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IFPRI Discussion Paper 01136

November 2011

Who Owns the Land?

Perspectives from Rural Ugandans and Implications for
Land Acquisitions

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PARTNERS AND CONTRIBUTORS

IFPRI gratefully acknowledges the generous unrestricted funding from Australia, Canada, China, Denmark, Finland, France, Germany, India, Ireland, Italy, Japan, the Netherlands, Norway, the Philippines, South Africa, Sweden, Switzerland, the United Kingdom, the United States, and the World Bank.

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ABSTRACT

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

Keywords: gender, landownership, land tenure, land acquisitions, property rights, Uganda

ACKNOWLEDGMENTS

This publication was made possible by support provided in part by the US Agency for International Development (USAID) Agreement No. EDH-A-00-06-0003-00 awarded to the Assets and Market Access Collaborative Research Support Program (AMA CRSP). We are grateful to our collaborators, Goretti Nabanoga, Justine Namaalwa, and Abby Sebina-Zziwa of Makerere University for their work on the project, and all that we have learned from them, and to the respondents who participated in this study. All views, interpretations, recommendations, and conclusions expressed in this paper are those of the authors and not necessarily those of the supporting or collaborating institutions.

1. INTRODUCTION

The sudden increase in global food prices in 2008 precipitated increased demand for agricultural land from countries dependent on food imports (notably Gulf countries, but also China and India); these countries began seeking to secure their food supplies without depending on fluctuating world markets. Along with growing European demands for biofuels and speculative demand from other investors, this has increased pressure on agricultural land, especially in Africa. A World Bank (2010) study found land deals that account for 46.6 million hectares (ha) reported in 203 projects in 81 countries, with 32.0 million ha in Sub-Saharan Africa; by July 2011, the International Land Coalition (2011) had verified more than 1,200 large-scale land transactions of more than 500 ha in rural areas of 96 countries, involving transformation of land use rights from communities and smallholders to commercial use.

The rapid growth of demand for agricultural land is putting pressure on property rights systems, particularly where the vast majority of land is under customary tenure. Prior research has indicated that customary tenure can provide sufficient tenure security to allow farmers to take a long-term interest and invest in their land (Bruce and Migot-Adholla 1994). Others, following the evolutionary theory of land rights, see property rights evolving toward more formalized systems due to increasing competition and demand within the system, and have argued that formal land rights allow collateralization of land and efficient credit markets to develop and increase security of tenure resulting in greater confidence by landowners in undertaking capital improvements leading to improved agricultural productivity and hence welfare (Demsetz 1967; Otsuka and Place, 2001; see Platteau 2008 for a critical review of this literature with regard to Africa).

However, much of this evolutionary theory is based on assumptions of relatively gradual, endogenous change. These assumptions do not hold for many of the changes that are taking place now: the pace is much more rapid, the scale of land deals is much larger, and demands are largely from outsiders and not from current land users. Even investors who are domestic, rather than foreigners, are usually not from the communities themselves. Moreover, large power imbalances exist between those seeking to acquire land now and the current landholders, which shape the nature and outcomes of any land deals. This calls for a reassessment of tenure security, especially under customary tenure systems.

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

The rapid increase in foreign and domestic investors' demand for agricultural land in recent years provides a different context and increases the urgency of considering how to make land tenure more secure for women (as well as men). Media attention and growing research focuses on large-scale land deals (often termed *land grabs* in the press; for example, see Cotula 2010; Cotula et al. 2009; Smaller and Mann 2009; von Braun and Meinzen-Dick 2009; Wiley 2010; World Bank 2010), which highlights that those with customary and common property are particularly susceptible to losing their land and livelihoods: in some places the state can claim *ownership* of the land and therefore negotiates with the potential investors, in some cases without even consulting local land users and customary rights-holders. Even if these deals are considered legal under national law, they are often not considered socially legitimate if the key stakeholders, especially customary landholders, were not consulted or did not agree.

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

This paper presents findings from a detailed study of the gendered nature of land tenure in Uganda, using three districts with different tenure systems and pressures on land. Although none of the study sites has been a direct target of large-scale investors, the study shows the range of rights that men and women can claim and how a simplistic focus on who holds the title to the land can miss much of the reality regarding land tenure. Section 2 presents a review of key concepts related to land tenure that are important for understanding men's and women's tenure security; then Section 3 reviews the types of land tenure and women's rights to land as formally recognized by the state in Uganda. This is followed by a discussion of the methodology and study sites in Section 4 and a brief review of pressures for land acquisitions in Section 5. Then Section 6 presents the understanding of property rights by men and women in these communities. We conclude in Section 7 with implications of our study for policy on land-based investments in Sub-Saharan Africa.

2. KEY CONCEPTS FOR UNDERSTANDING LAND RIGHTS

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

Thus, it is critical to examine not only household-level property rights but also the distribution of property rights within the household. In many parts of the world, especially in Africa, women obtain access to land through men—fathers, husbands, or sons—and are not recognized as landholders in their own right. This makes them vulnerable to losing their access to land if their husband leaves, remarries, or dies. Women's lack of landownership and tenure security feeds into a cycle where women are not viewed as real farmers. This perception limits their access to agricultural services, including credit, extension, and other inputs. The result can be an endless cycle whereby women are not given land because the farming women do is seen as less productive, and their farming is less productive because they have less access to land and other inputs (Deere and Doss 2006). Women's land rights have been found to be positively correlated with both net farm income and off-farm income (Deere et al. 2005), higher rates of autonomous decisionmaking (Mardon 2005), and higher shares of expenditure on food (Doss 2006). Finally, ownership of assets, particularly land, may reduce women's vulnerability to AIDS (Strickland 2004).

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

- *Access*: the right to be on the land, such as the right to walk across a field¹
- *Withdrawal*: the right to take something from the land, such as water, firewood, or produce
- *Management*: the right to change the land in some way, such as to plant crops or trees, clear brush, or make improvements to the land
- *Exclusion*: the right to prevent others from using the land
- *Alienation*: the right to transfer land to others through rental, bequest, or sale

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

Migot-Adholla and Bruce (1994) define land tenure security as a perception of having the right to a piece of land on a continuous basis, free from imposition or interference from outside sources, as well as

¹ This definition of *access* differs from the common discourse on land rights for women, which often implies some set of (unspecified) rights that are less than full ownership (Bruce 1993), although it usually includes some decisionmaking power over production process, products, and use of that land.

the ability to reap the benefits of labor and capital invested in that land, either in use or upon transfer to another holder. Place, Roth, and Hazell (1994) identify three key components of tenure security:

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

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

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

3. LAND TENURE AND WOMEN'S PROPERTY RIGHTS IN UGANDA

In Uganda, according to the 1995 Constitution and the 1998 Land Act, land is managed under four basic land tenure regimes: customary, *mailo*, freehold, and leasehold. These regimes confer different land rights to the owners and therefore have different implications on security of tenure. A fifth tenure system applies to public lands.

Customary Tenure

The most common tenure system in Uganda is customary tenure, which the Land Act recognizes as governed by customs, rules, and regulations of the community (Uganda, Ministry of Lands, Housing and Urban Development 1998). In this system, landholders do not have a formal title to the land they use, although Article 237(4a) of the 1995 Uganda Constitution stipulates that all Ugandan citizens owning land under customary tenure may acquire certificates of ownership in a manner prescribed by Parliament. More than 80 percent of the land in Uganda is held under unregistered customary tenure. Despite the lack of registration, customary tenure is recognized by the state (Article 237(1) of the 1995 Constitution of Uganda).

Mailo Tenure

Established in 1900 by the British colonial government to reward colonial agents who advanced British interests with large estates of land, *mailo* tenure is a quasi-freehold tenure system found in the Central region and parts of central Western Uganda. *Mailo* ownership rights are well recognized by the state (Article 237(1) of the 1995 Constitution of Uganda). An important feature of *mailo* systems is that much of the land is used under a *kibanja* tenancy system (peasant tenancy), which may or may not be documented with *kibanja* certificates. Tenants do not hold full ownership rights; they must pay rent to the *mailo* owner (Busuulu and Envujjo law of 1927) and face some restrictions on what they can do on the land. However, reforms under the Land Act Amendment (Uganda, Ministry of Lands, Housing and Urban Development 2010) have strengthened tenants' rights by limiting the rent they must pay to a nominal amount and have made it more difficult for *mailo* owners to evict the tenants. The *kibanja* tenants have rights indefinitely.

Freehold Tenure

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

Leasehold Tenure

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

Public Tenure

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

Women's Property Rights in Uganda

Uganda's constitution provides that all land in Uganda is owned by the people of Uganda, not by the Ugandan State (Uganda, Ministry of Constitutional Affairs 1995). In the context of defining who owns land, Uganda's land laws, 1995 Constitution, and 1998 Land Act have enshrined legal pluralism by recognizing the customary land tenure system. When conflict arises between customary and statutory laws with regard to landownership, the Constitution mandates that state law prevails. However, this stipulation is often unheeded, resulting in the continuation of ownership conflicts.

Overlaid on these officially recognized forms of tenure are the provisions of statutory and customary law that directly affect women's property rights. Uganda's 1995 Constitution prohibits discrimination based on gender and accords men and women the same status and rights. In addition to the guarantee of property rights without bias to gender or marital status, the Ugandan Constitution also decrees equal land rights for men and women during a marriage and at its dissolution. Under Article 32(1), the State is enjoined to take affirmative action in favor of marginalized groups on the basis of gender or other reason created by history, tradition or custom, for the purpose of redressing existing imbalances. However, as noted above, customary law is also recognized with regard to land rights and usually accords women fewer rights to land.

The laws relating to land do not expressly discriminate between men and women regarding the right to own land. Section 3 of the Registration of Titles Act 24 recognizes the right to own landed property by any person as long as it is lawfully in his or her name. The section specifically disclaims any intentions to limit or abridge any laws relating to the property of married woman. The laws governing marriage, divorce or succession do not specifically mention land rights but always refer to 'property rights.' A provision requiring co-ownership of land by husbands and wives was proposed for but not included in the final version of the 1998 Land Act. Thus, equal land rights during marriage do not necessarily constitute joint ownership of land. The Land Act does contain a clause that requires spousal consent before selling land that was acquired during marriage, but this law has been difficult to enforce in Uganda (ILC 2008).

Although women have the legal right to own and inherit land, in practice, their access to land continues to be limited by cultural norms, particularly in rural areas. Rather than being landowners in their own right, women typically access land through male relatives, usually their husbands or sons. Only a few women have been able to purchase land individually. Women's limited income-generating activities are one reason that they are unable to purchase land (Rugadya 2007). Yet, even when women can accumulate the financial resources to purchase land, social norms discourage it. Many husbands expect that women acquire land individually only when they are preparing to leave the marriage (Bikaako and Ssenkumba 2003).

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

4. STUDY METHODOLOGY AND DATA

This paper is part of a larger project on women's access to land and other assets (see Doss et al. 2007). In Uganda, both quantitative and qualitative data were collected in a total of 11 communities in three districts. Initially, focus groups and key informant interviews provided information on the assets held by men and women in these communities and the patterns of acquisition and social norms around asset ownership and inheritance.

The second phase was a household and intrahousehold survey. A total of 770 individuals in 381 households were interviewed in the three districts, Kapchorwa, Kibale, and Luwero. In each district, four villages were chosen to ensure that we had the various land tenure systems represented.² Households were chosen randomly from the villages. We interviewed up to three adults in each household. These adults include male and female household head (if both are present) and one or two other adults, including adult children, parents, or siblings of the heads.

In each household, one member was asked about all of the household assets including land, dwellings, livestock, agricultural equipment and consumer durables, businesses, and financial assets. Sixty percent of these primary respondents were women. For land, this primary respondent was asked to list all of the parcels of land owned or farmed by anyone in the household. This respondent was then asked to identify the owners of each parcel of land. There was provision for them to list multiple owners and to identify them as household members or individuals outside of their household. This is the only place in the survey where the term *owner* was used in the context of land. We then asked numerous questions to identify the various components of ownership. The primary respondent was asked about the uses of each plot and about who makes a set of decisions, including who decides what to grow, what inputs to use, whether to sell the output, and who keeps the revenue from the sales of any of the crops. A final question is whether there is an ownership document for the plot, and if so, the type of document and whose names are listed on the document. For all of these questions, multiple individuals could be listed, including both those within and those outside the household.

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

The basic descriptive data on the respondents is in Table 4.1. The average age for male respondents was 40 years and for female respondents, 38 years. The majority of respondents were either married or in a consensual union. Customary marriages were most prevalent in Kapchorwa district. More women than men reported themselves as being widowed or divorced.

² One sample community in Kapchorwa district had to be dropped because of serious land conflicts, as discussed below.

Table 4.1—Descriptive statistics of study districts

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

Source: Uganda Gendered Access to Assets Survey, 2009.

One district was chosen in each of the Eastern, Western, and Central regions of Uganda.³ The districts were chosen to represent the different land tenure systems of the region.

Situated on the slopes of Mt. Elgon in the Eastern region of Uganda, Kapchorwa district is characterized by a mountainous terrain. One-third of the area is public land that comprises Mt. Elgon National Park (National Environmental Management Authority 2008a). Approximately 97 percent of the arable land outside the park is under customary tenure. With high levels of population density, conflict over the public areas is frequent. Some groups that had been encroaching on the park reserve have been resettled in an area that was converted from public to private use (see the explanation of *degazetting* in Section 5) to address land shortages. One of the communities that we had planned to survey had to be dropped because they were in the midst of conflict with the government over land issues.

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

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

³ The Northern region was not included due to the insecurity at the time of the survey.

5. LAND ACQUISITIONS IN UGANDA

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

While these conflicts involve issues that plague government-owned land, other forms of land tenure are also facing pressure from both within and outside communities. With the development of land markets, the economic value of land has increased. Under *mailo* tenure, tensions are growing between the landlords and tenants (Rugadya 2009). As pasture lands with better soils and access to water have become individualized, pastoralists find themselves pushed onto marginal, more arid areas. This individualization of landownership has threatened the right of access to common grazing land and water and the livelihoods of agropastoral communities.

These pressures are reflected in the results of our qualitative work: when asked in the focus groups whether they faced threats to or pressure on their land, all but 2 of the communities reported that they faced internal pressure on their land, while 5 of the 11 communities reported facing external pressure. Growing tensions between landlords and tenants, ethno-political conflict, government displacements, improved land markets, and clan or family conflicts were identified as key factors associated with the pressures on land. In these contexts of growing internal and external pressures, it becomes all the more important to understand existing concepts of property rights over land, which we turn to in the next section.

6. WHO OWNS THE LAND? PERSPECTIVES FROM THE LOCAL LEVEL

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

Table 6.1 shows the distribution of owners of plots by the form of ownership. The 381 households reported that they owned a total of 505 plots of land. The first row is based on the answer to the question asked of the primary respondent “Who are the owners of this parcel?” It does not define owners for the respondent. In the second row, all plots of land that the respondent indicated have any type of ownership document are included.⁴ The owners are defined as those whose names are on the documents. And the final row includes the 22 plots for which the ownership document is a registered deed.

Table 6.1—Distribution of plots, by form of ownership

	Male only	Female only	Principle couple	Other joint within household	Joint outside household	N=
Agricultural land	129	92	265	8	11	505
Agricultural land w/ documents	240	64	23	4	7	330
Agricultural land w/ registered deed	17	3	0	0	2	22

Source: Uganda Gendered Access to Assets Survey, 2009.

The first point to note is the dramatically different picture that emerges, depending on whether the meaning of *ownership* is defined by local interpretation, documented rights, or legally recognized registered deeds. Only 65 percent of the plots that people reported as “owning” had any form of documentation, including wills, sales invoices, agreements, and unregistered deeds. Only 22 plots (4 percent) had registered deeds.

The number of households in which respondents reported that the husband and wife own the land jointly is noteworthy, especially considering that neither the Land Act nor family law requires joint ownership of land between husbands and wives and that the customary systems typically have provided only men with land. And joint ownership is not reported only by women: of the female primary respondents, 46 percent reported that they own land jointly with their spouse, while 53 percent of the male primary respondents did so.

Yet, while more than half of the plots are reported as jointly owned by husband and wife, much less common is for the wife’s name to be recorded on any of the landownership documents. Furthermore, none of the registered deeds were in the name of both husband and wife. Thus, while there is a common understanding of joint ownership in many cases, there is no formal (registered) documentation to back it up.

Despite the lack of documentation of land rights, the majority of our respondents felt reasonably secure in their land rights. As noted in Table 6.2, 88 percent of all respondents reported that they expect to still have access to the land they are currently using in five years. Moreover, women reported similar levels of security as men.

⁴ This is based on self-reporting; enumerators did not ask to see the documents.

Table 6.2—Gendered perceptions of security of tenure

District	Men (%)	Women (%)
Kapchorwa	92	83
Kibale	91	92
Luwero	86	87
Total	90	87

Source: Uganda Gendered Access to Assets Survey, 2009.

Notes: Percentage of respondents who expect to have access to their land in five years.

What, then, does ownership mean? And who should be considered owners? In the following tables we use individual respondents as the unit of analysis. We compare the reported ownership with three different definitions of ownership based on (1) whether or not there are documents for the land, (2) alienation rights, and (3) decisionmaking over the land. Because the unit of analysis is the respondent, when respondents have rights over multiple parcels of land, we count whether or not they have a particular right on any of their parcels. Thus, if a woman owns two parcels and says that she has the right to sell one but not the other, we report that she has the right to sell a plot of land. Because the tenure arrangements differ across districts in Uganda, we have reported these by district as well as the overall incidence.

Table 6.3 shows the incidence of reported landownership as well as the incidence of names included on any ownership document and a registered deed.⁵ Each column is the percentage of respondents, by gender and district, who would be considered owners using that definition. Overall, the incidence of ownership is higher for men than for women. Sixty-nine percent of the male respondents were listed as owners of at least one parcel of land, while only 57 percent of the female respondents were so listed. This measure of locally understood ownership is important because we would expect that many of the benefits and behaviors related to ownership are based on this definition. As noted above, when the plots were the units of analysis, the gender gap is much larger when we consider documented ownership. While overall 52 percent of men were listed on an ownership document for land, only 18 percent of the women were. And only 10 of the 770 individuals interviewed had their name listed on a registered deed. Of these, 4 were women and 6 were men.

Table 6.3—Incidence of ownership, by gender and definition of ownership (percent of respondents in each category)

	N	Reported owner	Any document in own name	Registered deed in own name
Kapchorwa men	113	80	59	03
Kapchorwa women	125	69	20	01
Kibale men	122	67	57	03
Kibale women	149	60	22	00
Luwero men	111	61	39	00
Luwero women	150	49	17	03
Total	770	63	34	01
Total men	346	69	52	01
Total women	424	58	20	01

Source: Uganda Gendered Access to Assets Survey, 2009.

⁵ Note that due to the survey design, these incidences are not representative for men and women overall in the Ugandan population. They are the incidence within our respondents, who include both household heads and other adult members of the household. The data are appropriate to compare the various bundles of rights across these individuals.

Table 6.4 compares the incidence of reported ownership with several different alienation rights. The rights of alienation are presented in two ways. The first is whether the individual claims to have the particular right of alienation at all, and the second is whether the respondent has that right individually, without consultation or asking permission. Across all three rights of alienation—the right to sell, bequeath, or rent out—men are significantly more likely to have rights than are women.

Table 6.4—Incidence of reported ownership and rights over land (percent of respondents in each category)

	N =	Reported owner	Has right to					
			Sell any plot	Sell any plot alone	Bequeath any plot	Bequeath any plot alone	Rent out any plot	Rent out any plot alone
Kapchorwa men	113	80	57	2	64	3	57	4
Kapchorwa women	125	69	42	2	42	2	42	3
Kibale men	122	67	39	4	47	5	45	3
Kibale women	149	60	19	4	19	5	28	6
Luwero men	111	61	28	5	38	18	33	7
Luwero women	150	49	15	5	16	9	20	6
Total	770	63	32	4	36	7	36	5
Total men	346	69	41	4	49	8	45	5
Total women	424	58	25	4	25	5	29	5

Source: Uganda Gendered Access to Assets Survey, 2009.

The question about whether the individual has the right to sell the plot confounds several pieces of information: whether social norms allow sale of the plot, whether the individual has the right to sell it, and whether there is a market for that piece of land. However, even plots that cannot be sold can usually be passed on to the next generation, so the issue of whether the respondent can bequeath the land does not face this same concern.

Overall, only 4 percent of respondents claimed that they could individually sell any of their household plots of land. A slightly higher proportion reported that they could individually bequeath land, but this is driven primarily by the male respondents in Luwero. However, the dramatic drop in proportion of respondents between those who report that they have alienation rights and those who report that they alone have alienation rights over the land shows that land rights are not highly individualized, as associated with Western notions of ownership, but rather are socially embedded, with spouses and other family or community members having some decisionmaking rights.

Much more gender equality exists in the management rights than the alienation rights (see Table 6.5). There is no statistically significant difference in the proportion of women and the proportion of men who are reported as making these decisions. This reflects women's high level of involvement in agriculture.

Table 6.5—Incidence of reported ownership and agricultural decisionmaking (percent of respondents in each category)

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

Source: Uganda Gendered Access to Assets Survey, 2009.

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

7. CONCLUSIONS AND POLICY IMPLICATIONS

The data presented in this study demonstrate that local understandings of gendered landownership are considerably more complex than externally imposed definitions, especially those based on titles. Both men and women report a relatively high degree of joint ownership of land, even though women's names are rarely on the documents and women may lose rights to land if their marriage dissolves. Women do have recognized use and decisionmaking rights to land; very few respondents, men or women, report having independent decisionmaking rights to land. Thus, ownership is not associated with full rights to do anything one wants to with the land, or to act independently regarding land decisions, as Westerners might associate with freehold. Yet our respondents perceived themselves as relatively secure in their land rights, and most expected to have access to the same plots of land in five years.

However, as we probe further on particular bundles of rights, we see that women have fewer recognized decisionmaking rights than men, especially for alienation (to sell, bequeath, or rent land). And if we consider documented rights, the gender gap becomes even more apparent. Whereas 69 percent of men and 57 percent of women report owning land, the proportion of having any documents showing land rights in their own name falls to 52 percent for men and only 18 percent for women. If we further consider registered deeds in their own name, it falls to only 2 percent of men and 1 percent of women.

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

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

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