Hintjens, my second reader who mentored me through the writing of this paper. Helen, your support has been amazing and words cannot express my gratitude. To my supervisor, Dr Jeff Handmaker a big thanks to you for your words of encouragement during my time at ISS and Research progress. A word of thanks goes to all the organizations that allowed to give me the information that I needed for this research you greatly contributed to the success of this research.

To all my dear friends Gift Mwonzora, Christopher Kaijabwangu, Agnes Kymuliba, Samuel Objamo, Farouk, Thandi, Gilbert, Jose, Lynn, Yvonne, Florence, Claire, Hamza Lwakana, and the entire Human Rights Class of 2011-2012 thank you so much for the love and precious moments that we shared together, especially in our academic world of Rights and also in Greece during our class trip.

I would like to take this opportunity to greatly thank my family who have seen me through many challenges of this life. Last but not least to, Nuffic who sponsored my studies and made my stay worthwhile. Thank you for this great opportunity. To my dear sister Sarah and her very beautiful children, you are my inspiration to working harder, and reach for greater heights and fighting on. Thank you for being the best family, this is for you.

To God be the glory

Contents

<i>Dedications</i>	<i>iii</i>
<i>Acknowledgements</i>	<i>iv</i>
<i>List of Tables</i>	<i>vii</i>
<i>List of Figures</i>	<i>vii</i>
<i>List of Maps</i>	<i>vii</i>
<i>List of Appendices</i>	<i>vii</i>
<i>List of Acronyms</i>	<i>viii</i>
<i>Abstract</i>	<i>ix</i>

Chapter 1 Introduction	1
1.2 Background	1
1.3 Objectives of the Research study	3
1.5 Area and scope of the study	4
1.6 Research methods	6
1.7 Data collection techniques	6
1.7.1 Sampling techniques	6
1.7.2 Primary data collection	7
1.7.3 Secondary data collection	7
1.8 Ethical Considerations	7
1.9 Limitations to the study	8
1.10 Overview of chapters	9
Chapter 2 : Land Rights, Land Tenure, and women's awareness of the law	10
2.0 Overview	10
2.1 Land Rights	10
2.3 Women's Awareness of the law.	16
2.1.3 Other stakeholders: LCCs, DLBs and NGOs	17
Chapter 3 : Analysis and Discussion of women's rights to land.	20
3.0 Overview.	20
3.1 The potential role of local council courts and land boards in claiming women's land rights.	20
3.2 Not knowing what to do: Women's fear of land insecurity.	21
3.3 Do women have knowledge of land rights.	23
3.4 Reluctant rights claimants: hearing/ Voices from women.	24
3.5 Changing attitudes/ perceptions towards women's land rights among men.	27
3.6 Urging women to claim their land rights.	28
3.7 Conclusion.	29

Chapter 4 : Conclusions and Recommendations	30
4.0 Introduction	30
4.1 Conclusion	30
4.2 Recommendations for Government	30
References	32
Appendix I	35
Appendix II	42

List of Tables

Table 3.1 Awareness to land Rights	23
Table3.2 Land tenure system in Busia	26

List of Figures

Figure 3.1 Types of land tenure in Busia district	22
Figure 3.2 women who do not own land	25
Figure 3.3 Land tenure system	27

List of Maps

Map 1.1 Map of Uganda and the districts and Busia district area of study.	5
Map 1.2 Sub-Counties of Busia district(Mainly Dabani and Lumino)	5

List of Appendices

Appendix 1 Sample table	
-------------------------	--

List of Acronyms

UDHS	Uganda Demographic Household Survey
UGP	Uganda Gender Policy
NGOs	Non- Governmental Organisations
MoGLSD	Ministry of Gender, Labour & Social Development
MoLHUD	Ministry of Lands, Housing & Urban Development
UDHR	Universal Declaration of Human Rights
FHRI	Foundation for Human Rights Initiative
HIVOS	Humanist Institute for Development Cooperation
ACHPR	African Charter on Human and People's Rights
LCs	Local Council Courts
UWONET	Uganda Women's Network
IIED	International Institute for Environment and Development
CEDAW against Women	Convention on the Elimination of All Forms of Discrimination

Abstract

For agrarian societies, access and ownership of land plays a key role in the production process in developing countries like Uganda where rural livelihoods depend almost entirely on farming (agricultural produce) derived from the land. Many academics and women activists have stressed the importance of equitable land distribution between men and women as a way to promote production. This is partly because ensuring the protection of women's land rights has enabled even the most vulnerable rural women, widows and those with orphans, to derive a more secure livelihood from farming. This study selected the case of Busia District in Eastern Uganda, an area where women's land rights have not yet been given much attention in practice. This study focuses on women's awareness in Busia District on how the existing legal and institutional frameworks can be supportive to the women's access to land rights. The study explored the level of knowledge of rural women about their existing land rights and actions being taken to help overcome obstacles that limit their access and ownership to land. Findings revealed that the majority of respondents (around 60%) had experienced land disputes involving gender issues, and that about 90% were aware of the existence of women's land rights as codified and legislated by the law. The study also found that local council courts and district land boards were important when it came to settling land disputes in Busia district. Finally, the study found that women's fight to protect and claim their land rights have generally been effective (in three quarters of all cases). However women's struggles for equal access and ownership to land rights are being affected by corruption, which is prevalent within the judicial system. Furthermore, their struggle to exercise and realize their right to land is also exacerbated by the high level of women's poverty. The study concluded that there is a need for women to have more interest in their own land rights, and that this should involve specific ownership and user rights, as well as improved customary access to land. Specific measures from various institutions may be needed to help ensure that awareness can lead to more equal participation of women in decision-making, in the struggle for greater equality in land rights.

Relevance to Development Studies

In Eastern Uganda, which this research focuses on, there is need to have clearly established women's land rights in order to reduce on the land disputes and ensure improvement of women's their livelihoods. Women need to enjoy their rights to own and use land in order to prosper and alleviate their own poverty, especially in rural areas where the main source of survival is dependent on farming. If the women's land rights are known and executed land disputes are easily resolved and production and sustainable development becomes inevitable.

Keywords

women, land rights, land tenure, awareness of the law, Busia, Uganda.

Chapter 1

Introduction

There will never be a generation of great men until there has been a generation of free women.

Robert Green Ingersoll 1833-1899

1.1 Problem Statement

Cotula, (2007:1) Observes that, the question of women's land rights has attracted recent attention in many parts of Uganda due to the renewed efforts by the government of Uganda and other member states in the East African region to reform their land-tenure systems. Study around this field has progressively emphasized the demand towards the establishment on the question of females' property privileges within the perspective of Uganda(ibid).

However, according to (Kafumbe 2010:212), Ugandan women were traditionally restricted in their ownership and use of land. However, what is not known is the extent to which the traditions have contributed to women's denial of their land rights. Despite the fact, that utmost study of property tenancy takes a concentration arranged in house-hold, close at hand is growing response that the men and women allocation of property privileges is mutually amongst plus with-in According families also additionally counts(ibid).

According to Carpano,(2010:4),there is a persistent gender gap in landholding rights and women's access to and control over land is affected by various factors in communities. These comprise cost-effective, lawful and institutional aspects distressing females right to use as well as power around property in Uganda(ibid). According to the women's land rights newsletter, (Elizabeth and Renee,2002:3) access to and ownership of land in Uganda remains a major threat to women farmers despite women being key agricultural producers and land issues affecting women in Uganda are historical, although others remain organizational besides traditional in character(ibid).

This study therefore looks into issues of women's aware-ness on land rights and the interconnection between access to and ownership of land and the engagement of concerned organs to this matter. Policy makers and gender activists have also raised numerous concerns regarding the vulnerability of women and children and particularly widows and orphans, to loss or erosion of land rights as a direct consequence of AIDS and other factors (Aliber and Walker, 2006:704).

Access and ownership to land by women is fundamental in advancing development and this is not yet fully addressed and their land rights are not clear. To this end the rural women folk in Busia remain side-lined in mainstream agricultural processes. Ultimately, the lack of access and ownership to land rights impoverishes these women. And thus this study will show using a range of evidence, whether there is lack of respect for women's land rights or It is probable that weak structures exist that are not well equipped to protect and promote women's land rights these include Local courts and land boards or are women reluctant to discuss their own land rights issues.

1.2 Background

Mabikke (2010:1) points out that, Uganda is an agricultural based economy where agriculture contributes 43%, industry 18% and services 39% of the national Gross Domestic Product (GDP). Land therefore is essential factor of natural and human managed production systems, influencing the level of natural capital and social, economic development (UNEP, 2006). This

means that access, ownership and use of land and importantly land tenure security offer perhaps the only survival alternative to the vast majority of poor Ugandans.

Women often give up their claims to parental ancestral land in favour of their brothers in order to keep access to the natal village and natal home open. Such access can be a significant element in women's economic security and fall-back position, especially in times of economic crisis, divorce, desertion, and widowhood (Agarwal 1994: 261). Without clear rights for women to land ownership and access, women may continue to be deprived by men.

Uganda has got four types of land tenure system. The first is freehold tenure, wherein one has full rights and registered ownership. The second is leasehold tenure, which refers to land leased for a specific period under certain terms. The third is known as *Mailo* land tenure, which involves holding registered land in perpetuity under a specific political authority such as a traditional leader. The final type of land tenure, is customary, wherein land is regulated by customary rules often administered by clan or family leaders (Rugadya, 2007: 12).

However, it can be noted that, in all these tenure systems, women tend to be excluded from owning land. They retain only secondary rights through males as wives, as daughters, sisters, or more distant relatives. The National Development Plan estimates that just 10% of the total land area of Uganda has been titled under the four systems mentioned before. In total 20% of women own titled land (whether freehold, leasehold, Mailo or customary) (NDP, 2010: 161).

It also reported that, the Affirmative action has led to an increase in the percentage of female Members of Parliament from 18 per cent in 1995 to 29 per cent in 2009, the presence of this impressive statistical progress on the gender equality measures, but gender disparities still persist in land rights in Uganda. National Development Plan (NDP 2010:22)

It should be further noted that, women in Uganda own only 7% of all land that is titled, leaving 93% of women with access to land being dependent on other means, such as access through a male relation, usually a father, husband or son (Asiimwe, 2001:173).

Land rights should clearly be considerate of gender from the local levels of societies and customs to the national, since women account for more than half of the total population in Uganda (UDHS, 2002:7). According to Agarwal, women's claims to landed property of their deceased husbands do enjoy somewhat greater social legitimacy than daughter's claims.

However, as she notes, that "the fragmentary available evidence suggests that many of those who are eligible to inherit do not, and those who do inherit do so mostly on severely restricted terms" (Agarwal, 1994: 254). Her findings are based on studies in South Asia, but can also apply to Busia and other parts of Uganda.

This suggests that problems of gender inequality often arise when it come to the transfer of land to relatives (e.g. following death, marriage, birth or divorce). The gender structure of land rights in Uganda varies across the country but in general is highly unequal.

Women's rights generally are limited to access rights only, while men are more likely to have full ownership rights. Women's land rights are thus less secure than those of men (Uganda Ministry of Lands, Water and Environment report, 2000:6).

This failure to secure rights implies that women have a reduced ability and fewer incentives to participate in income-expanding economic activities. This in turn worsens their situation in relation to securing a decent livelihood. It is clear that land is a central issue for this reason for rural women, and the key to advancing their rights and well-being in general.

Bomuhangi et al, (2012:1) argues that The commercial value attached to land in Uganda has been increasing for the past few years and the evidence suggests that agricultural land is becoming costly for farmers. The rapid growth in demand for agricultural land in Uganda is putting pressure on property systems, particularly where the vast majority of land is under customary tenure.

Although Busia does not have this problem, some customs in Uganda, like the Baganda customs, only consider boys as rightful inheritors of their fathers' land. This blocks females a right to use property through controlling them by not taking over the assets(ibid).

The study explores the assumption that women's land rights in Uganda are not equal to men's in practice, since women do not have access to full land tenure. Originally, it was thought that this was mainly because of institutional factors, combined with women's own lack of awareness of their rights, and customary obstacles to women's equal access to land rights. Yet the study has shown that other factors, such as corruption and gender inequality, may be just as important. The study finally is concerned with best practices which show how women can achieve greater equity and equality in access to land in future.

1.3 Objectives of the Research study

This study aims to help policy makers to put more emphasis on the importance of women rights to land and to set better strategies on women's awareness on these rights, and to understand how land rights violations can be addressed at the local level.

- To contribute to our understanding on how women's rights to access and own land can help in shaping the development processes in Busia district in particular and Uganda in general.
- Identify localised conflict resolution mechanisms so as to address gendered land conflicts in Uganda.

1.3.1 Main Research Question.

What measures have been taken by various stakeholders in Uganda in relation to the improvement of women's rights to access and ownership of land?

1.3.2 Sub-questions.

- 1.How are women's rights to access and ownership to land protected or violated in Busia area and Uganda?
- 2.Which specific women's land rights have been violated in Busia district in Uganda in relation to their tenure system?
3. Why has the violation of women's land rights in Busia continued in light of their awareness and pro-women legislation?

3.1.4 Relevance and justification

Women's ownership over land is constrained by their social positions in society. Equal access to and control over rural land to women in Uganda have positive impact on rural development. This study will highlight the importance of women's equal access to and control over land to the socio-economic well-being of women as well as rural livelihood in the region.

This research questions subsisting stereotypes and dominant concepts about women, specifically in Uganda, and their relationship with land. Some suggest that land has become precious due to its demand and value attached to it by men, in particular. According to Elizabeth and Renee (2002: 4) Women tend to be left out when it comes to property; this is especially the case in relation to issues of land secession and inheritance, which tends to compromise the food security of women headed households.

As observed by (Ritu (2007:35) that, land administration system in Uganda has not challenged pre-existing gender biases in actual implementation. This study will help policy makers give em-

phasis to important gender issues that need to be addressed at the level of policy formulation as well as at the level of implementation in relation to accessing and controlling land.

The remunerations of property intended for females hold back to some extent as of the overall progressive consequences of providing females a right to use monetary fund's self-sufficiently of males. Welfares similarly stems commences straight in addition to unintended benefits connected through constitutional rights available to property exclusively (ibid).

Agarwal suggests that, as women's responsibilities in agricultural production grow, many are likely to be constrained by their lack of customary land titles when it comes to accessing land freehold or leasehold. (Agarwal 2002: 3), a tendency that can be noted in Uganda today.

With a move towards more freehold and leasehold tenure, and away from customary tenure, the issue of women's land rights becomes both especially visible, and its become important that the principle of equal gender access to land be protected.

Over and above, the issue of women's access and ownership to land rights is both a human rights and social justice issue that is topical not only in Uganda but in most African countries. This study is therefore quite relevant and necessary as an addition of knowledge to the existing academic body of knowledge.

1.5 Area and scope of the study

The study focused on Busia district which is located in the Eastern part of Uganda and only two sub counties were involved in the study (Dabani and Lunimo). According to the Uganda 2002 National Housing and Population Census, Busia's annual population growth is 2.7 and has a population of 225,008 people with the male comprising 47.9% (107,799), and females constituting 52.09% (117,209). 83% of the population live in the rural area and largely depend on subsistence farming. The land is principally used for agrarian production. Busia District has predominantly two ethnic groups including the Samia and Bagwe. However, the district is home to many other people like the Iteso, Basoga, Bagisu and Karimajong who particularly reside in urban centres of Busia Town Council (FHRI and HIVOS Netherlands 2009: 12).

The main reason for choosing Busia district was because I had had a chance of working in Busia district with a children's organization and realized that the level of attention given to women by different development partners was unclear. This was especially so when it came to women's land rights, which seemed not to be fully managed.

This observation prompted me to investigate the awareness level of women around land rights issues and to obtain information about the challenges that women faced in their journey to access and own land. I chose the two sub-counties not because they represent the entire district, but because one is very rural and the other is semi-urban and involved in cross-border trading. Both have farming as a principal activity in both.

Map 1.1
Map of Uganda and the districts and Busia district area of study.



Source: Google Maps(2012)

Map 1.2
Sub-Counties of Busia district(Mainly Dabani and Lumino)



Source: Google Maps(2012)

1.6 Research methods

This study involved the use of a mixed methodology, which is partly quantitative, and mainly qualitative. It involves descriptions and use of natural setting strategies like focus group discussions, which are flexible and interactive, as well as interviews and questionnaires, which provided some quantitative data. Sarantakos (1998:34) argues that, “Although methods in general are a-methodological, their content, structure and process are dictated by the underlying methodology”.

I applied several types of research methods during my data collection. In relation to the gender dimension of this research, as Reinharz puts it: “Just as feminist research draws on multiple disciplines, so too it often draws on multiple rather than a single method in a particular project” (Reinharz, 1992:197). Ahuja (2001:354) also states that “method is a tool or an instrument employed to gather empirical evidence and to analyse data”.

The concern was to use a variety of sources, so as to enable the researcher to triangulate her data. Stake (2000:443) informs us that triangulation is “a process of using multiple perceptions to clarify meaning, verify the repeatability of an observation or interpretation”. This enabled me to understand issues from different angles, especially around issues concerning women and land. This mix of methods worked out well during data collection, which started on 19th July and ended on 30th August 2012, and was carried out in Busia district, and in Kampala.

1.7 Data collection techniques

In my study I used different methods to collect data and to understand women’s rights on land in Busia district. I used in depth interview with the key informants and these were the local council leaders, NGO and Assistant commissioner from the ministry of gender labour and social development because I felt they were more knowledgeable about women and land matters. The main reason why I choose in depth interview was because according to (Ahuja, 2007:237) “high response rate, high possibility for in depth probing and an increased respondent’s confidence building through rapport” This actually manifested during my interviews with the key informants they shared most of the information from an informed point of view about concerns of women and their awareness on land.

However, as Kriger, 1992:7 argued that “media groups and academic world always add knowledge with available materials with the elites interview” I agree with Kriger to the above statement however, an inquiry to this research is open every one. The questions I asked were open ended and this made the respondents to feel more flexible and freely to share what they knew about women awareness of their rights on land.

1.7.1 Sampling techniques

Two sampling techniques were involved that is Snowball sampling and purposive sampling. Snowball sampling was used to identify the 20 households (local respondents) from the two sub counties involved in the study (Lumino Sub-County and Dabani Sub-county) and 10 local respondents were selected from each sub county. Bryman (2004:100) suggests that snowball sampling is when, “the researcher makes initial contact with a small group of people who are relevant to the research topic and uses these to establish contacts with others”.

During my data collection I employed this technique because I came to contact with the local councils leaders or the chairpersons in the community where I was collecting the data from this really helped me because they were well vested with the area under study. This sampling technique helped the researcher because it demonstrated some levels of trust to the researcher since the local chairpersons were involved.

One aspect I realised was that if I had taken random sampling I would have faced difficulties so this saved me a lot. As observed by Ahuja (2001:1810) “snowball sampling method is employed when it is difficult to approach the respondents in any other way”. Although I had worked in the area of study but I was not well versed with the two sub-counties since I had only worked in one sub-county so employing “snowball sampling is often used to find ‘hidden populations’ that is, groups not easily accessible to researchers through other sampling strategies” as articulated by Nieuwenhuis (2007:80).

Although my major interest was on land access and ownership, Laws et al. (ibid: 366) point out that under purposive sampling a wide response group should be targeted by the researcher whilst taking into consideration likely sources of difference between individual respondents. The key informants involved 2 village leaders (local council leaders), Busia district land officer, assistant commissioner ministry of gender and social development and 1 member from Uganda land alliance as mentioned above. The choice of selecting this specific group was because they were more knowledgeable on the subject matter. Also 2 focus group discussions were carried out, thus, the total number of respondents were 27.

Although there were limitations in this sampling method like getting the same views from the respondents but I managed to get valuable data. Purposive sampling was also used to identify key respondents with rich information to the topic under study. This worked out because the key informants provided information on land access, ownership, acquisition and social norms around land ownership was obtained.

1.7.2 Primary data collection

I used questionnaires, focus group discussions, and key informants as the instruments for provision of data for this study. Interviews were held face to face meetings between the interviewer and the interviewee as addressed by (Smith, 1995:18). Semi-structured questionnaires and interviews were used as the principal data gathering techniques for this study. The semi-structured interviews are defined as those organized around areas of particular interest, while still allowing considerable flexibility in scope and depth (Neumann, 2000:198).

1.7.3 Secondary data collection

I collected Secondary data through desk review of relevant literatures on women’s access to and control over land, International policies on women’s Human rights issues and concerns on property (land) these included UDHR, CEDAW and the UN conventions and land policies, legislatives of Uganda, Research reports, Newspapers and publications on land and gender related issues were also considered to get clear understanding of women’s land rights issues.

1.8 Ethical Considerations

Strydom (1998:181) defines “ethics as a set of moral principle which is suggested by an individual or group, is subsequently widely accepted, and which offers rules and behavioural expectations about the most correct conduct towards experimental subjects and respondents”. All possible means were used during fieldwork to avoid putting respondents at risk. The mere fact these were women and that the subject matter was land rights could create contention. Discussing gender issues could even create or worsen conflicts if this was not handled carefully. Mouton shared that, recognizing that such revelations may have far reaching implications for participants, the principles of voluntary participation and informed consent should be adhered to in identifying suitable interviewees, and in their recruitment for the study (Mouton, 2001: 153).

As O' Leary states, ethical research should consider "ensuring that respondents have given informed consent, ensuring no harm comes to respondents and ensuring confidentiality and if appropriate anonymity" (O'Leary, 2005:73). Similarly, Laws et al. 2003:232) notes that, "protecting the privacy and confidentiality of respondents is a key priority to research". I as a researcher observed the principles of informed and voluntary participation of interviewees in the study. Also, when questioned about my identity I was able to provide my student card from ISS.

As a researcher I guaranteed the respondents that their responses were not to expose them to any harm be, it physical, emotional or psychological. The researcher also explained the importance of the study to the participants this gave ground for respondents to expose issues that they considered extremely private. Sticking to ethical principles thus produced a good result, since respondents were in a position to answer my questions relatively freely and also to share their views on the subject matter. The ethical considerations really helped the researcher because the data collection process was successful and managed in a proper manner.

1.9 Limitations to the study

The debate of women's land rights has been and is still a complex issue in Uganda especially among the male and women and the government on land matters. I faced a challenge of speaking the local Samie language. I only know English, Luganda and Kiswahili among the various languages used in Busia. I managed where these languages failed, by having an interpreter. I knew that not having an interpreter, especially with some women interviewees, could mean information distortion, and so I tried to manage the whole 'translation' process smoothly. For example when the discussion would go beyond what I was interested in then I would try at times to ask a gain and also keeping the focus or the floor of information was one thing I tried.

During my data collection process I found a lot of confusion and tension within the land boards offices especially in the city Centre in Kampala. In Kampala city council ministry and the land board office and this involved conflict over management of land registration, issuing of land titles and other political issues that I did not have information about. so I did not manage to interview any of the staff as I had earlier on planned.

Record keeping of the information was another element in the district of Busia, the land office was not able to avail me with the data which I really wanted to know especially the statistical data that the office had for some years for example since 1995 constitution up to date on issues of land disputes and violations on women because this was also my early plan before I left for the field unfortunately the office was not in position to avail me with this information hence limiting my study.

As Burns (2000:474) elucidates, "case studies are only generalizable to theoretical propositions, not to statistical generalization". This actually raises the question of whether this study can be generalized to Busia and other districts in Uganda. It cannot add up to a representative sample, but the two sub-counties taken do represent two 'facets' of rural Uganda today – the more subsistence farming facet where customary tenure remains strong, and the peri-urban, more commercialised land setting where there is growing pressure on customary land tenure from freehold and leasehold through the land market. This justifies using the two case studies selected in this research.

1.10 Overview of chapters

This chapter has introduced the topic of the research and laid down a background to the study, as well as explaining the need for the study. Chapter two will cover the methodology in more depth, as well as the conceptual framework used in this paper, in relation to land rights, land tenure, and Women awareness of the law. And the legal framework available to support women's land rights, and note the need to improve on the existing legal framework. In chapter three, I present, discuss and analyse the data collected from the field, and identify a number of key findings. The last chapter presents conclusions and a few recommendations for the government and other stakeholders.

Chapter 2 : Land Rights, Land Tenure, and women's awareness of the law

2.0 Overview

The conceptual framework in this research paper has been formed by three key concepts in relation to women's land rights. These concepts are Land rights, Land tenure and Awareness of the law or. Legal consciousness discusses how women as individuals and through their lobby groups are able to internalise or understand and use the law to realise their land rights in Busia.

In this chapter, I present the law as both a liberating and at the same time oppressive tool. A tool which has been used by the Ugandan government to deny women of their land rights in favour of men. However, I also explore the positive move by the Ugandan government to ratify several conventions and statutes that seek to promote, respect and fulfil the rights of the Ugandan women. Thus, I view the law as a liberating tool. The concepts that I used here will help in analysing the research findings.

2.1 Land Rights

Many conflicts and struggles in Africa in general and Uganda in particular have been waged over land. Hence, Uganda has witnessed what I term resource based/(land) conflicts. However, in some cases these conflicts have been subtle. Whilst, in some cases the conflict over land has been more intense. Conflicts have emerged over the fight to control and own land amongst men and women especially in Busia area. However, the gendered inequality in terms of ownership of land has made many scholars to write on what has been commonly referred as land rights. In this study, I engage with the concept of land rights in order to show how rural women in Busia have been marginalised and deprived of their fundamental right to own property and other socio-economic benefits accrued from land. Largely this deprivation of land rights can be attributed to the fact that men remain 'owners' of the land in both the traditional and contemporary African societies like Uganda.

In local areas like communities land access and ownership in a society, is an signal of the person's social personality and social footing (Meizen-Dick et al. 2007:2). Women with protected privileges to land, stand more chances to retain sovereign to monetary undertakings and having robust negotiating authority in the family and community (Meizen-Dick et al. 2007:2). As argued by Meizen-Dick et al, I therefore use the concept of land rights to explore how women have been deprived of their access to land in Busia.

Land rights according to (Nneamaka, 2009:16) is the

Inalienable ability of individuals and groups of individuals to obtain, possess and utilize land at their discretion, hence, the fact that their undertakings, on the property, ensure not to breach the absolute peoples entitlements of others. Various international human rights statutes, treaties and instruments have been signed by Uganda for example the Universal Declaration of Human Rights (UDHR), the African Charter on Human and People's Rights, and the Convention on the Elimination of All Forms of Discrimination against Women.

All these instruments seek to promote women's rights in terms of having equal access and opportunities to men. It then means that women should also have equal access to own land. Hence, I use the land rights concept to analyse and understand why women in the chosen case study are failing to enjoy and access the right to own land. Despite, having the provisions of the law tackling land issues it seems there is few if not inadequate appreciation of the law that is from a women's perspective. To put it in other words, the Busia women lacks the legal conscious-

ness/awareness on how they can mobilise through advocacy so as to realise their right to access and own land.

In this study I therefore use the concept of Human Rights framework to explain the existing gap between the legislation and the knowledge of the law within the Busia women. The concept of Human Rights framework helps in analysing whether the Busia women knows about their rights to land as enshrined in the Ugandan constitution. However, various scholars who have researched extensively on this subject such as Cotula et al. argue that rural women are always lack knowledge about the law. This is particularly due to many factors ranging from the difficulties involved in accessing justice.

In the case of Uganda these range from technicalities in the legal system, remoteness of their areas to the urban centres and the cost of hiring legal personnel. To this end, I then use the concept of Human Rights framework to analyse how the Ugandan women understand their rights in relation to land ownership. Human Rights law also helps in analysing whether the Busia women were able to practice their agency in claiming and realising their right to own and access land. As further stipulated by the Article 17 of the UDHR, everyone has the right to own property alone as well as in association with other.

(2) No one shall be arbitrarily deprived of his property. Uganda has lived to this promise through the implementation of its constitution of 1995 and Article 26 of the Constitution of the Republic of Uganda. This implies that Uganda's commitment to all the above instruments as a duty bearer on the respect of human rights for everyone is key to upholding women's land rights by the mere fact that they are human being.

However, in this study I argue that there is no relation between the 'living law' and the reality on the ground. Whilst, the Ugandan constitution provides for the right to own land on paper to the Ugandan women, they still remain landless due to what I may term structural violence.

In this study I also argue using Human Rights framework in analyzing how women's rights to access and own land has been mobilized and realized by third party actors such as women land lobby groups. These actors have translated global human rights norms into the local human rights regime by pushing for the Ugandan government to uphold to the rights of women as stipulated in global and regional human rights instruments.

Some scholars have noted that "Uganda land law is one of the best [...] at protecting people's rights" as articulated by the Land Equity Movement Uganda (LEMU, 2008:1). It is worth noting that women have been given the opportunity to exercise their land rights. This has enabled women to make choices on what they want to do with the land and this has shown the importance of Individual choices to own land and make decision on it. As argued further by Nneamaka, (2009:16 -17)

access to land refers to the ability of a person to utilize land for economic purposes (e.g. farming and growing crops. When a person has ownership of land (s) he is able to exercise authority over the land (e.g. choosing the crops, selling/ renting the land) without un-warranted fear.

Nyamu-Musembi (2005:41) holds that "rights are shaped through actual struggles informed by own people's understandings of to what they are justly entitled". Deininger, (2008:594) goes on to support that, "giving secure land rights to households is generally believed to increase land-related investment, augment land values". Human rights law plays a key role in turn in advancing these rights to the women through the legal instruments and courts of law. As noted by International Institute for Environment and Development, (IIED,2006:2) that communities, individuals or groups of people [...] should have a right to cultivate land, build a house or even donate it however, if they are denied then they do not have these entitlements towards the market or to determine off that equal portion of property leading it to be a big problem (ibid).

However, Toulmin, points out that, the greatest method of securing land rights is by recording the societies' concerns in property, a research he carried out indicates that there are several ways of registering rights to land whereby some are short term certificates of occupancy while others are for-mal registers and titling processes. (Toulmin, 2006:5).Uganda through the land register office has tried to promote opportunities for women on their land rights on access to and ownership through advocacy and sensitisation on the importance of these rights to both the women and men with the help of enforcement by the concerned organs like government and this in turn has improved food security and livelihoods in the country as well as in Busia. International

Institute for Environment and Development, (IIED,2006:3) Argues more that, "land rights to be totally recon-organized the institutions that issue them have to be legitimate and socially accepted by the people".Despite, the Ugandan government commitment to these provisions as a duty bearer it has been in a slow position to respect, fulfil and protect women's rights to land and utilization of land as such ownership of land is still skewed in favour of men.

2.1.1 International and Regional concern with women' land Rights.

This section will consider the 'law of the land' in relation to land rights as mentioned above starting with the international legal instruments that Uganda is a signatory to, and more importantly, this section will look into how the Ugandan government has tried to integrate the international legal instruments especially those that deal with women's rights in light of Ugandan (Busia) case study.

Uganda is a signatory to various international instruments this includes Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which it committed itself to in 1985.Mshemeza (2011:174) sheds more light that Uganda is yet to sign its optional protocol. It's stressed in the convention that, (CEDAW) [...] "the full and complete development of the country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields".

By the mere fact that Uganda is a signatory to (CEDAW) respect and protection for women's rights to land in terms of access and ownership is being taken into account through women leaders, advocacy and information sharing among women groups in various communities according to the human rights standards. Uganda's interest and participation in international workshops, seminar and signing of instruments further shows that Uganda commitment to these provisions is fundamental and shows serious on the part of Uganda government on advancing women's human rights as well as rights on land which in turn will boost women economic welfare, participation and promotion of their rights through the periodic reporting, the mere fact that it's member state to the committee.

As per the Article, 18 of (CEDAW) which stresses that Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present convention and also Article, 15 calls for equality before the law and state parties shall accord this to women and to that of men and the same opportunities to that of men. The Uganda government has taken appropriate ways to eliminate all this forms that discriminate women. Despite, these provisions on women human rights Uganda still faces challenges on its property rights and which land is part .the study I under took in one of the district proved this and this questions the property rights.

In addition to CEDAW, Uganda has committed itself to the implementation of the Beijing Platform for Action. Promotion and protection of women, human rights through the full implementation of all human rights instruments, especially through the Convention on the Elimination of All Forms of Discrimination against Women (1995:93).

Mushemeza,(2011: 175) states that,

In 1995, the fourth World Conference on women took place in Beijing and produced an outcome document popularly known as the Beijing Declaration and Platform for Action. It set out its goals as gender equality, development and peace and constituted an agenda for the empowerment of women. At the regional level, national level although, much more is still desired by the women especially promotion and awareness of their rights, information dissemination has been key in trying to enforce these rights and male engagement has been equally important in enabling to address the issues of violation much as the signing of international instruments would be good but the practical part is still a challenge to Uganda through its implementation strategies and community involvement and through the locals councils.

Uganda is also signatory to the African Charter on Peoples and Human Rights which is a regional instrument and Article 14 guarantee a right to property however, it has a drawback that property can be encroached upon the interest of the public in accordance with appropriate law this is equivalent to Article 26 (2) (a) and (b) of the constitution of Uganda 1995. Mushemeza goes on to explain that, the full realisation of all human rights and fundamental freedoms of all women is essential for the empowerment of women. At the national level, the Constitution of the Republic of Uganda makes a commitment to the promotion and protection of social justice and equality of all Ugandans. One of the national objectives is empowerment and encouragement of active participation of citizens, including women, in their governance at all levels(Mushemeza,2011: 175).

2.1.2 Uganda's constitutional provisions for women's land Rights.

This section considers further, the 'law of the land' in relation to land rights on women and evaluating the law on how it has supported the women in knowing their land rights. Nyamu (2005:46) Holds that these forums play a key role in enabling or constraining people's ability to claim whatever rights are available to them under custom, national laws or international human rights principles. The Ugandan constitution of 1995 Article, 237 (1) states that, "Land in Uganda belongs to the citizens of Uganda and shall vest in them in accordance with the land tenure systems provided for in the constitution" additional to above tenure systems include under this same (Article, 237) customary, Freehold, Mailo and Leasehold.

In light of the Busia women's quest for their land rights and entitlements one may ask how the Ugandan constitution has provided for these rights. However, Article 26 goes on to say that, the Ugandan Constitution affirms protection from deprivation of property and land is part of that immovable property. In addition, the constitution went as far as providing security to the people who own land in terms of the customary tenure by allowing them to acquire certificate of ownership in a manner prescribed by the parliament(Bako, 2009:16).

Article 2 of the Ugandan constitution states that, the constitution is the supreme law of the land. Hence, the constitution shall have binding force over all authorities and person throughout the country. It goes further by stating that if any law or custom is inconsistent with any of the provision of the constitution, the constitution shall prevail and that other law or custom shall, to extent of the inconsistency, be void". Despite the fact, that the constitution is the highest law of the land, women still face the challenges of ownership and access to land in Uganda. Parliamentarians from different constituencies have been championing women's rights in Uganda. To some extent, this has helped in bringing to the limelight the cause of the rural Busia women.

However, I argue although these legislators have been vocal on land rights issues, much has not been done on the ground. Re-search findings established that Busai women like any other African women elsewhere remain marginalised from the mainstream economic activities as a result

of gender blind legislation, customs, beliefs and practices. This has then further resulted in the feminisation of poverty, with women being the victims as observed in the Busia case study. Mushemeza, (2011:175) posits that, from a “gender perspective, the Constitution of the Republic of Uganda is acclaimed as being one of the gender sensitive constitutions in Africa. This fact is testified to by a number of articles”.

However, it should be noted that having excellent gender sensitive clauses in a constitution is quite commendable. However, the challenge in Uganda is the political will, commitment and change of mind-set from the patriarchal society that is more important. So as to make women’s access to land rights a reality to the Busia women. As put forward by, Mushemeza, (2011:176) “Constitution under National Objectives and Principles of State Policy (VI) stresses that the State shall ensure gender balance and fair representation of marginalized groups on all constitutional and other bodies”.

These include Article 21 which provides for equal treatment in all spheres of life under the law, regardless of sex, Article 26(1) provides for the protection of all persons from deprivation of property, Articles 31(1) which entitles women and men to equal rights during and after marriage, Article 32(1) mandates the State to take 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) further asserts 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.

The study further argues that women should speak out more freely about their land rights and how much they know about these rights and this calls for the need for the law to be implemented effectively and also to be in position to offer protection to the women whose land rights are being violated. (Bako, 2009:15) Article 33(5) further, accords affirmative action to women for purposes enforcing their rights. However, it can also be noted that the Ugandan constitution is more of a mere piece of paper which can do little with regards to the practical realisation of women’s access to land rights. To substantiate this statement one can note its inadequacy in protecting women’s land rights in Busia.

2.2 Land tenure systems-Towards a Human Rights

Under the land tenure system, I analyse how rights of Busia women are protected or deprived. I will use the concept of Human Rights framework to see how the land tenure system has incorporated the rights claims of women in their struggle to own land in Uganda. The Human rights agenda will help us understand the social injustice and deprivation of land rights of the rural Busia women in Uganda. However, this deprivation is mainly due to institutionalised inequality as will be argued in depth in the next chapters. More particularly, the Human rights law will help in analysing how the Ugandan land tenure system should mainstream women’s rights for example with customary and Statutory law.

Land tenure refers to the institutional arrangement including social, economic and political through which individuals or group are able to access land as stated by (Mgambwa, 2002:10). In most parts of Africa land tenure is depicted as either customary/traditional or statutory (Cotula et al 2004:2). Land tenure system should provide for women’s rights. That is to say it should institutionalise these rights for example the Ugandan land commission taking measures to respect, protect and fulfil women land rights. International Institute for Environment and Development notes that, ever since 1900, when the colonialists came to Uganda, they brought about many changes. Among the major changes was on land rights or ownership where they changed the way land was owned in Uganda by introducing different land tenure system. Colonialism introduced different types of land tenure systems which are based on statute law which have very little to do with customary practices and laws of land use and ownership (IIED 2006:1).

According to the 1995 constitution of Uganda and the 1998 land Act, it states that land is managed under four basic land tenure regimes. The regimes confer different land rights to the owners and therefore have different implication on security of tenure (Bomuhangi et al, 2012:8)

And Subject to article,237 of the constitution, all land in Uganda shall vest in the citizens of Uganda and shall be owned in accordance with the following land tenure systems customary, freehold, mailo, leasehold (Government of Uganda, 2010: 4986).

2.1.1 Customary land Law and Statutory Law (in Busia)

With the customary law, women still face subordinated status in society. The customary law is in itself a source of oppression to the extent that women are not in position to speak out, much as they know their rights, especially rights on land. As observed by Burns (2005), culture dominates and dictates that women have unequal rights in using land as a productive asset: cited in Kimani,(2010:259). This is further attributed to their vulnerability for their claim to access and ownership to land, because their claims do not offer any opportunity but rather challenges.

Harris, (2012:12) Harris argues on the contrary by noting that, traditionally, a wife could not claim ownership of goods acquired while living with her husband; she had usufruct but not ownership rights. Therefore, upon divorce a woman could not take with her anything gained in the marriage, not even her children. Her only legal possessions were her clothes and jewellery, her cooking and farming utensils; everything else belonged to the man. This is fostered by customary law which denies women inheritance rights like ownership to and access to land (ibid). However in this case, the constitution is very clear on Article 32(1) which mandates the State to take affirmative action in favour of groups marginalised on the basis of gender or any other reason created by history, tradition or custom (Constitution of Uganda,1995).

We again see, the constitution as more of a mere piece of paper which is difficult to enforce. Rather, it has limited women on their legal knowledge and procedures to know what to do in advancing chances that guarantees women their rights to property and equal opportunities. However, this further threatens the importance as the law of the land in trying to promote equal justice. The statutory law offers better legal provisions and protection to human beings and this is where the importance of the human rights framework work because it advances security, dignity, respect and rights to all human beings and especially women.

To agree with Asiimwe (2001:176) that there is struggle between statutory and customary law. Constitutional rule stipulates better defence for females, allowing the feminine inheritance and property possession. Although it wins customary regulation in principle, statutory law is less utilized in practice. This is especially true in rural communities, [...] statutory law exists but the enforceable mechanism is inadequate and inaccessible courts (ibid).

This holds true that in Uganda the statutory law is in place and it always seeks to bring justice to the people although most of it is in theory than in practice but to some extent it has assisted some women to find justice but not all. Customary law has taken the lead in the inter play of economic, social and cultural factors. Asiimwe, further, points out that “women’s attempts to control, transact, and own property, especially land, are resisted and sanctioned by the community and the clan as misbehaviour” Asiimwe (2001:177).

Nevertheless, the Land Act (CAP.227) indicates hope to the women by pointing out that “Rights of women regarding customary law according to the land act points out that any decision taken in respect of land held individually or communally, shall be in accordance with the customs, traditions and practices of the community concerned, except that a decision which denies women or children”.

Access to ownership, occupation or use of any land or imposes conditions which violate article 33,34, and 35 of the constitution on any ownership, occupation or use of any land shall be null and void.(Land Act, 2010 CAP.227). One may ask how effective, is this land law on women's access to land rights because while women struggle to realize their land rights and are aware of these rights, some injustices that are not recognized such as poverty, request for funds by courts and this limits them from getting appropriate institutional response when they report.

From this section, it can be concluded that there is need for land rights for the women because it is important in advancing a better livelihood in their daily lives and in order to address these issues in the various types of land tenure system used in the ownership of land.

2.3 Women's Awareness of the law.

(Rugadya, et al 2004:1). The need to legislate for women's and property rights is mostly two pronged. One has to do with economic considerations such as efficiency the fact that agricultural production is predominantly done by women. The second has to do with human rights. The principle of property rights entails deciding not only on disposal but also decision on its inputs and proceeds. Women are currently denied this right. Whereas the transfer of land is limited to either outright purchase or inheritance (ibid).

Much as the Universal Declaration of Human Rights is very clear that everyone has a right to property under Article 17 and 18 (UDHR, 1948). And these rights include rights to land as a valuable asset or property which every individual should enjoy its benefits equally. This on the other hand, shows the strengthening of human rights law in defending the rights of every human being. The human rights law has some limitation because some individuals don't get to enjoy the same rights and this jeopardies the human rights framework. In such situations are the women folk whose rights to land have not been addressed adequately by the human rights movement.

However, Khan (2009:205) suggests that "Women's discrimination impoverishes them and traps them in poverty and often the discrimination is social and cultural, but much of it is also legal". This may hold true however to some extent, the process involved in the legal procedures in Uganda has been simplified and this has enabled women to speak out their challenges through the legal aid centres with the help of Uganda land board commission this has increased women awareness on their rights and also for the men to appreciate the fact that women rights to land is equally of importance.

The Gender policy, (2007:13) still gives hope to the women, because the policy establish a clear framework for identification, implementation and coordination of intervention designed to achieve gender equality and women's empowerment in Uganda. The policy goes further, to direct union to every office bearers in designing, fund distribution, performance plus supervising and assessment of agendas through a sexual category viewpoint (Uganda Gender Policy, 2007:14).The Uganda Gender Policy (UGP 2007:15) framework further, establishes some objectives which enforce women awareness of the law this include.

To increase knowledge and understanding of human rights among women[...] so that they can identify violations, demand, access, seek redress and enjoy their rights and to support female's manifestation plus competences in choice construction intended for their significant contribution in organizational developments.

This policy has helped in the integration of other legal instruments in addressing women rights and more awareness of the legal provisions in the law. As put forward by Deere and Leon (2003:941) women's inequality in the ownership of land is due to male preference inheritance, male privilege in marriage, and women and men unfairness in society and government projects of property allocation, at hand is too proof of men and women unfairness. In contrast, Uganda is gradually moving away from the traditionally way of doing things through the implementation of

the legal instruments to provide women with the legal knowledge about their land rights and this has enhanced their awareness and ability to fight more for their rights despite the resistance they get from the men.

Khan argues that breaking the barriers to increase participation of women may require dealing with cultural sensitivities and understand the social and cultural norms that hold women back. And one way of doing this is through access to information which is key in breaking down the barriers of exclusion and overcoming discrimination very often females are denied or blocked knowledge (Khan 2009:138). Sometimes, discrimination has been attributed to structural misunderstanding or insufficiency of funds, and this however in most case is frequently due to legalized, community plus traditional obstacles that disregard females from choice selection plus those matters that document closely influence their survives (Khan 2009:138). Deere and Leon, (2003:936) advises that, the most important advance in favour of women [...] equality is legislation which contains explicit mechanism of inclusion: provision for the mandatory joint adjudication and titling of land.

2.1.3 Other stakeholders: LCCs, DLBs and NGOs

Women awareness of their rights to access and own land is one crucial issue that the concerned stakeholders need to deal with by enforcing their rights. However dealing with the women's gap in achieving their rights to land is equally important to have these rights realized. Specific attention on strategies that can determine how they enact government land management policies, resolve land disputes and affect women equality in relation to land rights. Including a discussion of national and local-level legal institutions and instruments, including land boards and the local council courts.

The Local Government Act CAP 243 provides that women must form at least one-third of the total number of councillors at all levels of councils, from the village to the District. The Local Government Act CAP 243 provides that women must form at least one-third of the total number of councillors at all levels of councils, from the village to the District. It is worth noting that, this form of structure has really enabled women to realize some of these rights to access and own land through collective engagement, participation and information sharing. As pointed out by Mushemeza (2011:173), "ultimately women's equal participation, their perspectives, knowledge, and experiences are all crucial to the creation of a more just, prosperous, and peaceful nation". With these structures in place the indication is that council courts are doing to their best to enforce the women rights to land. Local Council Three (LC III) level, which is the lowest governance structure for planning and budgeting, at least one-third of the councillors in the 954 sub-county, town, and municipal councils are women (ibid). This has encouraged women to make collective efforts. This has aimed at ensuring full participation of these women in decision making.

Despite, these numbers women still face discrimination and the subordinated nature of the women to the customs limits their discussions in the Local councils courts. This number is further boosted by women representatives and female youth (Mushemeza 2011:193) but little is realized especially among the youth in most times do not have the knowledge. Khadiagala (2001:55) mentions that, "community based institutions are better placed to provide inexpensive, expedient and culturally appropriate forms of justice. In 1988, the Ugandan government extended judicial capacity to local councils (LCs)". This holds true and there has been a positive change to some extent in the appreciation of these rights through women consultation with the local courts. However, women's access to justice has been affected by the costly legal fees yet they are not in a position to provide this money to access justice on their land rights. One then wonders

to what extent have the local councils been fair and impartial in providing justice to these women.

Khadiagala, (2001:56) points out that, Museveni (1987) after taking power argued that they would provide Ugandans with expedient, inexpensive and culturally appropriate justice. Most important, LCs would replace the adversarial form of justice found in formal courts with indigenous norms of conciliation and compromise [...] women should have been the greatest beneficiaries of the LC courts. With lower incomes and higher illiteracy rates, the formal magistrates' courts are perceived to be beyond the reach of poor, rural women in Busia. Even when women have sufficient funds to pay court fees or to hire lawyers, filling out the forms and comprehending the legal processes are serious obstacles.

This form of arrangement has really affected women's journey to the realization of their rights especially on land. Although, this arrangement has not registered many results due to the ineffective implementation due to lack of funds and limited manpower. Khadiagala, (2001:57) notices that, "Uganda women indicate that popular justice has failed to provide a more accessible system of justice to less powerful and to protect women's customary rights to land".

To this I agree because the Uganda women are still facing this challenge and this has limited them from earning a decent living and independently since there are cultural limitations. Khadiagala, (2001:63) goes further to address that, women seek out magistrate's courts, legal aid clinics, or other government offices when they perceive the law to be capable of protecting them and the authorities running these venues to arbitrate matters according to law rather than custom. The office of probation and social welfare, which oversees the interests of [...] women (ibid:63).

These are some of the roles of the Local councils and land boards.

Khadiagala, (2001:63) provides some of the roles of the Local councils.

LCs may preside over customary matters including land, identification of customary heirs.

Local Council Courts (LCCs) are the institutions that mainly deal with land conflicts but are often going beyond their legal mandates when dealing with land conflicts. LCC2 and LCC3 are the courts that are supposed to deal with land conflict but due to a lack of effective mechanisms it is the LCC1 that deals with land conflicts but LCC1 does not have the legal authority to do so. The surveys have found that people trust the LCCs as they are seen as accessible, fair, and uncomplicated. However, LCCs are far from perfect institutions and have problems with exploitation and nepotism. Vulnerable groups such as women and children are particularly prone to exploitation by the LCCs. They need gender sensitization as well as education campaigns on human rights.

Many of the land administration institutions are weak or not functioning. Land Committees that are to be responsible for recording land boundaries on customary land and recording transactions of in certificates in occupancy at the local level have largely not been formed due to financial constraints (Khadiagala 2001:63). At hand, there is also the absence of awareness continuously on the position of persons at the grassroots and yet in command and they are meant to carry out certain functions for example like note taking but to some extent, they do not know how to execute these duties or even aware on how to do them. Region Property leaders are also infrequent at the local level and District leaders meant to assist them are ineffective (Khadiagala 2001:63).

Khadiagala (2001:64) The land register in Uganda, which operates on the Torrens System of land registration, embodied in the Registration of Titles Act (Cap. 230), was established over 100 years ago. Much as this registration offices are operating the records are not properly kept this indicates that these offices have assisted women in rights to land. Khadiagala (2001:64) However, this has not fully provided much data on women records on land hence a need to tackle this se-

rious matter on women rights. It is projected that 60% of the reports in the inventory is presently not up to date; so this requires that the presented data is certainly not longer dependable and therefore affects on the reliability of property record given that its figures are out and do not illustrate the factual position beside respect to the present tenure and extra benefits on registered property(ibid).

In the next chapter I look closely at women's rights to land in the context of Busai (Uganda) whilst drawing from the field work data.

Chapter 3 : Analysis and Discussion of women's rights to land.

3.0 Overview.

Women have a rights to own property as per the constitution of the Government of Uganda. And these rights are addressed through the Land Act (Cap 227) which recognises women's land rights and land acquisition Act (Cap 226).

This chapter presents discussions from the research findings. It first combines a livelihood framework with the human rights framework to analyse women's knowledge about their land rights.

The researcher presents main arguments: (1) Can government efforts through Land Boards, Local Council Courts, and Non-Governmental Organisation efforts lead to the full realisation of women's land rights. 2) Is not knowing what to do by women cause fear of land insecurity or does it yield positive results.

3) If women are reluctant to speak about their rights, there may be good reasons for this.

4) Changing attitudes towards women's land rights among men can lead to full realisation of women's rights to land.

5) Women's struggle for their land rights is not usually overt, for them to enjoy their rights to land they seek to avoid conflict over land rights.

6) Does urging women to claim for their land rights improve their awareness for these rights to be realised in future, or the better to secure their livelihoods. Each of these is considered in turn.

3.1 The potential role of local council courts and land boards in claiming women's land rights.

In this section, the researcher looks further, at the responses of courts and land boards and what they are doing in the women's realization of their rights to land. The Local council courts and Land boards are meant to be effective since they are the concerned organs on land matters.

UWONET (2000:14) goes ahead to define "Land boards as a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.[...]the secretary of the board shall be a person knowledgeable in land matters and at least one third of the members shall be women ". However, during my data collection it so happened that there was a meeting of both the district land board member and the local councils. Due to this there was no women representative at the local level, yet the recommendation of the district council is that at least one member shall be a women and the quorum of the shall be three(UWONET 2000:15).

My interpretation of the above scenario is that either women are not informed about the meetings or they are side-lined from community participation. Interview with one local leader on the 12/08/2012 Bwira Sarah local councillor of Dabain sub-county said that

There are high levels of corruption within the courts, and the rights of the poor and voiceless are either poorly enforced or in adequately protected these courts have discouraged women from seeking recourse to their support. The LC courts have not provided enough protection of women's interests, Being male-dominated and corrupt.

From a human rights lens, it can be argued that women rights should be protected and respected to grant them dignity as human beings as enshrined in (CEDAW) Article 14(g) of the Convention seeks to ensure that women have the right to have access to equal treatment in land

and agrarian reform as well as in resettlement schemes (UN Twentieth session Distr.: General 4 May 1999 : 6-7).

The land act 1998 provides women with an opportunity to have secure access and control over land and be able to live with dignity in their respective societies (UWONET 2000 :1).

This has enabled women to improve on their livelihood through the benefits derived from the land like growing crops , grazing their cattle and so much the land can offer. On the positive side the land boards and local councils courts always try to settle cases on land especially cases related to women's land rights.

An interview with the land officer Busia district: on 12/August/2012 Mr. Nzimuli Emmanuel,

pointed out that, I'm often involved in settling land disputes and this we usually call upon the accused and solve the matters outside court and these settlements are done with the help of the lower local councils that is LC1, LC2 and LC3 however the accused prefer to have their land issues to be held through the clan elders. He continues to say that Land disputes in our place are mainly caused as a result of the; Alarming poverty levels and the reason is that People have not acquired enough sustainable incomes and simply resort to selling off the land and as they sell their land they are left with little land and yet the family size in most time is big and the small piece cannot accommodate so those who suffer the end result are women so this forces the men to look for unlawful ways of acquiring more land to sell off.

My interpretation of the above is that the local courts and councils boards try their best However, due to the customs that is embedded in the society it makes it hard for the above organs to promote women realisation of their land rights as long as no measures are taken this will question the credibility of the courts from the grass roots to the district level and even the long court process despite the little knowledge they have on land matters.

3.2 Not knowing what to do: Women's fear of land insecurity.

The respect and the rights of livelihood is affected by the male dominance on land use, access and ownership. The research finding shows that women are still under fear of land insecurity and reluctant to talk about their rights to land. During a focus group discussion on the 24/08/12

A Single woman with one child said that, "I use the garden to plant crops like beans, maize and potatoes, but cannot sell, any of the above without the consent of my husband so this has put me so down and my family's livelihood is so inadequate.

While a 24 year old women married with two children said, my father has given me permission to use resources from his land. He even went ahead to give me a piece to land to grow some trees and this is boosting my livelihood economically and my family since my husband has many wives. And the size of the family is growing big so the only solution is to keep quiet and enjoy the few rights that am given so I only seeks assistance from my father but not my husband.

This implied that her command on land use or ownership is limited or not recognized.

From the "women's point of view, the fact that men are the controlling authority, both at the micro and macro levels points to a major obstacle that hinders development and women personal needs through agricultural production.(Rugadya 2007:7). This is manifested in the manner in which decisions are arbitrarily made by the man, according to his priority (selfish) interests and needs which may not necessarily confirm to the women (Rugadya, (2007:7).

This places most women in a difficult situation and in-security of their rights to land becomes a risk, yet the aspect of livelihood is very important in day to day life especially to the rural Busia women. As posited by Ellis (2000:290) The concept of livelihood seeks to convey the non-economic attributes of survival, not just the economic ones; it therefore includes, inter alia, the

social relationships and institutions that mediate people's access to different assets and income streams.

Using the livelihood framework it can be argued that uplifting women's land rights is associated with many benefits that come along with their rights like empowerment about these rights, increased social and economic standard in families and the household. However, for this achievement to occur government's input is fundamental in advancing these benefits. As shared in the focused group discussion. On the 24/08/2012

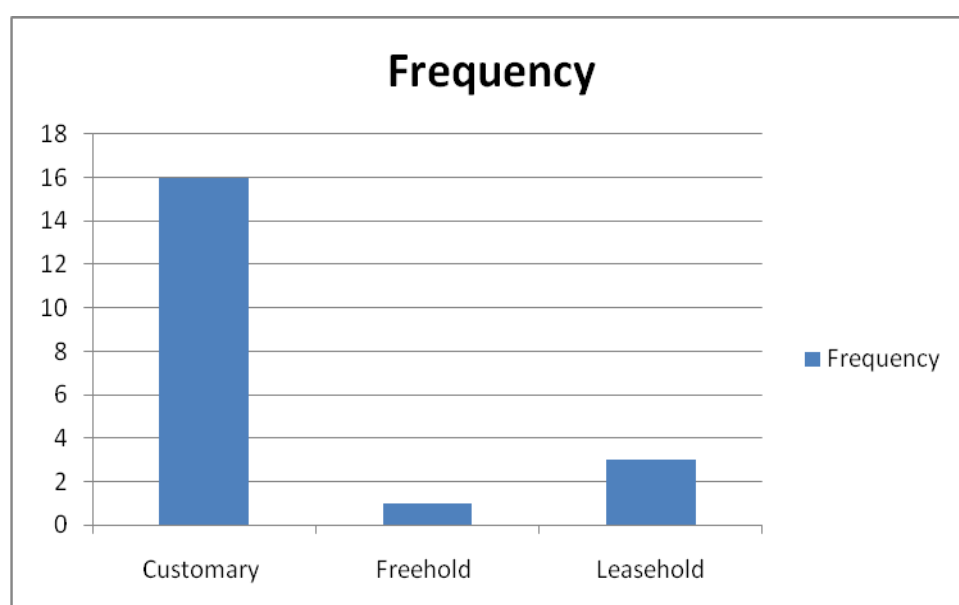
We have no command in the use of land the man choose what should be planted when planting seasonal come and at times we the women have to look for the seeds which are meant to be planted but remember most times we do not have the income to purchase the seeds this one of the difficulty we face as women in this area.

Rugadya (2007:7) goes on to state that, the woman lack the authority to determine what should be put on the land, in spite of the fact that they are the managers of production on the estate.

Although several women were reluctant to admit, in the presence of their fellow women and some male that they have no or little control over the income earned from farming, the researcher clearly observed this through a discussion with them (during the focus group discussions on 27-July 2012), that the ultimate authority lies with their husbands or fathers(ibid).

I agree that women's struggle over land access and ownership is a serious matter and needs more advocacy work by government and NGOs to establish and demonstrate the important aspect of human rights. As argued by Chamber and Conway (1992:9) Livelihood activities can be regarded as environmentally unsustainable if they have a net negative effect on the claims and access needed by others. This was evident in the findings where women struggle for their rights but there are still several limitations. Chambers and Conway go ahead, to state that Entitlements and right to use can subsist or weakened out various methods, involving the rules, power, or by administrative blockades. Illustrations of undesirable consequences upon entitlements plus the right to use assets on the area stage. Are their erosion or loss through appropriation and exclusion by the powerful. The livelihoods of the powerful gain, but there are net losses for the poor as well(ibid).

Figure 3.1
Types of land tenure in Busia district



Source: Field data 2012

It is observed that 16 of the respondents land holding in Busia was owned under customary acquisition modes, that is, inheritance, donation and family access. It is also evident that the rest gained their ownership through land markets the land holdings that were accessed through leasehold while households which are under the freehold land tenure accounted for the least.

3.3 Do women have knowledge of land rights.

Traditionally, land was a collective resource. Property was distributed between the men, the presentation of restricted possession has transformed the system of control to specific men.

ownership from collective possession, suggesting that the transformation did not influence the situation of the men above females who continued in the dependent part of managing the estate. Rugadya (2007:1)

Women in Busia perceive their land rights in a certain manner some argue that, it is better to keep quiet on land rights in order to protect themselves against divorce, violence and to also allow their children to inherit some property especially the girl child whom the men are considering in present day today to inherit some property so as to avoid claiming for these rights silence is the best tool to allow the children to inherit and the few benefits from the land .

Rugadya further, more states that, the exclusion of women from property ownership is limited according to the majority of men, assets rests on the need to preserve family property within the lineage and to effect its disposal only within the husband's lineage(ibid:2).

Table 3.1

Awareness to land Rights

Views	Response	Frequency
Awareness of land rights	Aware	18
	Not aware	2
Women rights to the land of their husbands.(user rights)	Have the rights	19
	Do not have the rights	1
Necessity of women's land rights	There are important	19
	Not important	1
Satisfaction from women's land rights	Satisfied	15
	Not satisfied	5

Honor ship of wom- en's land rights	They are hon- ored	16
	Not honored	3
	Don't know	1

Source: Field data 2012

The study findings indicate that majority (18) of the respondents were aware of the women's land rights and that a married woman have the right to use the land belonging to her husband. To grow food crops, depending on the availability of her husband and/or supplement farm labour this was confirmed by 19 of the respondents. In Busia men tend to have much influence on what should be planted on the land and how the land should be used because some of the respondents (5) were not satisfied with the women's land rights and those were only women. Although 17 of the respondents had tried to protect land rights of women though some (3) mentioned that they did not honour the women's land rights.

An interview with Emma land officer of Busia district on the 12th/August/2012

Said that, a family of one girl and six boys and this girl had got married and later divorced when the girl asked for a share of the land, the boys denied her access to land saying she had no share or ownership of the land, she decided to come to the land office just because she knew her rights to land and this case has taken a lot of time with consultation with the land courts for the girl to acquire a very small piece of land from the brothers.

He went ahead, to mention that he was not satisfied with the women's land rights as he cites that there is no streamlined back up and fall up from the government. However, this has not yield any results up to date the land office is still struggle for the consideration of this girl by the brother to give her a piece of land.

(Bikaako and Ssenkumba (2003:10) points out that,

Nowadays, close at hand there is a developing transformation of bearing of the fathers and mothers in the direction of the subject of whether a girl maintains privileges to the blood relation on the clan, once she has walked down the aisle.

Using the human rights framework there is great response to land rights by the parents especially by the men. There is a gradual observation dependability of girls to conserve the domestic possessions (different from young men who are thought to be concerned in participating towards marketing the assets out); and the proportional obligation of the girls involvement regarding the fathers and mothers, similarly later in her matrimonial (ibid).

This was evident in Busia because some women confessed that they are now registering land under their daughter's names and to them this was a good move because it showed a sense of equal rights to both the children. Bikaako and Ssenkumba postulate that,

A daughter retains rights to her parents' estate either as a cushion for the future against marriage failure or as a reward for her contribution towards her parent's welfare and a relatively high sense of belonging or attachment to the family land. This is why in [...]single (dispossessed, separated/divorced or unmarried) women are the major custodians of the family burial grounds (ebijja). This is also true for cultures in tribe in Busia. As the male today advance improved rights on land as a result of individualization of the land in Uganda, the children must ensure that their good relations with the father are maintained. A trustworthy and well behaved child is more likely to retain use or ownership rights than an irresponsible and ill-mannered one. It is up to the father to choose who retain rights to his estate. Bikaako and Ssenkumba (2003:3)

3.4 Reluctant rights claimants: hearing/ Voices from women.

Using the Human Rights framework, women reluctance to claim for their rights to land entails a lot of associated challenges that come along with, for example, divorce, being denied to cultivate

the land and protecting their marriage in reality to some women this threatens their livelihood. Yet, they have the rights to claim ownership and access to land as articulated in the universal Declaration of Human Rights (UDHR) Article 25 the “right to livelihood covers the right to an adequate standard of living, health, education, clothing, food, housing, medical care and necessary social services.” Thus all these benefits are derived from the land which is a major source of livelihood and women are meant to enjoy these rights. If all benefits are equally shared then everyone is in the position to enjoy the rights they are entitled to. However, in Busia women only enjoy user rights and the reason behind is due to the customs in the society like women are not meant to inherit or claim for any land.

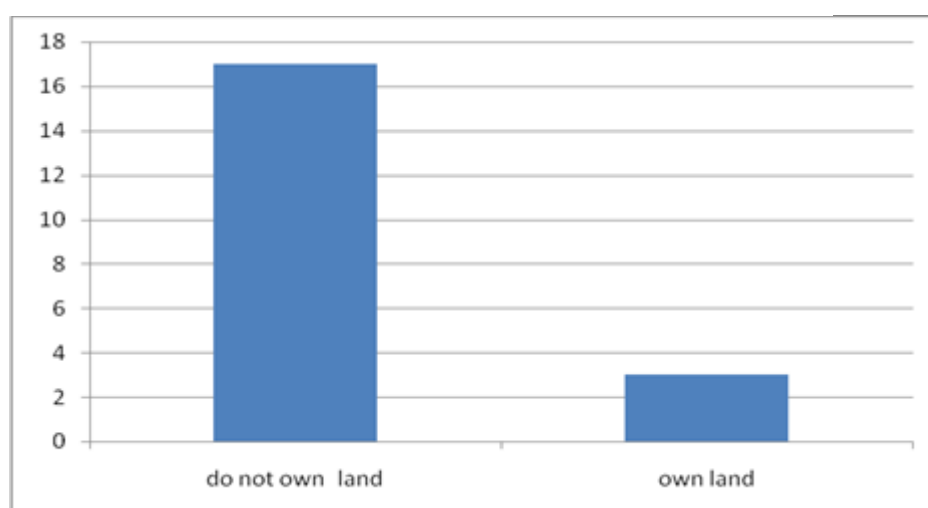
Access and ownership of land without the consent of clan leaders and husbands who are seen as the heads of the land or fathers threatens the position of women in their quest for land rights. The most interesting aspect here is that most of the women know some of their land rights. to know but they could not speak out as for the focus group discussion held on the 5th of August 2012 one women expressed that.

As a 37 year old woman, we are three women in the household but our husband is still marrying more women and yet he is not position to provide any assets or land to us and his new wives. And he is financially unable and this has caused a lot of struggles in the family. So us who were there as first wives just keep quiet if you want to maintain the security of your land.

women in particular are faced with several problems that hinder their access to land; the major problem being custom which necessitates women’s accessibility through male mediation postulated by Bikaako and Ssenkumba (2003:6).

This implies rather, that their access is now a conditionality on several factors. This holds true in the case of Busia women preferred not to talk about their right to land because their protected right to use is restrained by means of the interaction of both customary duties plus the shifting requirements shaped by the course of transformation. For example, not every wedded women in a polygamous marriage have property that they can survive on Bikaako and Ssenkumba (2003:6).

Figure 3.2
women who do not own land



Source: Field data 2012

Majority of the women (17) agreed that they did not own any land independently of male associations. In Busia still, 100% of the respondents have user rights and access to land.

This indicates that there is a lot to be done to bridge the gap because a few of them can only claim individual full access and ownership of these rights.

My interpretation of the above statement indicates that the livelihoods of women are not secure as argued by Ellis(2007:4) livelihood is more than just income (Lipton and Maxwell,1992) he goes on to define a livelihood as encompassing income, both cash and in kind, as well as the social institutions(kin, family compound village and so on), gender relations, and property rights required to support and sustain a given standard of living. Social and kinship networks are important for facilitating and sustaining diverse income portfolios. quoted in Ellis 2007.

(Ellis 2007:4) he goes on to say that, this is important for women's security in terms of their livelihoods and rights to these entitlements Livelihood, is further, defined as adequate stocks and flows of food and cash to meet basic needs(ibid). and yet land is the main source of income to rural women as observed in the table 2 below.

Table3.2
Land tenure system in Busia

Use of land	Frequency
Small hold agricultural	17
Commercial agriculture	2
Residential	1
Total	20

Source: Field data 2012

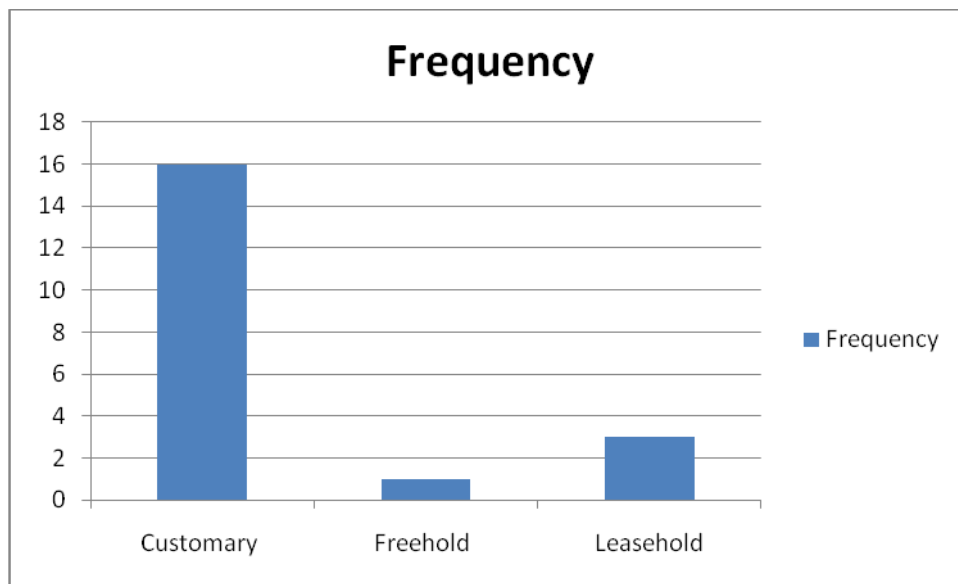
From the above table, most of the households in Busia use their land for income generating activities that is practicing mixed farming, growing food and cash crops and rearing cross-bred animals which do not require huge expanses of land for grazing at the small scale level, this is confirmed by

17 respondents from the study while a few are also involved in agriculture at a commercial level as indicated by 2 respondents. Women's knowledge on their rights to land is key but during the field work they told me that they are not free to speak out but rather to be in peace and protect their user rights to land.

Since they can be easily denied even use of the land, or battered, and divorced so the best they have always done is to keep in silence so long as they enjoy fewer rights and to-tally not to be denied access and also in the name of ownership to land which is the source of their livelihood. All in all land to women in Busia is very necessary for development just like elsewhere in rural Africa.

Chambers (1991:4) points out that, "Security refers to secure ownership of, or access to, resources and income-earning activities, including reserves and assets to offset risk, ease shocks and meet contingencies".

Figure 3.3
Land tenure system



Source: Fieldwork 2012

It is observed that 16 of the respondents land holding in Busia was owned under customary acquisition modes, that is, inheritance, donation and family access. It is also evident that the rest gained their ownership through land markets the land holdings that were accessed through leasehold while households which are under the freehold land tenure accounted for the least.

3.5 Changing attitudes/ perceptions towards women's land rights among men.

The study however found out that parents are gaining trust in the girl child and the reason they gave was because the girls have proved to be reliable in terms of protecting family property than the boys as put forward by Bikaako and Ssankumba (2003:15) t they holds that “some parents are giving their daughters a share of their estates, on grounds of marriages becoming very unstable. [...] Parents are finding it increasingly necessary to reserve a share for each daughter, in case of any eventuality”.

A 50 year old women who is the leader of women saving group said that she one day called her husband and they talked about the children welfare and the family property she told him how it important girls need also a share but at first he was very bitter with me after sometime he over it and now we have even registered all the properties in all the children name and am happy. (on the 12/08/2012 with a focus group).

To strengthen the protection of their daughters rights to land, parents are forced to specify what they have given to their daughters when they are still alive, so that there are as many witnesses to such transfers. However as a mode of access for women, inheritance presents several problems(ibid).

My response to the above, is that gradually there is great appreciation and acknowledgement of land rights b parents because children tend to get the same opportunities. Bikako (2003:16) goes further to say that some parents have opted for giving their daughters a share of their land so that they do not suffer. People have realized that given same opportunities, girls are as equally useful/productive as boys.

Despite women reluctance to struggle for their right, their argument is that they do not want to disturb the flow of the livelihoods in the family no matter how small/ little resources they have. This has opened up how men react to their claim for rights to land. However, to them open pro-

test to the men does not yield any positive results even if one goes to the chief they are despised as big-headed and disrespectful.

An interview with Kyomukama, the assistant commissioner Ministry Gender and social development.29/July/2012.

Much as women face various challenges the ministry of gender and social development tries its best by carrying out sensitization campaigns, networking with other partners like Uganda land alliance this is enabling women to overcome these challenges through male engagement and participation activities like music and dance in the local language.

However according to Bikaako and Ssankumba (2003: 12) goes ahead to say that, this change of attitude and practice signifies a shift from a daughter being one of the "properties" that her brother succeeds from the father to one who can have access and ownership to family property. The daughter's access to the natal estate, however, does not necessarily imply control.

Rather, the daughters who have benefited from this particular change are also those whose rights, especially of disposal are restricted. The mere fact that the daughter are being given these rights but only these are for the few whose parents are willing and understanding and only comes from the head of the family the man(ibid).

During the Focus Group Discussion on 26 July 2012, John Okuku said he is

very proud that after registering their family property with his wife this has enabled them to work together and also live in harmony and their incomes have been increasing for some time now and they have even registered all their children under the family property.

Bikaako and Ssankumba (2003:13) observe further that, a few of the widows have inherited their husband's estates, with a relatively greater degree of control and autonomy. This change signifies a shift from getting no share at all, to getting a smaller share (belonging to the widow and her youngest son), with specific restrictions concerning use and disposal, and then to receiving the whole estate with a considerable degree of control and autonomy.

3.6 Urging women to claim their land rights.

About 85% of the female respondents in Busia who have openly admitted to trying and protecting their rights of land and other property, although, married women are still reluctant to disregard customs which restrict them from acquiring independent property.

Responding to the question posed to them regarding what they can do as women to improve their land rights, 35% of the women said they could join others when opportunity arose to fight for their rights through forming associations and the same percentage talked about the government and non-government organizations working hand in hand and changing in laws that govern women's land rights in Uganda.

While 15% considered efforts, by government, NGOs, individual or collective, to reverse women's status on land, still futile. The latter were pessimistic about the possibility of woman enjoying stronger rights than they presently are it should also be noted that some women (15%) were not in position to possible measures and this could have been attributed to the low literacy levels.

As put forward by Bikaako and Ssankumba that, Individual efforts included seeking remedies from the local council courts, chiefs and district courts; encouraging their husbands to write fair wills and seeking legal assistance from FIDA (Federation of Uganda Women Lawyers) legal clinics. (Bikaako and Ssankumba 2003:20)

In light of the above, an Interview with Magdale a staff of Uganda land alliance on the 12nd August 2012 said that,

Most of our work is to sensitize both men and women about the importance of land rights especially rights of women access and ownership land. Although we promote Joint access and ownership of land because of the benefits it comes along with to the family and we also encourage them to make and write wills of their families and to keep renewing them time after time. Although most men do not welcome the ideal.

The research finding indicated that much as these organs are in place but few people seek their service especially women due to customs explained in the previous chapters. In the same vein (Bikaako and Ssankumba 2003:24) points out that,

It can reliably be argued that the women's struggles are frustrated by the existing ineffective conflict resolution mechanisms which do not necessarily protect the interests of the vulnerable women. This was seen with the way local councils handle the cases relating to lands of women but their outcry was that they have limited funds to facilitate the all process of the cases, they went further to say that even the manpower is inadequate and a few of them cannot handle all the case and limited full knowledge on land matters was an issue.

The majority of the women who have sought recourse to the courts of law have not received deserving attention; they have either decided to withdraw their cases or ended up losing them.

Either the courts have dragged the cases, implying heavy costs required pursuing the case, or the demands made by the courts, whether direct/official or not, like bribing the court officials, have discouraged them. In my view the corruption and inefficiency of the judiciary systems has affected the right of Busia women to access justice.

Admittedly, the long court process requires women with a firm economic base, in order to be able to effectively utilize the existing conflict-resolution mechanisms(ibid:25).

3.7 Conclusion.

This chapter analysed how women's land rights on access and ownership is important in advancing respect to the women in terms of their rights and improvement of their livelihood . The reasons why women are reluctant to speak out on their land rights and the role or input by other stakeholder in women's quest to these rights using the human rights instruments and livelihood framework was used in this chapter to enable us to define women's rights to land and also the instruments that support and defend women rights. The findings shown that women's struggle stills continue in their claim of their land rights. In the next chapter I am going to offer a conclusion of the whole study.

Chapter 4 : Conclusions and Recommendations

4.0 Introduction

In this chapter, I put forward the recommendations that have been drawn from the findings of the study in chapter four. This chapter also contains my conclusion made at the end of this study.

4.1 Conclusion

From the findings of this, whole study women proved to me that they are the active agents to sustainable livelihood and development. If only their land rights were to be honoured and respected by the men. However, their command and enforcement is limited by the interplay of cultural factors. Further still, in this study it was clear that more needs to be done to have full realisation of women's land rights with strong measures by various stakeholders especially Government as the duty bearer and strengthening of the legal provisions within the government structures like the district and the Local council courts. The interesting aspect was that the majority of women were aware of their rights but the issue of reluctance was another that the study found out and their take was that claiming their rights to land cannot yield any results.

But disturb the flow of their livelihood much as they enjoy the few rights that enable them have access to the land and the produce or harvest of the land then they are better off. And this calls for serious mechanisms to be implemented to enable women access and own land and this to will limit land violations. I observed that, men are still the determinate or heads of the household, it is hard for women to disregard their customs like seeing the men as the source of authority on land. Efforts to address women plight by the local councils and districts land boards have not been so significant to the target goal of women quest for their rights due to inadequate funds and corruption tendencies which need to be taken into account to address the issues of land violation.

4.2 Recommendations for Government

There is need for a gender desk where men and women can take their grievances in case of land disputes or land related issues to have a balanced position to both parties. However, this to strengthen and promote gender equality and enable women and men to share their experiences, fears and issues to have equal enjoyment of land rights.

Need for political will and commitment to deal with land disputes.

Government should set up strong rules on the issues that violate women rights but mostly land rights which is under study like denial of access and ownership rights and to encourage women to be seriously involved in the land tribunals and local council courts this can only be achieved through monitoring by the government and concerned ministries. For example Gender and social development ministry and an evaluation report annually.

More emphasis should be put on land offices like the district land office, local councils court to record and up-date all the information on land matters especially on women's issues this will enable the people to know how the trend of land transaction is taking place and to appreciate women's land rights realisation over time or learn how women are gaining or losing these rights.

The local councils should be given more training on land issues by the government and on how they should respond to land issues pertaining to women and the establishment of the local council offices at the grassroots because during my study this was an issue that women pointed out by saying that it is hard to go to council's home since it's a central place to settle a case, because you get the feeling that you might not get justice but an independent office would be better.

The government should network with non-governmental organisation to start a campaign to encourage people to write wills to protect the both the women and children in case of death from the relatives of the men's/paternal side from taking over their property and denying women access and ownership which they are entitled to.

Government should translate the laws into the local languages to empower both men and women in their knowledge about the laws and what importance they hold in our daily lives in terms of knowing your rights. This will help in making justice or the law accessible to the common villager in Busia.

Holding leaders in charge of responding to women's outcry to violations should be accountable if they do not execute their duties according to the law for example those who ask for bribes, they should be investigated and punished according to the law.

There is need for a budget location for women to improve their involvement and increased integration of their abilities into the government projects. It's been pointed out that despite affirmative action measures to improve women's participation in government, this has not yet translated into increased [...] advocacy for women's rights (The National Development Plan 2010/14:22)..

Promotion of gender awareness is a key factor that can yield to women needs and this will promote a public dialogue whereby there is active participation and equal decision making by both men and women. The formation of women groups or associations could enable them to learn more about their rights and also enable them to be in a better position to know how to protect and promote their own rights to land. Men should to be educated more in future about the women importance of knowing these land rights and also being granted these rights of land since most women are the bread winners in most households and these rights are the basis of their livelihood.

References

- Agarwal, Bina. 2002. "Are We Not Peasants Too? Land Rights and Women's Claims in India." *Seeds*. 2002, No. 21.
- Agarwal, Bina. 1994. *A Field of One's Own: Gender and Land Rights in South Asia*. Cambridge, UK: Cambridge University Press. *Rights and Women's Claims in India*."
- Ahuja, R. (2001) *Research Methods*, Jaipur: Rawat Publications.
- Aliber and Walker (2006), *The impact of HIV/AIDS on land rights: Perspectives from Kenya*. *World Development*, 34(4): 704–727.
- Altrichter, H., Feldman, A., Posch, P. & Somekh, B. (2008), *Teachers investigate their work; An introduction to action research across the professions*. Routledge. 147. (2nd edition).
- Asiimwe, J. (2001) 'Making Women's Land Rights a Reality in Uganda: Advocacy for Co-Ownership by Spouses', *Yale human rights & development law journal* 4: 171.?
- Bikaako, W. and J. Ssenkumba (2003) 'Gender, Land and Rights: Contemporary Contestations in Law, Policy and Practice in Uganda', *Women and Land in Africa: Culture, Religion and Realizing Women's Rights* : 232-277. Accessed on October 20/2012, <http://www.law.emory.edu/wandl/WAI-studies/Uganda.htm>
- Behrman, J., R. Meinzen-Dick and A. Quisumbing (2012) 'The Gender Implications of Large-Scale Land Deals', *Journal of Peasant Studies* 39(1): 49.
- Bomuhangi, A., C. Doss and R. Meinzen-Dick (2012) 'Perspectives from Rural Ugandans and Implications for Land Acquisitions'
- Bryman, A. (2004) *Social Research Methods* (Second edition), Oxford: Oxford University Press.
- Burns, R.B. (2000) *Introduction to Research Methods* (4th edition), London: Sage Publications.
- Carpano F (2010) 'Strengthening Women's Access to Land: the Tanzanian experience of the Sustainable Range land Management Project'. *Tanzanian Report* prepared on April 2010.
- Chambers, R. and G. Conway (1992) 'Sustainable Rural Livelihoods: Practical Concepts for the 21st Century'
- Cotula, L., T. Camilla, and H. Ced. 2004. *Land tenure and administration in Africa: Lessons of experiences and emerging issues*. London: International Institute for Environment and Development.
- Cotula L (ed) (2007) p.1-2 *Changes in Customary Land Tenure Systems in Africa*. London: DFID/IIED/FAO.
- Clapham, A. (2006) *Human Rights Obligations of Non-State Actors*, Oxford: Oxford University Press.
- Deere, C.C.D. (2003) 'The Gender Asset Gap: Land in Latin America', *World Development* 31(6): 925-947.
- Deininger, K., D.A. Ali, S. Holden and J. Zevenbergen (2008) 'Rural Land Certification in Ethiopia: Process, Initial Impact, and Implications for Other African Countries', *World Development* 36(10): 1786-1812.
- Elizabeth Eilor Renee Giovarelli February 2002, *Gender/Family Issues and Land Rights Component; The Government of the Republic of Uganda land sector analysis*.
- Ellis, F. (2012) 'We are all Poor here': Economic Difference, Social Divisiveness and Targeting Cash Transfers in Sub-Saharan Africa', *The Journal of development studies* 48(2): 201-214.
- Federici, S.S. (2011) 'Women, Land Struggles, And The Reconstruction Of The Commons Federici', *Working USA* 14(1): 41-56.
- FHRI and HIVOS (2009) *Promoting access to Justice for Socially Deprived Women and Children in Uganda. Baseline survey*. Foundation for Human Rights Initiative and Humanist Institute for Development Cooperation Netherlands. Accessed on October 20/2012, <http://www.preventgbvafrica.org/sites/default/files/resources/Busia%20District%20Baseline%20Survey%20>

- Government of Uganda, (1995) 'Constitution of the Republic of Uganda' Accessed on 16 July 2012, http://www.justice.go.ug/docs/constitution_1995.pdf.
- Government of Uganda, (1998) 'Land Act cap 227', Accessed on 12 August 2012 http://www.ulii.org/ug/legis/consol_act/la199822757/.
- Government of Uganda, 'Local Council Courts Act No: 1 2006'. Accessed on 27/ September/2012 http://www.kituoachakatiba.org/index2.php?option=com_docman&task=doc_view&gid=767&Itemid=36.
- Government of Uganda, 'Land (Amendment) Act No: 1 of 2004'.
- Government of Uganda, (1995) 'Constitution of the Republic of Uganda' Accessed on 02 /June /2012 http://www.justice.go.ug/docs/constitution_1995.pdf.
- Government of Uganda, (1998) 'Land Act cap 227', Accessed on 15 September 2012. http://www.ulii.org/ug/legis/consol_act/la199822757/.
- Government of Uganda, 'Local Council Courts Act No: 1 2006'. Accessed on 24 August 2012. http://www.kituoachakatiba.org/index2.php?option=com_docman&task=doc_view&gid=767&Itemid=36.
- Government of Uganda, 'Land (Amendment) Act No: 1 of 2004'.
- Grown, Caren; Gupta, Geeta Rao and Kes, Aslihan (2005) Taking Action: Achieving Gender Equality and Empowering Women, United Nations Millennium Project (UNMP), Millennium Project Task Force 3 on Primary Education and Gender. Equality (London: Earth scan). [Online] Available at: www.unmillenniumproject.org/documents/Gender-complete.pdf [Accessed September 2012].
- Grown, C., G.R. Gupta and A. Kes (2009) 'Taking Action-Achieving Gender Equality and Empowering Women'
- Harris, C (2012) Gender-age systems and social change: A Haugaardian power analysis based on research from Northern Uganda Microcon Research Working Paper 65, Brighton: Microcon.
- International Institute for Environment and Development (2006) 'Innovation in Securing Land Rights in Africa: Lessons from experience'. Accessed on 15 September 2012 <http://www.sdinet.org/media/upload/documents/land_rights_mitlin.pdf.
- Kafumbe, A.L. (2010). Women's Right to Property in Marriage, Divorce and Widowhood in Uganda: The Problematic Aspects. *Human Rights Review* 11 (2):199-221.
- Khadiagala, L.L. (2001) 'The Failure of Popular Justice in Uganda: Local Councils and Women's Property Rights', *Development and change* 32(1): 55-76.
- Kharono, E. (2003). Review of affirmative action in Uganda. Women of Uganda Network. (accessed 2nd/October/2012 <<http://www.wougnet.org/Documents/UWONET/Report on Review of Affirmative Action.doc/>>
- Khan, I. (2009) *The Unheard Truth: Poverty and Human Rights*, New York: Norton
- Kimani, E.E.N. (2010) 'Older Women's Rights to Property and Inheritance in Kenya: Culture, Policy, and Disenfranchisement', *Journal of ethnic & cultural diversity in social work* 19(4): 256-271.
- Kriger, N.J. (1992) *Zimbabwe's Guerrilla War: Peasant Voices*, Cambridge: Cambridge University Press.
- Land and Equity Movement in Uganda (2011) 'How we can turn legal anarchy into harmonious pluralism? Why integration is key to legal pluralism in Northern and Eastern Uganda '. Accessed on 20/September 2012 <http://www.land-in-uganda.org/assets/legalpluralismpaper-June,2012positionpaper,final.pdf>.
- Laws, S., C. Harper., & R. Marcus (2003) *Research for Development: A practical guide*, London, Thousand Oaks, New Delhi: Sage, Save the Children.
- Ministry of Lands, Water and Environment (2000), *Land Sector Strategic Action Plan 2001-2011* Ministry of Lands, Water and Environment, Kampala.
- Mouton J, (2001). *How to succeed in your Masters and Doctoral studies*, Pretoria: Van Schaik Publishers. 2001:153
- Mushemeza, E.E.D. (2011) 'Contribution of Women in Influencing Legislation and Policy Formulation and Implementation in Uganda (1995-2005)',

- National Planning Authority (2010), National Development Plan (2010/11-2014/15), Kampala Uganda
- Neumann (2000) social research methods (4th edition) pp198, Needham heights; Pearson Education Company Africa development 34(3-4).
- Nieuwenhuis, J. (2007) 'Analysing qualitative data', in K. Maree (ed) First Steps in Research, Pretoria: Van Schaik Publishers.
- Nneamaka, A.D.C. (2009) 'Critical Mass Representation in Uganda', Kampala, Uganda. Accessed on 10 September 2012 < <http://digitalcollections.sit.edu/cgi> >.
- Nyamu-Musembi, C. (2005) 'An Actor-oriented Approach to Rights in Development', IDS Bulletin 36(1): 41-51.
- O' Leary, Z. (2005) 'Striving for Integrity in the Research Process' in Researching Real-World Problems, A Guide to Methods of Inquiry, London: Sage Publications.
- Quan, J. and C., Toulmin (2004) 'Formalising and securing Land Rights in Africa', Land in Africa: Market Asset, or Secure Livelihood? Church House, Westminster, London. Accessed on 10 August 2012 <pubs.iied.org/pdf/G00166.pdf>.
- Ritu Verma January 2007 "Without Land you are nobody": Critical Dimensions of Women's Access to Land and Relations in Tenure in East Africa 31
- Rugadya, M., E. Obaikol and H. Kamusiime (2004) 'Gender and the Land Reform Process in Uganda', Associates for Development. Online. Available HTTP: <http://www.oxfam.org.uk/resources/learning/landrights/downloads/afd_gender_land_refomprocess.pdf> (accessed 2 September 2012) .
- Rugadya, M.A. (2007) 'Gender in Uganda's National Land Policy'.
- Sarantakos, S. (1998) Social Research (2nd Edition), London: Macmillan Press.
- Smith, J.A. (1995). Semi-structured Interviewing and Qualitative Analyst: London: Sage Publications.
- Stake, R.E. (2000) 'Case studies' in N.K., Denzin, & Y.S. Lincoln, (eds), Handbook of qualitative research, (2nd ed.) California: Sage.
- Strydom, H. 1998. The pilot study. In De Vos A.S., Strydom, H., Fouche C.B. & Delport C.S.L. 2002. Research at Grass Roots: For the Social Sciences and Human Services Professions. 2nd ed. Pretoria: JL Van Schaik Publishers.
- Susie Jacobs, (2002) 'Land Reform: Still a Goal Worth Pursuing for Rural Women?', Journal of international development 14(6): 887-898.
- Toulmin, C. (2006) 'Securing Land Rights for the Poor in Africa - Key to Growth, Peace and Sustainable Development',
- United Nations General Assembly (1948) 'Universal Declaration of Human Rights'.
- UN Women (1979) 'Convention on the Elimination of all Forms of Discrimination Against Women'. Accessed 17 September 2012 <<http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>>.
- UN Women (1995) 'Beijing Declaration and Platform for Action'. Accessed on 25 September 2012 <<http://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>>.
- UBO (2002) Uganda Demographic and Health Survey. Kampala, Uganda: Uganda Bureau of statistics. Accessed 20/July/2012 <http://www.ubos.org_PDF>
- UWONET (1997) Women and Land Rights in Uganda. Kampala, Uganda: Uganda Women's Network.
- UWONET (2000) Women Know Your Land Rights. Kampala, Uganda: Uganda Women's Network.
- Van Banning, T. et al. (2004) Human Rights Instruments, Ciudad Colon: University for Peace.

Appendix I

QUESTIONNAIRE GUIDE FOR THE LOCAL RESPONDENTS

This research is about women's land rights. I am interested to know how important it is for women to have independent rights or ownership of land in this community.

You have been chosen to be part to be part in this study.

All information given below will be treated with utmost confidentiality and this research will/shall be for study purposes only. Please fill in the blank spaces with answers deemed appropriate. Please tick/mark on one answer for each set of answer in the box provided.

Theme one: Gender roles and responsibilities over land and Land conflict

1. Sex of the respondent Male ☐ Female ☐
2. Age of the respondent
3. Marital status of respondent a) Single ☐ b) Married ☐
c) widow/widower ☐ d) Separated and Divorced ☐
4. What is the size of your household?
a) One ☐ b) Two ☐ c) Three ☐ d) Four ☐ e) Five ☐
f) Six ☐ g) Seven ☐ h) Eight ☐ i) more than Eight
5. What is your highest level of formal education?
a) None ☐ b) Did not complete primary school ☐
c) Completed Primary school ☐ d) Did not complete secondary education ☐
e) Complete tertiary education ☐ f) Formal apprenticeships. ☐
6. Does your household own any land?
a) Yes ☐ b) No ☐
- 7(i) Type of land tenure?
a) Customary ☐ b) Freehold ☐ c) Mailo ☐
- 7(ii) How much land does your household own.
a) Less than an acre ☐ b) two acres ☐ c) three acres ☐
d) four acres ☐ e) five acres ☐ f) six acres and above ☐
- 7(iii). What is the use of your land for?
a) Agriculture ☐ b) Commercial farming ☐
c) Residential ☐ d) Others (specify).....
- 8(i). Are you aware about land rights?
a) Yes ☐ b) No ☐

8(ii). Of the children, who has the inheritance rights to land in your family?

a) Girls ☐ b) Boys ☐ c) Both ☐

(support your answer).....

8(iii) Do you make decisions about land in your family?

a) Yes ☐ b) No ☐

if no why?

i).....

ii).....

iii).....

9. What are the major challenges that you face in regards to land?

a) Size of land ☐ b) Fertility of the land ☐
c) Problems of boundaries ☐ d) Others (specify) ☐

10(i). Have you ever been involved in any disputes about land?

a) Yes ☐ b) No ☐

10(ii). if yes .What was the disputes about.

a) Boundaries ☐ b) Illegal sale ☐
c) Illegal survey ☐ d) Inheritance challenge ☐
e) Encroachment ☐ f) don't know ☐

11. What generates a land disputes within this household?

a) Poverty ☐ b) Polygamous marriages ☐ c) prostitution ☐
d) Greed ☐ (e) Others (specify)

12. How has the community resolved land disputes?

a) Use of Clans ☐ b) Use of local councils ☐ c) use of local council ☐

three

d) Police ☐ e) Assistance from NGOs advocacy groups ☐

- d) Formation of land protection committees ☐ (e) Consultation with government organs ☐
 f) Other (specify).....

13(i) After the intervention of these organs have you experienced any changes in land issues?

- a) Yes ☐ b) No ☐

13(ii). if yes what are the positive changes

- a) Resolved land disputes ☐ b) Reduction in illegal surveys ☐
 c) Appropriate acquisition through open seller/buyer transactions ☐
 d) Effective NGOs advocacy and networking with local courts ☐
 e) More effective government protection by its organs both local government and central government. ☐
 f) Others (specify).....

13(iii) If no what are the negative changes on going in particular your community?

- a) Continued inadequate awareness of land rights ☐ inadequate sensitization ☐
 c) continued oppression ☐ d) Others (specify).....

14(i) Do women have the rights to the land of their husband?

- a) Yes ☐ b) No ☐

14(ii) what are these rights?

- a) User rights ☐ b) Inheritance rights ☐ c) No rights ☐
 d) Don't know ☐ e) Others (Specify) ☐

Theme two: Livelihoods and income

15(i). who is the head of the household?

- a) Male ☐ b) Female ☐ c) Both ☐

15(ii) what are the functions of the household head? And what needs do they provide.

- a) Provision of shelter ☐ b) Food ☐
 c) Clothing ☐ d) water ☐
 e) Household energy needs.(fuel firewood, charcoal) f) Other (specify)

16. Who provides most of the above mentioned basic needs.

- a) Male ☐ b) Female ☐ c) Both ☐

17(i) what are your main sources of income to providing basic needs to your household?

- a) Agriculture ☐ b) Business ☐
 c) Office job ☐ d) others (Specify).....

17(ii) Are incomes from these sources sufficient to meet your basic household requirements? ☐

a) Yes ☐ b) No ☐

18. If no how do you cover the deficits

- a) Borrowing from local money lenders ☐ b) Smuggling. ☐
c) Borrowing from financial institutions ☐ d) Remittances from relatives ☐
e) Remittances from relatives. ☐ f) Sale of labour. ☐
g) Others (specify).....

Theme three: Significance of land rights and ownership to women, Policy and Advocacy for Women's Land Rights

19. Do you think women land rights are necessary and important?

a) Yes ☐ b) No ☐

If yes Why?

- a) Income food ☐ b) production ☐
c) Identify ☐ d) security for generations ☐
e) Sense of belonging ☐ f) customs ☐
g) Others (specify)

20. Who supports women's land rights in this area if they are important?

- a) Clan heads ☐ b) local councils ☐ c) NGOs ☐
d) Judicial courts Area land committees ☐ e) others (specify).....
fy).....

21(i). Are you satisfied with the rights women have on land?

a) Yes ☐ b) No ☐

22. If no, why?

- a) Inadequate awareness of land rights ☐ b) Biased decisions of local councils ☐
c) Corruption ☐ d) Poverty ☐ e) inadequate knowledge gap. ☐
f) Inadequate sensitization by government and non government agencies. ☐
g) Other (specify)

23(i). What do the land rights mean to you?

- a) Security of tenure ☐ b) Dignity ☐ c) Equity ☐
e) Equality ☐ d) others (specify).....

23(ii) Are land rights to women honored by your community?

a) Yes ☐ b) No ☐

23(iii) If yes how are these rights honored?

☐

- a) Protection of widows of their rights upon the death of the husband. ☐
- b) Opportunity and protection of the girl child ☐
- c) Women empowerment through presentation in land meetings ☐
- d) others (specify)

27. What are peoples' attitudes towards women land rights in this community?

- a) Respect ☐ b) Suspicion ☐ c) Envy and hate ☐
- d) Insecurity ☐ e) others (specify).....

24(i) Have women locally tried to protect their land rights?

- a) Yes ☐ b) No ☐

24(ii). if yes, how have they tried to protect their rights?

- a) Formation of associations to advocate for their rights ☐
- b) Networking by government and non-government agencies ☐
- c) Seek redress from local governmental and non -governmental agencies. ☐
- d) Other (specify).....

25. Have you participate in advocacy and judicial process in the protection of women whose land rights have been violated.

- a) Yes ☐ b) No ☐

If yes How?

- a) Through court ☐ b) Through a land office ☐
- c) Through radio talk show ☐ d) Other (specify).....

26(i). Is getting land a burden for women in your community?

- a) Yes ☐ b) No ☐

26(ii). if yes why?

- a) Poverty b) unwillingness for men to sell land for women ☐
- b) Clan bias ☐
- c) Commercialization of land leading to high cost buying. ☐
- d) Cultural customs that stigmatize women ownership of land ☐
- e) Limited understanding of land transactions. ☐
- f) Illiteracy amongst the women. ☐
- g) Any other (specify).....

27(i). Would you prefer to own land on equal terms with your partner?

- a) Yes ☐ b) No ☐

27(ii) If yes why?

- a) Security ☐ b) Trust ☐ c) Self esteem ☐

d) Sense of belong ☐ g) Others (specify) ☐ e) Mutual understanding ☐ f) family protection ☐

g) Others (specify)

27(iii) If no why?

a) Fear of being cheated ☐

b) Fear of denial in cases of separations ☐

c) Improper understanding of legal options on land ownership ☐

d) Others (specify)

28(i) Are the land institutions (offices) fair in their decision making structures and process for a true representation of the women especially the vulnerable e.g. Widows, married, unmarried orphans?

a) Yes ☐

b) No ☐

28(ii) If no. why

a) Perception of biases ☐ b) Corruption ☐

c) Inadequate funds to make fellow ups ☐ d) Bureaucratic layers in the systems. ☐

28(iii) If yes. Why

a) Fair judgment ☐ b) accessible ☐

c) confident in the processes they carry out ☐ d) transparency ☐

d) Others (specify)

29. Do you think the land use policy has done enough to protect women on land rights?

a) Yes ☐

b) No ☐

30. What would you propose for government to improve women's status towards land ownership in relation to their land rights?

a) Improve awareness within the community ☐

b) Enforceable mechanisms to protect women land rights ☐

c) Easy accessible judicial services to strengthen these rights ☐

d) Penalties on the criminals ☐

e) Others (specify)

31. Do think the existing local institutions have the necessary resources (financial and technical) to address women land rights?

a) Yes ☐

b) No ☐

If no, why?

i)

.....

.....

ii).....

.....

iii).....

.....

I appreciate your time and views accorded towards this research thank you.

Appendix II

Interview Questions

- 1.Does the Ugandan government have a gender policy for land allocation, if yes what does the policy address?
- 2.Do you think women have locally tried to protect their land rights and what kinds of land rights do they have?
- 3.What has the gender ministry done to promote women awareness / knowledge about the existing land rights and how are you supporting land rights?
- 4.Do you think the existing institutions are appropriately and adequately empowered to address women land rights?
- 5.To what extent are the existing institutions empowering women to address their land rights?
- 6.Do the land institutions (offices) considerate in their decision making structures and process, do they yield a true representation of the women especially the vulnerable e.g. Widows, female orphans?
- 7.Suggest what should be done to improve women's status towards land ownership in relation to their land right?

I appreciate your time and views accorded towards this research thank you.