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Eastern African Sub-Regional Support Initiative for the Advancement of Women (EASSI)

Documenting Women's Experiences in Access, Ownership and Control over Land, in Eastern African Sub-Region

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A Draft Study Report for:

- Ethiopia
- Eritrea
- Kenya
- Tanzania
- Uganda

August 2001

A note to our Readers:

This is a draft report that is still being worked on. Some of the information here may change in presentation and more information may be added from the conference.

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1.0 INTRODUCTION

The Eastern African Sub-Regional Support Initiative for the Advancement of Women is a mechanism established to facilitate follow-up of the implementation of the Global and African Platforms for Action (PFAs) within Eastern Africa. The Initiative was formed in 1996 at a post Beijing Forum held in Kampala, Uganda. The Initiative covers eight Eastern African countries of Burundi, Eritrea, Ethiopia, Kenya, Rwanda, Somalia, Tanzania and Uganda. EASSI is a collaborative effort between NGOs, representatives from Government agencies and Individuals committed to the advancement of women.

EASSI's Vision is to transforming society to where both men and Women realise their full potential through the enhancement of gender equality, advancement of women, and social justice, within Eastern Africa and beyond.

This study, documenting women's experiences in access, ownership and control over land is another milestone in our programme of supporting the empowerment of women through increased access and ownership of one of the most important economic resource - Land

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1.1 Number and characteristics of beneficiaries

The study is expected to benefit mainly poor women in the sub-region through increased access to and ownership of land. Access to land and control of land are some of the factors affecting women's economic emancipation. Land is so critical to the development of the East African nations, yet women posses very little of it. In the Eastern African Sub-region, women are still marginalised and their quality of life is not really improving. This marginalisation is linked to their level of poverty and the biggest snag to development is the mismanagement of resources. While it is believed that peasant's own land, in most cases that ownership is limited exclusively to men, thus limiting women's control over all land issues. This has of course adversely affected women's struggle for their economic emancipation.

Women's rights to land in the Eastern African Sub-region, whether of ownership, control or use are established by indigenous local tenure practices, laws or by particular agricultural projects. Women acquire their rights to land through inheritance, gifts, labour, and use over a period of time, squatters, state grants or membership in community. Regardless of the mode of acquisition, women's rights in the Eastern Africa Sub-region on the whole remain tenuous at best, since such rights derive mainly from their male relatives and spouses.

As a result of decreasing agricultural land, pressure to increase cash crops has decreased the amount of land available and the shortage has affected the rights of men and women to land in different ways. The situation has been exacerbated by privatization and the market, which have specifically impacted the poor's access to land. The majority of the poor who are women, have been

unable to participate fully in the market system because of little or no education biases in the market, low monetary income, little capital, low social status and little political power. Many women have lost the few rights to land they had under customary tenure. It is evident that introduction of land tenure has generally promoted gender inequality in land rights.

Table 1: ownership of land by gender

	Population size			
	Total (millions)	% of Male	% of Females	% of women owning land
Kenya	28.7	49	51	-
Tanzania	-	-	-	-
Eritrea	3.5 m	50	50	7.5
Uganda	22m	49	51	7
Ethiopia	63 m	50	50	10

Key :

- indicates no data available

The statistics above clearly indicates the disadvantaged position of women in the Sub-region. If number of women owning land and benefit from it then some intervention has to be made. In light of this the EASSI intends to launch a lobby and advocacy drive in the sub-region to address this need. However, in order to be able to cause impact, there is a need to provide factual information the lobby and advocacy. Capturing women's realities, their "voices" is very essential. However in the process of data collection and information gathering, awareness was being created among both women and men to address this need. Community action was also encouraged and already some discussions held with opinion leaders, and local authorities to address the inequalities related to women's ownership of land.

In order to generate discussions and cause positive changes in attitude, cultural practices that hinder women's access and ownership of land and also the negative legal instruments, the country researchers held sensitization sessions while collecting data. The initial results from the researchers indicate that the persons reached have already began discussions and causing changes within their jurisdiction to try ands alleviate the situation of women. The persons so far reached in each of the countries and have benefited from this initial part of the study, is summarized and presented in table 2 below.

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Table 2: Data Collection Profile

Country	Location/ Community	Data collection method	Number and sex of Respondents	Category of respondents
Eritrea	1. Debaub Region 2. Ali-Ghider - in Western part of Eritrea 3. National Workshop	◆ 10 Focus group discussions	i. Females 150 ii. Males 140	Community leaders, rural women and men, farmers
		◆ 2 Community workshops	i. Females 40 ii. Males 30	Opinion leaders in the communities, rural women and men, Regional Administrative Heads
		◆ Key informant interviews	i. Females 10 ii. Males 6	Political leaders/ Ministers, Heads of department, Lawyers, Leaders of women's women and Youth groups.
		◆ In-depth interviews	i. Females 10 ii. Males 2	Women in both urban and rural areas located in the two locations
		◆ National Workshop	i. Female 30 ii. Male: 25	
Ethiopia	1. Oromiya Regional state 2. Tigray Regional state	◆ 6 Focus group discussions	i. Females 60 ii. Males 40	Both rural and urban women and men.
		◆ 2 Community workshops	i. Females 25 ii. Males 30	Regional administrative heads, opinion leaders, rural women and men engaged in agriculture,
		◆ Key informant interviews	i. Female 26 ii. Males 20	Government Ministers, Heads of Departments, Senior Academic Researchers, lawyers, Women in leadership and decision making, and other key stake holders at regional level.

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		◆ In-depth interviews	i. Female 15 ii. Males -	Women who own land and others access land through their spouses and those without land.
Kenya	1. Kiambu District in Central Province 2. Machakos District in Eastern Province	◆ 10 Focus group discussions	i. Female 185 ii. Males 105	Men and women of the rural communities.
		◆ 2 Community workshops	i. Females 60 ii. Males 50	Women groups, opinion leaders Chiefs, and local administration officials.
		◆ In-depth interviews	i. Females 120 ii. Males 70	Both women and men in the rural communities, engaged in agriculture and other land development related activities.
		◆ Key informant interviews	i. Females 2 ii. Males 10	The clergy, District leadership, Land board members, Lawyers, leaders of women's groups and other opinion leaders
Tanzania		◆ 6 Focus group discussions		
		◆ Community workshops		
		◆ Key informant interviews		
Uganda		◆ 6 Focus group discussions	i. Female 119 ii. Males 109	Rural community members, opinion leaders, Local council leaders, religious leaders, NGOs and CBOs.
		◆ Community workshops	- Not yet held	
		◆ Key informant interviews	i. Females 7 ii. Males 8	Policy makers, Senior academic researchers, Local government officials, Politicians and NGOs working in the area of lobby and advocacy on land issues.

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The people who were sensitized are also expected to sensitized the rest of the key stakeholders through different for a, so that by the time of the national workshops wide discussions will have already began and various groups encouraged to include this within their lobby and advocacy agenda.

1.2 Geographic Location and where the programme was executed

The study was conducted in five countries in the Sub-region, namely, Kenya, Tanzania, Eritrea. Ethiopia and Uganda. EASSI Secretariat located in Uganda coordinated and ensured proper implementation of the project. The study focused on a sample of communities in each country and targeted policy makers at the national level and other key stakeholders.

1.3 Major objective / purpose of the programme

The objectives of the study were;

- To identify systemic constrains that prohibit women from owning land
- To analyse the implications of women's limited access to and control over land on food security in the Sub-region;
- To assess the extent to which women's limited access and ownership and control over land affects the national economies of the countries concerned;
- To identify and highlight any initiatives taken in different countries to increase women's access to and control over land;
- To generate new information and proposals for increasing opportunities for women to own land.

1.4 Rate of Physical performance compared to planned target

During the preparations for this study an orientation workshop was conducted to ensure that all country researches get to understand the conceptual framework and research methodology. After the training researchers developed individual country proposals work began at country level. Monitoring and supervisory meetings were conducted by both the secretariat and the Principle Researcher.

1.4.1 Orientation workshop

The orientation workshop for senior researchers selected from the six countries for the study, was held from 27- 29th July 2000 in Kampala. The orientation provided the researchers with an overview of the study problem and an understanding of the research methodology and conceptual framework. The workshop was attended by twelve participants and these included, six selected country researchers attended the workshop together with the Principle Researcher and the EASSI secretariat staff. At the end of the workshop the participants developed individual country proposals and detailed work plans.

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1.4.2 Training of Research assistants

After getting oriented to the study, Senior Researcher selected and trained assistants to assist in data collection and information gathering at the community level. Training of research assistants was important so as to ensure that information and data collection is done using the agreed research methodology.

Training of research assistants was done at country level mainly during the month of August. It was not possible to conduct this training in July due to logistical reasons. Funds had to be transferred to the country researches based on approval of their proposals. In some countries like Ethiopian, training coincided with local elections, so training happened in October.

Table 3
Number of Research assistants trained

	Men	Women	Total
Eritrea	3	3	6
Ethiopia	4	4	8
Kenya	2	7	9
Tanzania	-	-	-
Uganda	-	2	2
Total	**9**	**14**	**25**

1.5 Field research in six countries

Field research commenced in October 2000, in five countries. These were Uganda, Kenya, Tanzania, Ethiopia and Eritrea.

1.6 Monitoring and Supervisory visits

As mentioned earlier, monitoring visits were conducted to the countries by both the secretariat and the Principle researcher. During the visits, discussions were held with the individual researchers and some key stakeholders to assess progress of the study. Particular attention was made to examine the use of the African Feminist and participatory research techniques with the aim of providing technical backstopping to the researchers. Based on the assessment made in the field, the study is being conducted well and progress was registered. Already some impact was being felt in the communities visited by the researchers and their assistants.

Key stakeholders in most of the countries showed interest in the study giving the indication that this is a pertinent issue in the individual countries. For example in Kenya, discussions of issues related to women's land rights are occupying most of the national discussions.

Eritrea has a lot to offer the sub-region in form of best practice. Allocation of land is usually based on need and it is equitably allocated to both women and men, by law, although the researcher identified that there were a few cases of cultural

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bias against women. However, it should be noted that despite availability of vast land in Eritrea, farmland is very limited and only available in few locations in the country. It is therefore unlikely that the majority of women in Eritrea will require land to achieve food security. Government proposes to have a free trade zone strategy to address the problem of poverty. In line with this there is a need to identify possible interventions for the Eritrea women to achieve food sufficiency and alleviate poverty.

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ACKNOWLEDGENTS

The Africa Development Bank (ADB) gave this study the initial financial support. The women of Eastern Africa are deeply indebted to ADB for this very support and for the commitment towards addressing women's concerns in development.

We thank all the women who freely gave their testimonies and the men who openly come out to testify the need to address women's concern in land ownership and control for the eradication of poverty and increased food security in our region.

Our deep appreciation goes to various institutions for their inputs towards the way forward and indeed the strategies to be adopted in addressing the problems identified.

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Report on

Women and Land Rights in Ethiopia: A Comparative Study of Two Communities in Tigray and Oromiya Regional States

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August 2001
Addis Ababa

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Abbreviations

AAU	Addis Ababa University
ADLI	Agricultural Development Led Industrialization
BOA	Bureau of Agriculture
BOPED	Bureau of Planning and Economic Development
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CERTWID	Center for Research and Training on Women In Development
CSA	Central Statistical Authority
EASSI	Eastern African Sub-regional Support Initiative
FDRE	Federal Democratic Republic of Ethiopia
FGDs	Focus Group Discussions
EPRDF	Ethiopian People's Revolutionary Democratic Front
FHHS	Female-Headed Households
GDP	Gross Domestic Product
IDR	Institute of Development Research
IGAs	Income Generating Activities
MOA	Ministry of Agriculture
NGOs	Non-Governmental Organizations
PA	Peasants Association
PDRE	People's Democratic Republic of Ethiopia
PMGE	Provisional Military Government of Ethiopia
PMO	Prime Minister's Office
PRA	Participatory Rural Appraisal
TGE	Transitional Government of Ethiopia
TOR	Terms of Reference
TPLF	Tigray People's Liberation Front
WAD	Women's Affairs Department
WAO	Women's Affairs Office
WAT	Women's Association of Tigray
WB	World Bank

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Executive Summary

This study examines the status of women in two rural communities in Ethiopia with particular reference to their rights to land. The study covers two contrasting communities: Lim'at PA in Degua Tembien Woreda, Central Zone of Tigray Regional State, and Hatie Andodie PA of Hitossa Woreda, Arsi Zone in Oromiya Regional State. The two areas were chosen because whereas in Tigray women were given independent land rights, in Oromiya women's access to land is mediated through their husbands except in those cases where they are registered as household heads in Peasant Associations.

Land tenure in Ethiopia has impacted on the lives of rural women. The land tenure system under the feudal era was based on tenant-landlord relations. This system totally denied women's independent rights to land. Although the Derg's land reform was relatively progressive, in practice it marginalized women's independent rights to land. Currently, despite the fact that the present Federal Government of Ethiopia has put in place gender sensitive policies and proclamations, the problem that remains is that of slow implementation and dissemination of the contents of these policies to the public.

As a result of the land reform implemented in Tigray during the liberation struggle waged by the TPLF from 1974 – 1991, women got land and participated in the distribution mechanisms on equal footing with their male counterparts. As a result of this more progressive land redistribution process, women in Tigray have been able to exercise their constitutional right to access to resources and to improve, to a large extent, their living conditions. They have greater security and self-confidence within the household and community. By contrast, women in Oromiya who are in male-headed households do not access land in their own right and, at divorce, they not

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only lose their right of access to land, but are also forced to leave their marital areas and return to their places of birth.

A closer situational analysis of the two study areas reveals that while in Tigray, land is highly degraded and the region experiences recurrent food deficit and drought, Oromiya is an area with a high potential for agricultural production and often registers surplus production. The Tigray Regional State has enacted a land law that complies with the requirements of the Federal Government. In addition, there is greater awareness among women and men in Tigray on access to land as a human right issue. By contrast, the majority of women in Oromiya Region not only have no independent rights over land, they also lack awareness about their constitutional right of access to land. In addition, this region has not yet aligned its land law to the Federal Land Administration Proclamation despite the mandate it has as a regional government. Women in both Tigray and Oromiya, particularly female heads of households, suffer due to lack of complementary resources such as labor, oxen, and credit. This has led to greater vulnerability of such households to food insecurity and poverty.

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The study makes the following conclusions and recommendations:

- Participation of women and men in all land-related issues and processes is essential for winning their commitment to achieving land rights;
- There is need for intensive awareness raising programs to sensitize the public on the need for women's land rights;
- Accessing land alone cannot overcome food insecurity and eradicate poverty, additional effort needs to be made to avail women farmers with resources such as farm in-puts, credit services, and labor or draught power;
- There is need to support women farmers to engage in off-farm activities to augment household income;
- Women farmers need skills training for them to overcome illiteracy and be able to undertake and manage off-farm activities;

- In order to overcome deep-rooted patriarchal systems coordinated gender sensitization efforts need to be undertaken to bring about the necessary attitudinal change in society;
- The Oromiya Regional government needs to resolve the women's land rights problems highlighted in this study;
- The Federal Government of Ethiopia needs to effectively monitor the implementation of its policies and proclamations to ensure that the objectives set out in these documents are realized
- The federal government also needs to support the national efforts for population control in order to ease the current pressure on land.

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1.0 BACKGROUND

Ethiopia is a country located in the horn of Africa with an area of 1,112,000 sq. kms. The estimated population for 2000 was 63,494,702[1] with an annual population growth rate of 2.6%, which is the highest in Sub-Saharan Africa. 85 per cent of the population in Ethiopia lives in rural areas. Agriculture is the mainstay of the country's economy providing 75% of raw materials to manufacturing industries, 50% of GDP and accounting for 90% of export products. Coffee alone accounts for 60% of the country's exports.

Land is a very vital resource and source of livelihood for the majority of people in Ethiopia. There are said to be 11,018, 750 landholders in the country with the total area of land cultivated estimated at 10,719,890 hectares. The average land holding per person is 0.97 hectare[2]. Smallholder agriculture is the main mode of agricultural production responsible for not only foreign exchange earnings and government revenue but also more than 95% of food production. The sector is, however, characterized by prevalence of outdated tools or technologies.

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The tenure system in Ethiopia has been characterized by numerous reforms. The land relations that prevailed in pre-revolutionary Ethiopia were both feudal and patriarchal, mediated through heredity and proximity to the crown or church. Various land holding systems existed in the different regions in the country. For instance, in the North, both the *rist,* (hereditary land rights) and *gult,* (land grants by the crown) existed, whereas in other parts of the country, only the *gult* existed.

The Derg regime, which overthrew the monarchy in 1974, nationalized all rural land and distributed it to the peasants in line with its socialist orientation and the then popular slogan of "land to the tiller". In principle, these reforms were attractive as they put an end to the exploitation of peasants by absentee landlords and seemed gender sensitive. However, women's right of access to

[1] CSA projection for July 2000 .....

land were distorted in the process of implementation. Inappropriate implementation of the land reform increased gender-based disparity in access to land that negatively affected the majority of women.

At the same time that the Derg was implementing its land reforms (1974 – 1991), the TPLF was implementing land reforms in Tigray, the area they were occupying during the liberation war. The EPRDF, an amalgamation of several political parties including the TPLF, also distributed land in the liberated areas of Amhara before the final overthrow of the Derg regime. Women who received land as a result of these various land distribution processes have been enjoying their right of access to land as a productive resource. The Federal Government of Ethiopia (TGE) established in 1995 incorporated land policy in the Constitution and later on issued a proclamation on land utilization and administration. In line with Constitutional provisions, regional governments have been empowered to enact their own land reform laws relevant to their regional socio-economic conditions. The TGE had earlier on put in place a women's policy which guarantees women's rights in all spheres and structures.

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Women in Ethiopia constitute half of the country's population and the majority of them live in rural areas. Despite this, most of them lack independent access to production resources, particularly land. As elsewhere in Africa, women's contribution to agricultural production and household food security is very significant though not valued in economic terms. Age-long patriarchal beliefs and practices in society have disadvantaged women in the socio-economic and political spheres trapping women in poverty. The majority of women in Ethiopia are illiterate and lack marketable skills. They also have no access to credit and adequate social services. Women and their children have also been more vulnerable to transitory poverty brought about by human-made and natural calamities.

[2] CSA 1999/2000 Land Utilization Survey.....

45 per cent of the population in Ethiopia lives in absolute poverty[3]. The 1995/96 Household Income, Consumption and Expenditure survey conducted by the Central Statistics Authority (CSA), noted that the annual per capita income at country level was 182.35 US Dollars while that of rural areas was 173.94 US Dollars. Although there is no gender disaggregated data, the majority of the poor people in the country are believed to be women, particularly Female-Headed Households (FHHs). 22.5% of households country-wide are female headed, while in the rural and urban areas 20% and 37.6% are female headed[4].

In recent years, the deepening poverty among women worldwide has been raising great concern nationally, regionally as well as globally. The *African* and *Beijing Platforms for Action*, identified a number of critical areas of concern for raising the status of women. The *African Platform for Action* specifically identifies the issue of *women, poverty insufficient food security and lack of economic empowerment*.

Some of the actions proposed to be undertaken to address this issue include:

- provision of ownership and utilization land rights on an equitable basis to women and men and the monitoring of implementation;
- provision to rural women with the necessary means to participate in the process of economic growth by ensuring access to special credit opportunities, training, improved agricultural extension, social services, infrastructure and technologies;
- facilitation of women's decision making role at the levels of the family, community, public spheres; and
- capacity building to promote, change and manage development[5].

Likewise, the Beijing Declaration and Platform for Action identified "women and poverty" as one of the critical areas of concern. Among the actions proposed to be undertaken by governments is to: undertake legislative and

[3] Study conducted by the Ministry of Economic Development and Co-operation (MEDaC) in 1999, ...
[4] 1998 CSA Welfare Monitoring Survey.....
[5] African Platform for Action .....

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administrative reforms to give women full and equal access to economic resources, including the right to inheritance and to ownership of land and other property, credit, natural resources as well as technologies[6].

1.1 Problem Statement

The 1995 FDRE Constitution, the Women's Policy, and other subsequent policies and proclamations, have enunciated the various ways and means for changing the socio-economic situation for the benefit of the female population in Ethiopia. Despite this, the suffering of the majority of women, particularly in the rural areas, still prevails in many parts of the country. Studies have shown[7] that the majority of rural women in Ethiopia have no access to land in their own rights. Most of them also lack complimentary resources such as oxen, labor, adequate agricultural inputs, credit facilities as well as social services. Consequently, they are most of the time food insecure, socially inferior and economically dependent on men. Land is not only scarce and highly fragmented it is also mainly accessible to males even though women's contribution to agricultural development is substantial. This scenario sums up the gender-based discrimination and lack of equitable distribution of land as a productive resource which presents problems in the implementation of policies, projects and programs.

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1.2 Objectives of the Study

The overall objective of this study is to examine and analyze policies, programs, legal instruments and cultural practices that have an impact on women's access to land and identify constraining factors to exercising women's land rights;

The specific objectives of the study are:

- To assess the situation of women in study areas who have access to land in their own rights;

[6] Beijing Declaration and Platform for Action .....

[7] See for instance: .....

- To identify and analyze the problems of landlessness faced by rural women in study communities;
- To identify problems for attaining household food security and alleviation /eradication of poverty by women in the communities considered for the study;
- To make recommendations believed to mitigate the problems of rural women in the study areas.

1.3 Hypotheses

The study seeks to test the following hypotheses:

- Most rural women are landless due to gender-based discrimination against them. As a result they are unable to benefit from land on an equal basis with men.
- The age-long patriarchal attitudes and practices of society present particular difficulty in implementing policies and proclamations aimed at changing the socio-economic status of women.
- Access to land alone cannot ensure household food security and eradicate poverty. It is necessary to have a reasonable size and quality of land as well as other resources like oxen, labor, credit and adequate agricultural inputs to increase food production.

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1.4 Methodology of the Study

This research focused on assessing women's access to land in two contrasting rural communities, in Tigray and Oromiya Regional States. The two regional states were chosen because of their different agro-ecological and socio-economic conditions as well as their cultural practices. Tigray has a predominantly Orthodox Christian population and agro-ecologically a food deficit area. The women of Tigray are highly politicized and have secured land in their own right. On the hand, Oromiya is a predominantly Moslem community and a food surplus producing area. Customary law overrides all

aspects of social interaction and land distribution is characterized by a gender bias in favor of men. Unlike their counterparts in Tigray, women in Oromiya lack awareness of their constitutional rights. In Tigray Regional State a purposive area selection of four kushets (villages) in Lima't *Tabia* (PA) of Degua Temben Woreda (district) was done, while in Oromiya Regional State three villages in Hatie Andodie *Kebele* (PA) of Hitossa Woreda, Arsi Zone were selected.

The research used a participatory methodology, which included: Focus Group Discussions (FGDs), community workshops, and discussions with key informants[8]. In addition a questionnaire was administered to a total of 15[9] women selected from each of the PAs. The women interviewed were of different marital status and age group. Review of secondary data and documents, including government proclamations on women and land tenure issues was done. Research documents on land tenure and women's rights were also reviewed.

FGDs brought together different respondents who shared ideas and increased their knowledge and awareness on the issue of land rights. Additionally, several workshops were organized in the different communities and at the national level for the researcher to present the findings of the study to the various stakeholders who included women interviewees, PA executives, regional bureaus, federal ministries, research institutions, United Nations (UN) agencies, Bi-lateral organizations, civic organizations and NGOs. Participants in the different workshops not only had opportunity to react to the findings of the study, they also demonstrated increased awareness on land tenure issues and expressed concern about the scarcity and degradation of land as a natural resources and productive resource. As part of the research process, the researcher also presented the preliminary findings at a regional review

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[8] Fruitful discussions were conducted with relevant officials at the federal level, researchers at the Addis Ababa University (AAU) and other resourceful personalities.
[9] The reason for selecting such a small number of sampling was due to the short stay in the study areas as defined in the TOR

workshop held in Entebbe, Uganda[10]. This final report has incorporated the constructive comments made at the different workshops.

1.5 Literature review

In pre-revolutionary Ethiopia, land was both an economic and political instrument. Consequently, access to land depended more on the political status of individuals and loyalty to the crown and/or church, the latter being the main instrument for consolidation of state power. For instance Article 130 (a) of the 1955 Revised Constitution of the Empire of Ethiopia emphasized that: *"The natural resources of the Empire, including those beneath its waters, are state domain"*. Sub-article (b) underlined that: *"The natural resources in the waters, forests, land, air, lakes, rivers and ports of the Empire are sacred trust for the benefits of present and succeeding generations of the Ethiopian people"*. Consequently, the literature confirms that some of the ways of accessing land during the feudal era were inheritance, tenancy and claiming additional land by virtue of membership in residential communities. A peasant's ability to do this depended, above all, on his prominence as an elder in community affairs, his skill in land litigation, and personal ties with members of the ruling elite (J. Bruce, A. Hoben & Dessalegn, 1994).

The *rist*, hereditary land rights, was considered as a birthright, for both men and women and it shows that one had ancestors and was a free and legitimate member of the community. Having land rights was an expression of one's identity. Under this system, the idea of selling land was regarded as illegitimate and shameful. On the other hand, a landholder had a hereditary right to share his/her ancestor's land and these were sub-divided among family members and a share of each was then apportioned to claimants by lots to ensure fairness. As a result, land-holdings for households were made up of several scattered parcels of land (A. Hoben, 1996).

[10] Hosted by EASSI and participated in by all the other countries involved in the regional research project.

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In the Northern region of the country, such as Tigray and Amhara, peasants did not constitute a class of tenants. However, their *rist* land was subject to payment of taxes, tributes, and a variety of personal services to the clergy or secular authorities that administered their communities under traditional land rights. The *gult* land rights granted by the crown/emperor and which contrasted with *rist* rights, were introduced and extended over the same land, having the rights of governance including the right to tax, judge and mobilize inhabitants for war. Later on, the *gult* was abolished as the central government created a new standing army, introduced a series of administrative and tax reforms while *rist* rights continue to be practiced. (J. Bruce, A. Hoben & Dessalegn, 1994).

Further review of the literature shows that in areas conquered and re-conquered by the feudal lords, such as Oromiya, the majority of the farming population was tenant, whose customary rights were not recognized by the imperial regime. They worked as sharecropping tenants of the landlords, who had acquired land grants as a result of the conquest. Tenants had little land security and would owe as much as three days' labor in a week, plus other gifts and services to their landlords. In some cases, tenants were evicted from the land when commercial farms started to flourish. In due course, land grants held by the church and state elite in the conquered areas were transformed into freehold and a substantial number of smallholders became beneficiaries. (A. Hoben, 1996).

The land tenure system under the monarchy was feudal in character, emphasizing tribute, personal services, and family ties. At the same time, there were marked regional variations in tenure relationships and landholding patterns which were related to agro-ecological, ethnic and historical factors. This was particularly true of the northern highland areas such as Tigray, on the one hand, and the southern parts of the country including Oromiya, on the other. As can be observed from the practices mentioned above, there was no concern for women's rights of access to land. Hannah (1990) criticized this land tenure system by observing that during the monarchical rule, the majority of women were landless and even if female inheritance was theoretically

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possible, the social structure favored property being transferred to male heirs in the family. She noted that women did not determine what crops to plant or whether a cow should be sold or not and did not participate in decisions to take loans for farm activities or household economic needs.

The Derg, which ousted the monarchy in 1974, introduced a radical nation-wide program of nationalization of all rural land. This was effected through the 1975 Proclamation which provided for public ownership of rural land. The Proclamation noted that: " *Without differentiation of the sexes, any person who is willing to personally cultivate land shall be allotted rural lands sufficient for his maintenance and that of his family*"[11]. This proclamation essentially allocated land only to those who were able to till it and totally denied the rights of the children, the elderly, and those women unable to plough land due to cultural constraints. In accordance with Article 8 of the Proclamation, PAs were formed to implement the reform and allocate land to the rural population. The Ministry of Agriculture (MOA) was also responsible for rendering technical assistance in order to achieve the underlying objectives of the reform.

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Through its 1977 villagization program, the Derg government forcefully uprooted the rural people from their places of origin and resettled them in new areas. Although the government claimed that the program was intended to facilitate speedy development, its impact was heavy particularly on women and children. The long distance to farmland after the establishment of new villages was a serious problem to women because of the amount of time spent in walking to their work places. The forceful establishment of producer's co-operatives in the villages also negatively affected women's access to land. This was because participation in cooperatives was limited to one person per family. In practice, this meant that husbands were the ones registered as heads of households. Since most of the villages resettled during this period were unbearable, they were abandoned immediately after the passing of the Special Decree on Investment in 1990. This decree led to the dissolution of

[11] Chapter two, Article 4 (1), 1975 Proclamation.

co-operatives and a return of most peasants to their original places of settlement (Alemayehu, 1990).

A number of authors have made an assessment of the overall impact of the 1975 land reform. Dessalegn (1994) and Zenebework (2000) have noted that it neither totally discriminated against women's right to land nor did it improve their situation substantially. Zenebework points out that among other things, the 1975 land reform was criticized for its failure to challenge the cultural taboo against women ploughing and sowing because this reaffirmed the beliefs, practices and contracts which governed land relations between men and women. Other authors have pointed out that the Derg land reform was successful in abolishing age-long tenancy, agricultural wage labor and other forms of peasant dependency on the landed class. The reform enabled the distribution of available land to the peasantry on a relatively equitable basis and thus gave usufruct rights over the land they cultivated. Despite these positive aspects, the land distribution process, which focused on households, has been criticized for being gender biased and therefore, failing to ensure equal land rights of women.

The 1987 Constitution of the People's Democratic Republic of Ethiopia (PDRE) consolidated the provisions contained in the Rural Land Proclamation. Article 13 (2) underscored that: *"... Natural resources, in particular land, minerals, water and forest are state property."* Article 36 states that: *" In the PDRE, women and men have equal rights"*. Despite these provisions, the land rights of women other than those heading households and registered in PAs is only partial or even theoretical. According to a Participatory Rural Appraisal (PRA) conducted by the World Bank (WB) and WAO in April 1998 in five regions of the country, including Oromiya, it was found out that more and more women are cultivating and using land as well as natural resources and yet are denied equitable utilization rights[12]. Women in polygamous marriages are negatively affected by the fact that men tend to register one wife only

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resulting in other wives not getting the right of access to land (Zenebework, 2000).

The 1995 FDRE Constitution declared land to be the property of the State and the People of Ethiopia, over which individuals have only usufruct rights. Article 35 of the Constitution reiterates the principle of women's right to equal access to economic opportunities, including land, employment and related matters. The most important provision of the Constitution pertinent to land rights is in Article 40. Sub-article (3) which notes that: *" The right to ownership of rural and urban land, as well as of all natural resources, is exclusively vested in the state and the peoples of Ethiopia. Land is a common property of the Nations, Nationalities and Peoples of Ethiopia and shall not be subject to sale or to other means of exchange".* Sub-Article (4) likewise states that *"Ethiopian peasants have the right to obtain land without payment and the protection against eviction from their possession".*

In order to execute these provisions, the Constitution gives power to regional governments in Article 52 sub-article (2) (d) to: *"Administer land and other natural resources in accordance with the Federal Law".* The Federal Rural Land Administration Proclamation, on the basis of the provisions of the Constitution has defined issues related to the rights and obligations of users such as that of inheritance, leasing, investments, compensation, and use of hired labor. Article 4(4) of the Proclamation states that *"The land administration law of the regions shall confirm the equal rights of women in respect of the use, administration and control of land as well as in respect of transferring and bequeathing holding rights".*

Article 6 spells out the principles governing the laws which need to be enacted by the regions. Sub-article (1) underscores that the land administration law of regions shall *"Ensure free assignment of holding rights to peasants and nomads, without differentiation of sexes; as well as secure against eviction and displacement from holdings on any grounds other than total or partial distribution of holdings effected pursuant to decision by the Regional Council".* Sub-article (3) allows: *"women to use hired labor on their holdings or to,*

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otherwise, make agreements thereto". Article 6 (10) stresses the need to: *"lay down a system based upon transparency, fairness as well as the participation of peasants, especially of women, for purposes of assigning holding rights and carrying out distribution of holdings".*

Women in many parts of the country are not given land since there is a belief that once they are married, they belong to their husband's place and family. In reality, women do not get a fair share of land at divorce and hence have to either go back to their relatives or run away to other places to look for means of survival (Teferi, 1994; Zenebework, 2000; Yegremew, 1997; Tiruwork & Yigremew, 2000). Whereas in some traditions such as in northern Ethiopia parents used to willingly allocate land and some livestock to grown up children, particularly males, but in some instances daughters if married to a man in their area, these practices ceased after the land reform of 1975 as adult children could claim land from PA Executives as these were now responsible for land distribution (Teferi, 1994; Yared, 1995; Tiruwork & Yigremew 2000).

Yared (1995) points out that PA officials take a major part of the land when the male spouse dies while a small plot or none upon the wife's death. This is done under the pretext that the man can re-marry and sustain the family while the woman's chances of re-marrying are minimal and the probabilities of leaving her area of residence is very high. Yared further observes that social status and economic resources are important in influencing the pattern of land distribution, which disadvantages female-headed households given the lower social status of women and their minimal economic resources. Dessalegn (1994) underscores the fact that although women hold land on behalf of their male children, they may be deprived of all or part of it when the boys grow up and claim it.

In his study of a resettlement site, Meheret (1994) found out that women preferred to be independent as FHHs, in order to ensure their getting independent land rights and enjoying some degree of economic freedom. According to the study, however, most women in the resettlement sites were

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unfairly treated during the land distribution exercise because the committee members responsible for the task were all men. Consequently, most of the land given to women was marginal, far from their homesteads, or was not well cleared and, therefore, required additional labor to prepare the land for cultivation. Moreover, the land women got was adjacent to sanctuaries of wild animals and rodents requiring guarding day and night.

FHHs tend to be poorer and in need of assistance particularly for labor on the farms and such work as sowing and planting which is traditionally considered to be taboo for women to do. Their dependence on male labor and frequent renting of traction power imposes problems on women and as a result, their land is often not ploughed, seeded or harvested in time. As a result, FHHs have a more acute lack of agricultural resources and are sometimes obliged to lease their land to sharecroppers and receive less produce. In addition, agricultural extension services tend not to reach women at the same rate as they reach men. (Dessalegn, 1994; Dejene, 1994; Tiruwork & Yigremew, 2000; WAT, 1996; Meheret, 1994).

Literature on the situation of women in Oromiya, reveals that women by tradition do not own property in their own right[13] except for produce given to them by their husbands and household goods women bring with them at marriage. The WAO/WB study points out that upon divorce, women in Oromiya receive some grain, cash and cattle if there are any. On the other hand, if the woman is widowed and has children, her brother-in-law inherits the husband's property, wife and children. If she has a grown up male child, she can give the land to him but if she does not have children, she will be obliged to go back to her place of birth. The study further states that a female child cannot inherit her parent's property because her wealth is expected to be at her husband's home, and yet she cannot inherit her husband's property because it belongs to the clan. This shows the gender-based discrimination against women, which makes them resource-poor and dependent on men.

[13] See for instance: the study conducted by WAO& WB .....

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Unlike the situation in Oromiya, the situation in Tigray and parts of the Amhara Regional States reveals that most women have access to land in their own right. In addition, credit facilities have been extended to former members of the TPLF. A case study of Land Reform in the District of Adi Nebried in Tigray[14] revealed that women were given land on an equal basis with men. The case study underscores that this was a milestone in the liberation of women and elimination of their oppression by their husbands. According to Chiari (1996), the land reform eliminated economic dependence of women on men and improved intra-household relationships. Chiari notes that for those individuals who received parcels of land at the last distribution, land provides a degree of social security. Gebre'ab (1995) also underlined that the equitable distribution of resources, especially land, among the rural communities in Tigray during the liberation struggle was a deliberate political strategy for the peoples' survival.

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[14] Tekeste, 1983 .....

2.0 FINDINGS OF THE STUDY

Tigray Regional State

2.1.1 Access to and Control over Land

Land in Tigray has been redistributed and under continuous cultivation for many years. In addition, the terrain is steep and unsuitable for farming. The majority of the women in this area have land in their own right. A number of women who do not have independent land rights admitted to having equal decision-making powers over the land and the produce with their spouses. The average size of the landholding, however, was quite small: 0.50 hectare per farmer and mostly of poor quality.

Married women in the research areas have the right to retain their share of land in case of divorce. Land distributed to a married couple is registered in the names of the husband who is to be the head of household. Taxes levied on all distributed land are paid in the names of the head of the household. However, given the considerable politicization and awareness raised in the course of the liberation war, the fact that household heads are men does not mean that the male spouse has the upper hand or is the decision maker.

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2.2 Land Size and Quality

The views of the community regarding the level of satisfaction with sizes and quality of their land were mixed. Whereas in principle women were undeniably satisfied with the fact that they had independent rights over land, they were concerned about the small sizes of their land, its poor quality, and low productivity. Because of the small land holdings, poor soil quality and low productivity, most of the women cannot produce food to last them the whole year and are thus food insecure. To mitigate this problem intensive use of agricultural inputs to improve soil quality and productivity is considered essential by the community.

The women interviewed stated that having independent access to land had improved their living conditions and that of their families. They said that having access to land has enabled them to develop a sense of security, self-confidence and raised their status in society.

2.3 Land Rights and Redistribution

The level of awareness of women's land rights was found to be quite high among the respondents. The respondents also expressed their opinions regarding land redistribution. This high level of awareness was an outcome of the politicization process which took place during the liberation struggle. Because land distribution has already been carried out repeatedly in the region, the majority of the respondents who had land were of the view that further redistribution of land would be inappropriate as it has become scarce, highly fragmented, and of low quality. However, one of the respondents without land desired to have land of her own whether through redistribution or any other means.

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2.4 Ownership of Oxen and Other Productive Resources

The majority of women interviewed, who have access to land, do not own oxen. In order to get their land ploughed, most of the respondents have to exchange grass and hay from their land for oxen and labor. One woman who has no oxen of her own leased her land because she was not capable of cultivating it herself. Another respondent was assisted by the community members because her elder son, who could have done the job was at the war front. A limited number of women who have land and are also married, have oxen of their own and their spouses provide labor.

2.5 Access to Agricultural Extension and Credit Services

All the respondents interviewed have access to agricultural extension services and can purchase fertilizers and improved seeds. These services were mainly provided by representatives of BOA and recently supported by a service cooperative set up about five years ago. Most of the respondents reported

that they were satisfied with the delivery of the extension services, which were enabling them to increase crop production. However, there were indications that due to fear of repayment, farmers were not taking the inputs as much as they needed to.

A rural credit initiative run by the Dedebit Micro-Finance Institute operates in the research area. According to all respondents, the credit services are accessible to everyone and the amount of funds available for disbursement range between 250 to 2,500 Birr (equivalent to 30 to 300 US Dollars). A significant number of women met had taken cash credit for various activities including petty trading, animal husbandry and buying oxen plough. In a similar vein, credit services are rendered by WAT to enable its members engage in income generating activities. These endeavors have enabled women without land to earn a living and those with land to augment their family incomes. WAT has also established several support services such as grinding mills to reduce the workload of rural women.

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2.6 Crop production and Income

Even with the use of fertilizers and improved seeds, agricultural production is very low largely because of low soil fertility, shortage of rainfall in the lowlands, high water retention in the highlands, and prevalence of pesticide. Wheat production, a major activity in the area, vividly illustrates this fact. The average yield of wheat per hectare through traditional means of farming is 6 quintals, while employing agricultural inputs results in 16 quintals. Respondents stated that three-fourths of the crops grown were consumed at the household level and the rest is sold to cover other family expenditures. Respondents reported that they engage themselves in food-for-work programs and other off-farm activities in order to cover the shortfall in household food supplies.

2.7 Food Insecurity and Coping Mechanisms

All the respondents reported that they were food insecure even during time of good harvest, with the most critical period being between June and September. Almost all of the women interviewed were involved in one form of off-farm activity or other as a way of trying to generate income to cover family expenses. The most frequently reported coping mechanism against food insecurity were food-for-work, food aid, income generating activities such as spinning and making traditional cloths, production of handicrafts, petty trading, and goat and poultry rearing. Respondents who were married cited farming and petty trading as the activities engaged in by their spouses.

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Oromiya Regional State

2.8 Access to and Control over Land

Although the married women who have access to land claimed to have full control over it and its proceeds, informal discussions with some of the women revealed that they were often reluctant to publicly expose the reality of their lack of control due to the sensitivity of the subject which may result in their being condemned by society and even break their marriages. In some instances, women in polygamous marriages are permitted by their husbands to register as members of Peasant Associations. However, in such instances, their husbands usurp their control rights.

Other than through inheritance from their parents and/or husbands, there is no other channel for allocating land to married women in their own rights. Consequently, the majority of women who have independent land rights were widows who inherited the resource upon the death of their husbands. The women with access to land, though happy that they had land, deplored the allotment exercise which they accused of being biased against them and based on nepotism as portrayed by the then PA officials. The majority of the women without land were married young women. The only option these

women had for earning a living was to collect and sell firewood whenever they get some one to look after their small children.

2.9 Land Size and Quality

Landholdings in this research area are comparatively larger and of better quality than in Tigray: 1.5 hectare. Half of the people interviewed expressed satisfaction with the land distribution exercise done 10 years ago, while the other half expressed dissatisfaction. A large number of the population that is landless bemoaned the high level of poverty and lack of employment opportunities in their area. Although some are aware that shortage of land, and high population growth have compounded their problems, they still want land redistributed so that they too can get a share. Despite this expressed need, there was no information about the availability of any land for distribution. Government officials contacted at various levels underscored the fact that even if land redistribution is done, the majority of married women still wanted land to be given in the name of the male heads of households.

2.10 Land Rights and Redistribution

Discussions held with respondents regarding land rights revealed that all of them were not aware of their constitutional rights to land. Women who secured land during the dissolution of co-operatives in 1990 reported that the PA executives showed nepotism and gender-bias in the land distribution. Most of the women did not want more land redistribution because they feared that they might lose what they now have. By contrast, women who are landless wanted land redistribution as they have no other source of livelihood. Information gathered during discussions with the regional and zonal officials shows that they fully appreciate the problem of landlessness and the need for addressing the land question. However, due to the complexity of the issue and the socio-cultural factors prevailing in the area, the regional government is as yet to conduct further investigation and study of the problem before acting on it.

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2.11 Ownership of Oxen and Other Production Resources

Out of the total number of women who have access to land, a good number own oxen. All these women were all widows and they all said they were assisted by their sons in-law or neighbors to plough their gardens because they cannot do it by themselves. On the other hand, women without oxen reported that they use tractors to cultivate their land. This is an expensive option that costs 180 Birr per hectare for tillage and 80 Birr per hectare for harrowing. This makes it much harder for female-headed households as they are the ones who in most cases do not own oxen.

2.12 Access to Agricultural Extension and Credit Services

A significant number of individuals with access to land are entitled to purchase fertilizers and improved seeds on credit. Half of the number of women who have access to land, reported that they were satisfied with the extension services rendered, while the other half was non-committal. None of respondents reported having had access to formal credit services for IGAs. Although there are credit institutions in the region, such as the Oromo Saving and Credit Company, the respondents and local officials reported that there are no such services in the PA yet. It seems that there is limited knowledge in the area of credit despite the fact that the current MFIs' policies are targeted at the rural poor, including women.

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2.13 Crop production and Income

This research area is situated in the surplus-producing region. The yield per hectare, even without the use of inputs, is relatively high. For instance wheat, which is the main crop grown in the area, yields 56 quintals with the use of fertilizers and improved seeds and 40 quintals with traditional means of production. According to the respondents who have access to land, they consume about 75% of the produce and the remainder is sold. Although there was a food gap particularly between June and September, there were no off-farm activities carried out and this was due to lack of credit services. Respondents noted that the loan given by traditional lenders in their area

have very high interest rates and, therefore, they opted not to borrow from these sources.

2.14 Level of Food Insecurity and Copping Mechanisms

The household income is directly related to the size and quality of land. Out of the number of women who have access to land, a significant number reported that they were food insecure while a small number indicated that they were self sufficient in food. The problem of food insecurity was mainly attributed to the small size of farmland, natural calamities like floods, inadequate inputs, and lack of complementary resources such as credit. For those individuals who said they were food insecure, the time of food scarcity is usually between June and September.

The most frequently reported coping mechanism against food insecurity in the Hatie Andodie PA in Oromiya is collection and sale of firewood and wage labor. It was noted by the respondents that it takes some 10 hours to travel back and forth to collect firewood because of clearing the forests for cultivation. These women do this job two to three times a week, whenever they have some one to look after their children. It was also learnt that although some are engaged in production and sale of handicrafts, they could have done better through petty trading had it not been for lack of funds to work with. The respondents reiterated that they do not want to take loans from local borrowers in their area since the interest rates are very high.

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3.0 COMPARATIVE ANALYSIS OF THE TWO COMMUNITIES

The above overview has highlighted the distinction between the women farmers in Lima't PA in Tigray and Hatie Andodie PA in Oromiya. The study has demonstrated that women in Lima't have access to land in their own right as a result of the politicization and democratic practices carried out during the liberation struggle. In general, women in the region are well aware of their Constitutional right of having access to land, although no major distribution has been made since 1990. However, most of the respondents underlined the fact that the land they have is small and poor in quality. This has meant that the produce they get out of the land is inadequate to feed them throughout the year.

As a coping mechanism, women in the study area participate in the FFW program and also engage themselves in off-farm activities using the credit they receive from the micro-finance institution operating in many areas of the state. Despite the low crop production, women with landholdings declared that having access to land in their own right has improved their living condition and that of their families, increased their security in marriage, enhanced their decision-making power and social status in their households and society at large.

By contrast, women in Hatie Andodie have more limited independent access to land except as widowed heads of household. Unlike their counterparts in Tigray, women in Oromiya lose their land at divorce and are even forced to leave their marital areas to look for either employment or a chance of re-marry. Women in Hatie Andodie are unaware of their Constitutional right to land. Women who have access to land secured it during the dissolution of producers' co-operatives in 1990 but reported that the distribution process was gender-biased and displayed nepotism. Though the size and quality of land accessed is better than that in Lima't, most women farmers in Hatie Andodie have admitted to being food insecure. There are no employment opportunities in Hatie Andodie area, even as daily laborers except during

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harvesting season. Micro-finance institutions have not yet started to render services and, therefore, off-farm activities have been very limited.

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4.0 CONCLUSIONS AND RECOMMENDATIONS

4.1 Overall Conclusions

During the feudal era, Ethiopian women had no access to land in their own right and the land tenure system was based on state ownership of land and tenant-landlord relations. Women who had right of inheritance in some parts of the country were discriminated against due to prevalent patriarchal socio-cultural factors. Following the overthrow of the monarchy in 1974, the Derg regime which took over power nationalized all rural land and distributed it to the peasants. In spite of the fact that the Derg Constitution and legislation were progressive, women did not benefit on equal terms with men since the distribution was focused at the household and, in practice, was gender biased. Most married women had no control over land and their decision-making role was very minimal. Only FHHs were able to get access to land by being registered in PAs. However, such women received marginal land compared to their male counterparts. In addition, FHHs were also disadvantaged because they lacked labor, traction power and other resources and therefore could not benefit from the land they had access to.

The resettlement and villagization programs introduced by the Derg regime in order to speed up development disadvantaged rural women further because they dislocated them from their villages. Women's workload increased as a result of the long distances from their villages to farms and water points. In general, the majority of rural women remained poor, food insecure, inferior and economically dependent on men. On the other hand, during the same period, women in Tigray and some parts of Amhara Regional States got access to land in their own right as a result of the liberation struggle waged in these areas. Although the situation of the states mentioned above was created through a different historical phenomenon, the land tenure issue in other regions of the country, including Oromiya, remained the way they used to be decades ago.

As regards the communities covered in the research, women in Tigray have access to land in their own right and are more aware of their constitutional

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right to land. Most of the women declare that having access to land has enabled them to enjoy a greater sense of security, confidence, and decision-making power. These women can also retain their landholding in case of divorce. However, because women in Lima't have access to small plots and poor quality land, the produce they get remains very low. Agricultural production in the area has also been affected by shortage of rains, water retention and pests. As a result of all these factors, women in Lim'at PA have remained poor and most of the time food insecure.

Women in the study area of Hatie Andodie, particularly married ones, have access to land but have no control over the resource and its produce. These women lose their rights totally upon divorce since customarily they cannot take their share. It is FHHs who inherited land from their deceased spouses or registered as PA members who get land in their own names and have full control over it. Women in the study area have no access to credit services to enable them carry out off-farm activities. There are no employment opportunities in and around the PA for the women themselves and their male counterparts.

The Constitutional provisions and that of the land administration proclamation, other policies and the recently promulgated Family Code have opened new opportunities for altering gender relations in general and access to land in particular. Nevertheless, though there is a great commitment at the Federal Government level, the implementation of these policies and proclamations is very slow. Besides, laws in themselves will not bring about equity and equality. Investigating the problems and bottlenecks for implementation and finding remedies along the way is vital. This study has raised the point that access to land alone cannot bring about food security or eradicate poverty. Land rights for women must be supplemented by other resources like traction power and credit services. Intervention to resolve women's land rights need to take on board these complimentary issues so that meaningful improvement in the lives of rural women can be attained and their eventual emancipation realized.

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4.2 Recommendations

In light of the above overview and conclusions, the following recommendations are made for consideration:

- Opportunities need to be created to enable women have complementary resources, like traction power, adequate inputs, expansion of credit services.
- The size and quality of land given to women farmers should be reasonable in order for production to be satisfactory.
- Women need literacy and skills training in order for them to effectively carry out off-farm activities.
- There is a need for seriously considering providing social services and infrastructure to address women's burden and enhance their participation in agricultural and off-farm activities.
- Regional governments and private investors need to intensify efforts to create employment opportunities to ease the double problem of scarcity of land and high unemployment.
- The Regional Government of Oromiya, which has not yet addressed problems of land issues, needs to conduct a detailed study on land in general and women's land rights, in particular, in order to resolve the inequalities in access to land.
- In consideration to the role played by customary laws and existence of deep-rooted cultural beliefs and practices, which are discriminatory to women, intensive gender sensitization programs be conducted in Hatie Andodie and the region in general to achieve attitudinal change.
- There is a need for respecting the natural wisdom of the rural people. Therefore, community members in the study area in Oromiya, including women, should participate in discussions and formulation of by-laws in relation to land issues and be involved in subsequent processes to build trust and confidence among one another and facilitate effective implementation of policies and proclamations.

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- Women's and other civil society organizations need to be in solidarity with rural women whose land rights have been denied, by lobbying at different forums.
- Planners should give due attention to women farmers who are often discriminated against and have lesser access to economic resources such as oxen and labor to ensure their benefiting from development interventions.
- The Federal Government needs to set effective monitoring and evaluation mechanisms to check the implementation of policies and proclamations and deal with any emerging problems.
- It has been observed that land is very scarce and unemployment high in the areas. Therefore, rural credit services need to expand to enable women farmers increase their income and also accommodate the ever-increasing number of the landless to be engaged in off-farm activities.

The Case of Abeba Habtu

Abeba Habtu is a 29-year old peasant woman in Lim'at PA, who received land in her own right during the 1990 distribution in the area. Abeba is married and did not go to school when she was a child since there wasn't any in her village. However, Abeba had the opportunity to attend a literacy program organized by the TPLF so she was able to become literate. Abeba got married at the age of 17 and has three children, aged nine, four and one years old respectively. Abeba's eldest child is enrolled in a primary school.

Abeba and her husband benefited from the land distribution program carried out 10 years ago. She confidently said that, apart from having access to 1.00 hectare of land, they have a pair of oxen that they use for ploughing and two cows. As a married woman, Abeba has no problem with labor, they have a good harvest most of the time and are therefore food secure. Abeba further disclosed that they hire out their oxen that enable them to get more produce from other farmers.

She noted that as a result of having access to land, labor, oxen and the two cows, her family was leading a better life than people who either do not have land, or those who have land but lack the complimentary resources. Abeba pointed out that this has been manifested by improved nutrition of the family, food self-sufficiency through out the year,

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building a better residential house, buying good quality and adequate clothing, and sending their child to school. She declared that she has equal decision making power with her husband, is secure and self confident which in turn has enabled her to get respect in the community.

The Case of Hajo Gobie

Hajo Gobie is a 35-year old widow living in Hatie Andodie PA. She got land in her capacity as a head of a household. Hajo is illiterate because there was no school in her locality and her parents had no awareness on the benefits of education. Upon marriage, Hajo's parents gave her dowry of cattle, a horse and household goods.

Although Hajo and her husband had 1.5 hectares of land at the land redistribution exercise that followed the end of the cooperatives, she neither had control over the land nor equal right in its utilization. Upon the death of her husband, Hajo inherit the land that they had access to since her co-wife had land of her own because she had registered as a PA member.

Hajo testified that she started having full control over the land and make decisions after the death of her husband. She noted that she has been food secure most of the time and her living condition has improved substantially. Hajo has a pair of oxen so she does not need for hire tractors, which are expensive to rent. She reported that neighbors assist her to plough the land. Hajo has built a better residential house in her village, can feed her children satisfactorily, buy them adequate clothing and educate them.

Hajo does not wish her children to be farmers and depend on highly fragmented and degraded plots of land. She, therefore, wants to educate them up to the highest level so that they can get employment elsewhere.

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The Case of Hiwot Haile Selassie

Hiwot Haile Selassie a 20-year old woman living in Lim'at PA. Hiwot was married when she was 17 years old and was given an ox as dowry by her grand parents. Her husband had a pair of oxen and a 0.25 hectare piece of land. Hiwot reported that her husband divorced her when the oxen she brought to the marriage died and was forced to go back to her grand parents' home. Her ex-husband has now remarried a woman who has land of her own. Hiwot noted that she could not access land during the redistribution exercise because she was young at the time. She regrets the fact that she has no land which could have enabled her sustain the marriage.

Hiwot has for a long time been engaged in the food-for-work program, because of the priority it gives to landless persons. She also makes handicrafts, spins and makes traditional cloth that she sells in nearby markets. Hiwot said that she is working hard to buy oxen and hopes to be in a position of remarry, establish a family and have children. Although she was aware that access to land is a Constitutional right, she does not expect to get any since there isn't enough land in the area, and even the one available is divided into very small plots.

The Case of Sofia

Sofia is a 24-year old married woman with four children. Sophia was abducted by her husband, who paid 1,600 Birr (equivalent to 180 US Dollars) as required by custom, considered to be a gift to her parents. Although her parents had acquired land, Sophia did not get any at her wedding because she is female. Sofia resented the fact that she was abducted and got married to a man without land or any other resource to earn a living. She mentioned that although they got along and were on good terms with her husband they had problems of supporting themselves.

Sofia revealed that she is most of the time depressed and saddened because of being unable to produce enough food. She said that the worst months of the year are from May to September during the rainy season when food is very scarce. She reported the

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bitter experience which she went through the previous August when she gave birth to her fourth child and she had no food for two days. Sofia agonized over the fact that she could not breast feed her baby because she did not eat enough food.

Sophia's wish is to educate her children so that they are able secure employment and do not face the same fate faced by their parents. Sofia's husband is a daily laborer who works during the weeding and harvesting seasons only. He also collects and sells fuel wood from distant places two to three times a week. She said that in and around Hatie Andodie PA, there are neither employment opportunities nor credit services to enable them engage in off-farm activities.

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WOMEN AND LAND

IN ERITREA

BY

WORKU ZERAI (CONSULTANT)

CCRDA

August, 2001

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ABBREVIATIONS

NUEW	National Union of Eritrean Women
ACORD	Agency for Co-operation Research in Development
NUEYS	National Union Eritrean Youth and Students
EPLF	Eritrean Peoples Liberation Forces
ELF	Eritrean Liberation Front

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Executive Summary

This study was conducted to assess the situation of women regarding their access to and control over land. It examines the various land reforms enacted in Eritrea and their impact on women, and looks at the factors that undermine women's land rights and makes recommendations on how to remove these barriers.

The study centers on women's realities in four land holding systems: Diesa, Tsilmi, Risti and State land tenure systems. It also analyzes land reforms undertaken by successive regimes that have administered Eritrea. The most recent Land Proclamation of the Government of the State of Eritrea promulgated in 1994 and its status of implementation is also presented and assessed.

The study confirms that all the customary land laws and the land reforms undertaken prior to the present Land Proclamation, treated women within the context of their marital status and in relation to their family unit. A woman's right to land depended on whether she was the head of a family, the number of children she had, and whether she was divorced or widowed. None of the laws and land reforms considered women's independent rights to land.

The new Land Proclamation gives full recognition to women's individual rights to land. Land distribution among returning refugees, ex-combatants and even to some permanent residents has been implemented within the context of this Proclamation. Unfortunately implementation of the Land Proclamation, except with the case of ex-combatants, has not been effected in the spirit of the Proclamation. In a country such as Eritrea where 80% of the population relies on agriculture, promotion of women's rights to land, as a means of their social and economic empowerment, is important.

The study ends with conclusions and recommendations for possible follow-up action. Among the central recommendation is the need for increased awareness on women's land rights and addressing economic and cultural barriers that hinder women from exercising their land rights.

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1.0 INTRODUCTION

Eritrea is a small country in the Horn of Africa with a 124,400 sq km land surface and a 1,200 km coastline along the Red Sea. The population of Eritrea is estimated to be about 3.5 million. The country has six administrative regions: Anseba, Debub, Gash-Barka, Maekel, Northern Red Sea and Southern Red Sea. Out of the total land available 32,000 sq km is suitable for cultivation. Of this, only 3,840 sq km (12%) has been put to use. This indicates that there is sufficient idle land that can be allocated to women in their own right. Various studies have indicated that there are between 30-45% female-headed households in the country[1]. This percentage is likely to go up due to the recent war between Eritrea and Ethiopia.

80% of the population in Eritrea depends on agriculture for its livelihood. 50% of this engages in subsistence farming, while the rest are either pastoralists or agro-pastoralists[2]. Women's role in agriculture is extensive although it is not the same throughout the country. In the semi-pastoralist lowlands of the country, their role is limited to looking after livestock, milking goats and cows and processing milk into butter and cheese. In these communities, women do not participate in agricultural activities. By contrast, in the central highlands, with the exception of ploughing, women participate in all agricultural work including planting, weeding, harvesting, threshing, winnowing, and storage.

Because women do not own the means of production such as land, seeds, oxen and other farming assets, the work they do in agriculture is categorized as supportive. Hence, they are not entitled to control the agricultural produce from their labor. This is one of the most important explanations for why women constitute the majority of the poor, the illiterate and disadvantaged population. In order to transform the social and economic status of women farmers, a considerable amount of work has to be done to address the cardinal question of their access to and ownership of productive resources. Access to land is a determinant factor in getting access to credit and other farming implements. Credit is indispensable to breaking the chronic state of poverty among women and restoring food security in their households.

[1] See for instance: .....
[2] Source?

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1.1 Purpose of the Study

The principal purpose of the study is to assess women's legal entitlement to land and to examine how the implementation of the Land Reform Act benefits or marginalizes women in real life. Apart from that, the research seeks to identify the problems that hinder women from possessing land in their own right and make suggestions for removing these barriers.

The specific objectives of this study are:

1. To assess the land tenure system in Eritrea;
2. To examine the various land reform policies that have been introduced in Eritrea and their implementation process;
3. To identify the key problems that hinder women from accessing and controlling land on their own right
4. To identify the main actors in promoting women's land rights and suggest community-based solutions to women's lack of land rights.

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1.2 Significance of the Study

This study seeks to examine the land tenure system prevailing in the country and the extent to which the various land reform acts that have been designed to address gender inequity have been enforced. No such research has been carried out before. Apart from generating information on the critical issue of women and land rights, therefore, this important study will raise awareness among academicians, development actors, policy makers and particularly the women themselves, on this key development and human rights issue.

1.3 Methodology

The methodology used for data collection was mainly qualitative. The instruments used to carry out the action research included the following:

1. Discussion with Key Informants

Discussions were held with government officials from ministries and departments responsible and involved in the actual implementation of the land law. These included the Ministry of Local Government, the Ministry of Land, Water and Environment, and

Ministry of Agriculture. In addition, discussions were held with policy makers and the officials of the NUEW in the various regions.

2. Focus Group Discussions

The study conducted 12 focus group discussion with women in four regions: Anseba, Gash-Barka, Northern Red Sea and Debub Regions. In Anseba, in addition to the focus group of women, a focus group discussion was held with men to find out their views about the land tenure system in the area. On the whole, each focus group was made up of 10-15 individuals, although, in some areas a group was as big as 30 individuals. An attempt was made to ensure that the groups were as homogeneous as possible. One group was made up of women heads of households who had access to land, women in male-headed households, and unmarried women in areas where some sort of land reform has been carried out. In areas where no land reform of whatever form has taken place, the group formation included women from different age groups and social strata.

Focus group discussions were very open, this providing opportunity for engaging in a learning process by the individuals who facilitated the discussions, the women groups and to the researcher. Because everybody participated in the discussions, the research process avoided creating the subject-object dichotomy.

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3. National Workshop

Another method used to enrich and strengthen the research was to conduct a two-day national workshop on women's land rights. Participants in the workshop came from the six regions of the country including representatives from NUEW, NUEYS, Ministry of Land, Water & Environment, Ministry of Local Government, Ministry of Agriculture, Regional Baitos, women who participated in the focus group discussions and people who were invited in their individual capacities. The workshop generated heated discussions which culminated in common understanding and consensus among the participants about the need for adopting a gender perspective on land tenure and the importance of women being considered for land allocation in their own right.

1.4 Scope of the Study:

In order to gain a better understanding of the issue of women and land rights in Eritrea, it was decided that the areas selected for the study should include: where no land reform has occurred, where land reform has been undertaken by the various governments or liberation movements and where land was distributed after the 1994 Land Policy was declared. However, the study has not dealt with women in pastoral communities because grazing land in Eritrea is communally owned.

1.5 Limitations of the Study

The main limitation of this study is that because not much has been written on women and land rights in Eritrea, it has had to rely on the scanty, raw literature available. In addition to such literature being unpublished it is also incomplete and often hand written. It is, therefore, difficult to confidently use these information sources. Due to this problem most of the data has been gathered either from individuals who have been directly involved in formulating policies, distributing land or supervising the process of land distribution, and women themselves in the specific localities. Predictably this study is rather short of accurate and broad statistics.

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1.6 Literature Review

Commenting on the 1975 land reform that was done in both Ethiopia and Eritrea, Rahmato and Hanna Kebede[3] concluded that women were unable to get land in their own right because the task of implementing land reform was given to the peasants. A peasant was registered as a member of a Peasant Association on behalf of his family. Since it was the husband who was accepted as the head of the family, it was mainly men got registered as a member of Peasant Associations, and the ones who were eligible for getting land. Rural women were effectively excluded from membership in peasant association and could not get land in their own right[4].

Yirgalem Woldegabriel[5] has praised the various land reforms that were undertaken in the 1980s by the different Ethiopian governments, the ELF and EPLF, for providing women heads of household with the right of access to land. However, in her assessment of the situation, Yirgalem failed to examine the land reforms from a

[3] Rahmato, ...1984; Hanna Kebede ....., 1990
[4] Ibid: p. 49 and p. 63

gender perspective. Consequently, she overlooked the patriarchal nature of these land reforms.

The 1994 Land Proclamation of the Government of the State of Eritrea in principle fully respects women's independent rights of access to land. Commenting on the provisions of the proclamation for women's rights, Tsegai Teamrat[6] says that to have usufruct rights over land is one thing, but to effectively use these rights is another. Taking into consideration the low literacy rate among women Tsegai doubts their capacity to effectively use the land they own.

Referring to experiences from other African countries, Tsegai observes that liberal land reform proclamations are issued only to fail in implementation. According to Tsegai, providing for women's land rights is one of the "liberal measures". Tsegai doubts women's ability to cultivate the land they are given on their own. He says that, in most cases, women cannot cultivate land by themselves because they are constrained by culture, care of children, lack of capital and poor health. He further says that, in countries where animal traction is used for cultivation, women are not strong enough to use the ox-plough. He observes that women often do not own oxen and they are forced to lease their land, sharecrop it or sell it, where this is permissible. The outcome granting women land rights, Tsegai says, will be opening up opportunities to speculators, increased land fragmentation and decline in productivity because women will not be working the land themselves. Tsegai concludes by saying that even if government gives land to women, and supplies them with capital, they will not use it effectively.

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[6] Yirgalem Woldegabriel, ... 1998: p. 51-61
[6] Tsegai Teamrat 1996: 77-79

found on the Eastern lowlands below an altitude of 350 meters and on the Western lowlands below an altitude of 850 meters, provided that they are not inhabited by sedentary people. Moreover, it includes land seized from families or communities by the Italians and subsequently granted to Italian nationals as concessions.

Concessions are leases for a period extending from 5 to 99 years and usually involving more than five hectares of land. Prospective concessionaires are expected to file an application with the district administration (woredas) or provincial administration (awraja). Upon receipt of an application, the woreda or awraja governor forwards it with his recommendation to the Agricultural Department in Asmara. With the assistance of the Directorate of the Ministry of Land Reform and Administration in Asmara, the Agricultural Department ascertains ownership of the land in question, and together with the person concerned, finally draws up the terms of the concessions. A notice to this effect is sent to the Treasury (Bejrond Office) by the Agricultural Department. The rent, fixed principally on the basis of fertility of soil, is paid directly to the Treasury.

The rent ranges between $1.00/hectare to $110/hectare per year. Concessionaires are allowed to make permanent improvements on the land such as planting trees, digging ditches, wells and building houses. Compensation for improvements on land is not made by the government when the contract ends. However, concessionaires have the right to transfer the concession to others who pay the value of the improvements made.

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2.4 Gender Analysis

A review of the customary laws of all the nine ethnic groups in Eritrea shows that they all deny women ownership of land, on the pretext that men are the breadwinners of their households. However a close look at the modes of livelihood of the various communities confirms that women play a major role in agriculture. Women prepare the land, weed, harvest, store produce and prepare and process food. Because women have no say on land and other farming implements, their labor and contribution to household food security is unrecognized and undervalued. This leads to women being denied control over other household resources. By controlling all household resources, including the labor of women and children, men gain control over women's mobility, sexuality, and fertility. This extensive control over women's

lives often results in physical and emotional violence against them on the grounds that men are disciplining their wives.

Within the different land ownership systems, the fact that husbands are considered heads of households promotes exclusion of women's rights of access to and control over productive resources, including land. For example, during the periodic distribution of village land based on traditional and cultural practices of communities, it is the husbands who are entitled to holding land. The economic and social significance of holding land and its impact on agricultural production and household food security is of prime concern. The extent to which lack of control over means of production by women affects food production needs to be examined.

2.5 Land Reform Proclamation

Recognizing that the land tenure systems, laws and traditions have over time become obsolete and incompatible with contemporary social demands, the government of Eritrea passed the Land Reform Proclamation, 1994 aimed at reforming land tenure in the country. According to the Proclamation, land in Eritrea is owned by the state. Citizens of Eritrea, regardless of their sex, religious belief, race or clan, have usufruct rights. Land is distributed to eligible individuals for farming taking into account the differences in soil fertility. In distributing rural land, permanent village residents have priority to receive *"tiesa" land* or land for housing, or agricultural activities.

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Although the government has put in place a number of legal instruments and proclamations that are based on complete equality of all citizens, which include the National Constitution, The Land Policy Proclamation, the Macro Policy document, the Labor Law, and the Civil Code, these provisions do not adequately acknowledge the changes in gender relations implied in the policies and proclamations. So far the emphasis has been on community driven impetus for change. This approach has much to commend it in terms of transparency and a desire to engage those people whose lives will most directly and permanently be affected by alteration in gender perceptions and relations. Yet the reality on the ground is that without full information, clear direction and unequivocal indication of government support, people will continue to live within the parameters they consider most suitable. Resistance to equal participation of women is especially true in agriculture and issues to do with the environment. There is, therefore, a need to match the implicit commitment of

government to gender equity and equality with explicit focus on the practice and action at the community level.

The new Land Proclamation has not been fully implemented, although since its promulgation, the government has allocated land to returnees and demobilized fighters in the Gash-Barka region. It is envisaged that the policy will be implemented in a step-by-step manner. Some training on land allocation and use has been organized within the Ministries of Land, Water and Environment and that of Local Government. However, assessing how best to implement the policy has not been finalized.

2.6 Land Distribution Among Returnees

Land was distributed to returnees from the Sudan on the basis of heads of households. Under the exercise, 4,021 returnee households were each allocated two hectares of land. Out of these, 1,645 were women headed households. Because this distribution was done more or less in line with the "Diesa" land tenure system, even where land was given in the name of the male head of household, in reality it belongs to both the husband and wife. Within the last six years, three households have dissolved their marriages in Tebeldia, a settlement area for returnees from Sudan. Because land belongs to both the men and the women, in situations such as these, it was supposed to be divided between them even though it had been given in the names of the husbands. To resolve the issue, it was decided that the men give 1,000 Nakfa to the women to use it for clearing the two hectares of land that were going to be given to them. Widows inherit their husbands' land that they retain even when they re-marry.

The research shows that women are unable to optimally use the land allocated to them for productive purpose because they often do not have the labor needed to cultivate the land. Thus, owning land by itself does not change women's economic position. Such ownership needs to be supplemented by credit for hiring labor and buying seeds. The case of Fatna Mohammed Ali narrated below illustrates this problem.

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The case of Fatna Mohammed Ali

Fatna got access to half a hectare of farmland during the land redistribution exercise of 1983. She plants this plot with maize. Because she cannot cultivate the land by herself, she leases the land to others in an arrangement where she receives one third of the harvest. This year she received 1.0 quintal share. Fatma's only son is in the national service so she does not have other active members of the family to support her. Even before enlisting in the national service, her son was mainly doing casual labor and his income was very low.

In addition to the basic necessities that she has to obtain by exchanging her harvest, Fatna has paid Nakfa 8.00 for land tax. She does not have other income source. When asked if the one-quintal can meet her annual food requirements she said that it does not even last her half a year. Further, she said that she eats once a day in order not to go hungry for the rest of the year. Fatna asked the consultant to help her with tilling the land and double the size of her land. She stressed that it is only then that she will meet her annual food requirement.

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In most cases many are mothers to small children, therefore, have difficulty in combining agricultural activities with reproductive activities. Apart from that, many are unable to hire labor and they either leave their land fallow or they give it to sharecroppers. If they provide the sharecroppers with seeds they are given half of the produce, otherwise they get a third or even a quarter of the produce.

2.7 Land Distribution Among Ex-Combatants

Ex-combatant women who applied for land in 1995 were allocated two hectares of land in their own right. While there is no official explanation for allocating these women land in own names, it is most probably because their higher awareness of their legal rights and their assertiveness were key factors. Women ex-combatants have managed to use land to change their economic situation and attain food self-sufficiency. The case of Medhin Berhe illustrates this situation (see box below).

The case of Medhin Berhe

Medhin Berhe, a mother of three, is an ex-combatant who joined the armed struggle in 1978 where she stayed until 1991when Eritrea was liberated. Medhin was demobilized from the army in 1993 together with 13,000 other women ex-combatants. She was given 10,000.00 Nakfa as her severance pay. In addition she was given a food ration to last a year comprising of lentils, wheat, oil and sugar. As she had no place of her own she went to live with her parents in her natal village. While at her parents' home, she was receiving 300 Nakfa a month from her husband who was still serving in the army as maintenance for herself and her children.

Following the Land Proclamation in 1994, the government created settlement camps for returnees and ex-combatants in the western part of the country. Each household that decided to settle in the area was allocated two hectares of land. The government rehabilitated the infrastructure of a vast cotton plantation left behind by Italians in the western part of Eritrea in Ali-Ghider and distributed the land to ex-combatants. As an ex-combatant, Medhin took advantage of this opportunity to start a new life for herself as a farmer. She was given 2 hectares of arable land in the area.

During the first year, Medhin planted sorghum and harvested 20 quintals. She used it for home consumption and gave some to her parents and her in-laws. During the second year she decided to grow cotton on one hectare of the land and sorghum on the other. The extension service section of the Ministry of Agriculture gave her seeds, fertilizer and tractor service on credit. At the end of the harvest she harvested 20 quintals of sorghum and 30 quintals of cotton. She divided the sorghum between herself, her parents and her in-laws. After paying all her debts she got a net income of 10,000 Nakfa from the sale of cotton.

In 1998 Mehdin received credit from one of the institutions that gives credit to ex-combatants. She used this money to hire two seasonal workers who helped her with watering, weeding and picking cotton. The input gave her a good return. She got 70 quintals of cotton out of which she earned 15,000 Nakfa after paying back her loan. In addition she harvested 25 quintal of sorghum that covered the food

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consumption of her family, including the extended family.

With increased profits, Medhin rented a better house and brought her children to the area to live with her. She put them in a school in the area and could afford to buy them better fittings. She also diversified her crops by growing vegetables, which she used for home consumption and the market. With the return she buys meat and milk for her children. In 1999 her profit grew to17,000 Nakfa and this stabilized her economic position. The 300 Nakfa that was given as child maintenance by her husband became part of the household savings.

Land distribution programs that have granted usufruct rights through heads of households have largely been successful. In general, the program of redistribution of farming land in Debub region has contributed to a more proportionate sharing of the land between families. It has also brought a more fundamental change in the system of ownership of land in favor of women heads of households. In Mai-mine sub region for example, the extended family system of ownership of land ('Risty') has been completely abolished as a result of the land redistribution exercise.

The land reform program benefited women heads of households who are located in the areas where the extended family ("Tsilmi") tenure system prevailed. But for women heads of households who reside in the area where "Diesa" or the village land tenure system is practised, the distribution did not benefit them. Instead, it has taken away some of their rights, such as the right to choose whether to get land from their natal village or their ex-husbands' village. Women heads of households who possessed the capital have managed their portions effectively to meet their household food security.

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The Case of Lettekidan

Letekidan is a divorced woman who got a farm as a result of the land distribution program in Debub Region. She also became a beneficiary of the credit scheme available in the region. When she found out that the land allocated to her was of poor quality, and that she lacked the labor needed to farm the land, she decided to use her land for poultry farming. This decision has resulted in her to becoming a middle level poultry producer. The profit has enabled her to acquire various household property, meet her children's education expenses and improve her family's nutritional level as well as food security.

Explaining the management aspect of her poultry project, Letekidan, with self-evident enthusiastic interest in poultry production, reported that in the beginning she was worried about the chickens becoming ill and dying and all her hard work ending in great loss. However, because she was trained and given advice by the Ministry of Agriculture, she was able to do the work with confidence and the results were very encouraging. She proudly explained that her daughter had started to take over some of the responsibilities such as collecting and selling eggs.

Another positive aspect of this encounter with Letekidan is the element of 'change agents'. Contrary to the prevailing attitudes that women, and very often by direct extension their daughters, will not have sufficient free time to be engaged in new activities, Letekidan proved that, if given the right information and freedom to participate in activities that have so far been exclusively extended to men, women are capable of retaining and using land profitably.

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3.0 STUDY FINDINGS

Obstacles to women's independent rights over land

Although the Land Policy of the government of the State of Eritrea is gender responsive, the study found out that most women have not benefited much from this reality. The main reason for this is that the implementers of the policies are not themselves gender sensitive. They use any negative reaction from men to policy implementation to support their failure to change their practices and thus continue discriminatory land distribution processes. They stress that executing the policy as it is will destabilize the society which in turn will affect production and other aspects of the society.

Some of the implementers of government policies sincerely believe that giving land in the name of the head of the household directly benefits all women. These executives do not appreciate that many women do not have decision making power at the household level. Due to the oppressive power relations that prevail at the household level, it is the men and not the women who manage the farms, control the produce and make major decisions such as what to sow, what to take to the market, and what to buy with the proceeds. Under this arrangement women and children live under the man's mercy.

The family Law of the State of Eritrea protects women. However, because it co-exists with customary and Sharia laws, women cannot easily get their portion of land as those laws favor men. To use the government laws, women have to go to the sub-zoba courts. This is not easy for most women they have to leave their homes and to incur additional expenses for which they have no money. Some women do not even know that they are entitled to half the household land, and thus fail to ask for it in case of divorce or widowhood.

The majority of women are not aware of the existence of the Land Policies that allow women to get land in their own right. They are made to believe that land belongs to men. Their ignorance has made them accept the discriminatory land distribution process without any complaint or opposition.

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Ploughing of land in Eritrea is not only labor intensive, it is also very heavy work requiring men's physical strength. Prevalence of cultural beliefs such as crops do not grow on land ploughed by a woman, or that if a woman winnows produce it will be blown away by the wind, discourage women from undertaking these activities. These factors help to explain why many female-headed households are unable to optimally utilize their portions of land.

The study established that almost all the women in male-headed households stated that they were not negatively affected by their not having their own share of the land. Most of them were more concerned about female-headed households who were unable to plough their farms. Some of them advised the study to give due consideration to the problems that female heads of households face in this regard.

The study also established that even women who are aware of the importance of land to their household food security[7] still prefer not to get land on their own because of the strain of managing the land on their own.

The women are aware of how oppressive the prevalent land tenure system, "Tsilmi", is particularly when it comes to divorce or when their husbands die. They admitted however, that because they have no rights over land under any condition, they are forced to continue staying in abusive and/or polygamous marriages, and permit themselves to get inherited by in-laws in cases where their husbands die. All the women in this region asked that in addition to being provided with land, they also need to be given farming tools and resources.

The above overview has illustrated how women are discouraged from seeking independent rights over land despite their admission that land is a central resource in alleviating their economic powerlessness. The main reason for this attitude among women is the fact that they do not have the necessary resources to hire the additional labor needed to cultivate their farms. The majority of the women in the various discussion groups acknowledged the need for awareness raising on legal provisions related to land as a first step in empowering them to make claims on the system for land to be given to them in their own right.

[7] Such as the women in Anseba Region.

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4.0 CONCLUSIONS

1. All customary laws in Eritrea deny women independent rights to land and customary laws are still operational in many parts of Eritrea;

2. All the land reforms that have been introduced in the eighties by the Ethiopian Government, ELF and EPLF did not specifically address women's rights to land. Land was made accessible to households in the name of the heads of households, the majority of whom tend to be men.
3. Although the 1994 Land Proclamation provides for women's independent access to land, this Proclamation has not been fully put in practice to date.

4. Although the Debub land distribution was been based on Article 58/1994 the process did not correlate with the region's claims. In reality it was not only based on the "Diesa" or family ownership land tenure system but it also denied female heads of households some of the rights that are provided in the "Diesa" land tenure system. For instance, it forced women heads of households to get land only in their husbands' villages;

5. Women in Anseba Region are very much interested in getting access to land in their own names. They see this as key to their being able to lead independent lives particularly after divorce or the death of their husbands;

6. The issue of combining access to land with access to credit and other provisions that help women to use their land optimally for productive purpose was stressed in order to guarantee household food security and enhance livelihood opportunities.

5.0 RECOMMENDATIONS

1. All the women interviewed during the study suggested that for women to get full access to land as their entitlement they need to be aware of the legal rights and opportunities that are in the various policies;

2. Women need to be educated on the provisions of the 1994 Land Proclamation of the State of Eritrea. Awareness raising campaigns should not only be limited to women but should include other sectors of the society as well;

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3. Such awareness raising forum should be held in the presence of top executives such as Ministers of Land, Water & Environment, Local Government, Regional Governors and top party officials;

4. Together with making land accessible to women farmers, this should be accompanied by provision of either credit for hiring labor and buying seeds or put in place other mechanisms that can solve women's shortage of labor and other related resources;

5. Since all the women in the focus group discussions, key informants and national workshop recognize NUEW as the sole organization that could coordinate and lead the struggle for making land accessible to all women on their right any interventions should be made in collaboration with NUEW.

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The Status of Women and Land in Kenya

By

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August 2001

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Dedication

I dedicate this research to all **Kenyan women** who have struggled hard to continue feeding the nation while at the same time experiencing numerous hurdles.

I also wish to dedicate this research to my children **Wahu** and **Jonathan;** for them and other children, I will endeavour to ensure that they have equal access to and control over land.

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Appreciation

Special thanks to my family, especially my husband **Michael,** for his support and encouragement throughout the research period.

My children **Wahu** and **Jonathan,** for not only giving me peace at work, but also the determination to undertake the research with a view to ensuring that they both have equal access to land in future.

To my research assistants, **Helen Kivondo**, **Lydia Gatere** for working under pressure and producing exceptional results and **William Mboyano** my senior research assistant, for all the exceptional hard work he did, and for being my constant reminder to produce an excellent report whose purpose would not be to grace shelves. And also for helping in analysing, compiling and editing the report. For him a special thanks.

To **Scolastica Nambiro** who typed the work and put up with me during my moody days which were stressful.

Ms **Akinyi Nzioki**, principal researcher, for being there for me as researcher, advisor and, most important of all, friend.

All those who attended all the workshops we held and their invaluable contribution, forgiveness and understanding where we failed to incorporate all their comments into the report.

Finally to Ms Mugisha, Ms Eilor and the rest of the EASSI team, my appreciation for your patience and encouragement.

Thank you all once again, and **God Bless you**.

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Abbreviations

ADC	Agricultural Finance Corporation
AIDS	Acquired Immuno-Deficiency Syndrome
ASALs	Arid and semi Arid Lands
DO	District Officer
GDP	Gross National Product

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Executive Summary

Land in Kenya is an invaluable asset owned by few but sought after by many. It continues to be the most significant form of property in rural Kenya and a determinant of economic wellbeing, social status and political power. Kenyan women play a crucial role in agriculture as producers and providers of food. They are alternatively obliged to provide food for their family and to earn income to meet the needs of the daily family welfare. They provide 80 – 90% of the labour in subsistence production and over 70% in cash production.

Traditionally women were provided with access to all productive resources including land to enable them to fulfil their obligations. The pre-colonial system of land owning created security of tenure, which acted as incentive to full and committed participation of women in the economy. Today women's obligation to provide food to the family remains, but their access to productive resources and ability to control the produce of their economic activities is less secure or has actually declined.

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The Kenya government has pursued programmes to transform customary land tenure to statutory free hold tenure through land adjudication, consolidation and registration. However, in spite of this the issue of women's access to land remains a critical priority not been effectively addressed by the existing legal and policy frameworks. Titled land is transferred exclusively to male individuals. Thus title deeds do not only increase men's control over the distribution of land but also create dependency of women who have no legal access to land. There is substantial evidence that economic resources in the hands of male household members often do not benefit females on an equal basis.

This study investigates the status of women's land rights in Kenya. The research was based on the following objectives:

1. To find out what effects the introduction of individualised land tenure system has had on Kenyan women.
2. To establish the major factors affecting access to and control of land by Kenyan women.
3. To identify the policies and legal provisions that govern access to land in Kenya.
4. To propose strategies to improve access and ownership of land amongst Kenyan women.

An in-depth look at the pre-colonial era clearly indicates that the white settlers on their coming to Africa marginalized the indigenous Africans. This was the same in Kenya. As a result some of the Kenyans where sidelined and relegated to non productive parts of the country. This had a direct effect on women and particularly so their access to the land they once used. In our view therefore, the marginalisation of Kenyan women can safely be said to have started once Kenya was colonised by Britain.

To ensure their interests were protected, the settlers enacted laws, which worsened the plight of Kenyan men and women. In our research we have revealed the historical background of land in Kenya and the various legal frameworks that were put in place to ensure that the white settlers and their property were well protected. With independence a great number of laws were inherited and have never been amended. This has continued to be the situation today resulting in laws which are not only gender insensitive, but which also ignore, intentionally or by error, to mention women or legally protect and enforce their access to and control of land.

The research was carried out amongst the Kamba and Kikuyu communities in Mutituni Location of Machakos District and Kinoo Location of Kikuyu Division in Kiambu District.

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The methods of data collection used in this research included;

- A structured questionnaire together with in-depth interviews[1].
- Focus group discussions[2].
- Secondary information

At least 120 questionnaires were administered in each of the two locations and out of the questionnaires 60 were randomly selected from each location for analysis. As the questionnaire was very detailed, parameters were selected for analysis. Details of which are to be found in the text of the research.

On the basis of the findings and analysis, recommendations are made that are not only related to the issue of women's rights of access to land, but have a bearing on women's active participation and contribution to the development process in general.

The recommendations made include:

- That the government should create a policy environment that effectively empowers women through legal means and provides security in their legal rights to land.
- A gender sensitive Land Reform Commission should be appointed for the formulation of land policy in Kenya.
- Poverty and high cost of education have resulted in low levels of education especially amongst women, since many families opt to educate boys at the expense of girls. There is therefore a need to ensure a reasonable degree of literacy amongst all Kenyan women and girls.

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[1] See Appendix .....
[2] See Appendix .....

1.0 Background

The issue of women's access to and ownership of land remains critical to the economies of Kenya and other countries of the Eastern Africa region. This is because women play crucial roles in agriculture in these countries as producers and providers of food. They are the major workers on land providing 80-90% of the labour in subsistence production and over 70% in cash crop production[3].

Yet women lack ownership rights over the land on which they invest so much of their labour and on which they depend for their livelihoods. Traditionally, men were considered the heads of households, and hence the ones entitled to control access to land as a productive. In spite of their critical role in agriculture, women were excluded from direct ownership and control of this basic resource.

The lack of secure land rights is a major constraint to women's productivity, and contributes to household poverty and food insecurity. Because they are the major food producers, women's secure access to land is critical to agricultural productivity in Kenya and other countries of the region. It is therefore necessary to consider the constraints to improved productivity with a view to addressing the constraints and thereby increasing productivity.

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For a significant majority of rural households, arable land is likely to remain for a long time the single most important source of security against poverty in rural Africa[4]. Even if it ceases to be the sole source of livelihood for many land will for a long time continue to define social status and political power in the village, and to structure relationships both within and outside the household.

Only a small number of Kenyan women own land and even fewer can excise effective control over it. Yet the issue of women's land rights has received scanty attention from policy makers, academics and other development actors.

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[3] Source?
[4] Ref?

1.1 National Context

Kenya's population was estimated to be 28.7 million in 1999 and projected to be nearly 34 million by 2001. The bulk of that population depends on agriculture which makes up the largest economic sector of the country. Even though its contribution towards the Gross Domestic Product (GDP) has been declining over the years, current statistics show that it contributes 30% of GDP, 60% of exports and 70% of all jobs[5].

The twin challenges to development in Kenya are poverty and unemployment. With over 50% of the population estimated to live below the "poverty line", the agricultural sector needs to be developed, not only to boost food production, but also to enhance employment creation, through the tapping of agricultural produce to stimulate the growth of off-farm employment by providing raw materials for agro-industries.

Most of the population in Kenya lives within less than 75% of the arable land, pre-dominantly within the ASALs. National Parks and Game Reserves comprise 10% of the land, which is not open to human settlement, especially for grazing and cultivation purposes, due to preservation of flora and fauna. Government land, large scale, commercial farms and non-farm activities, such as commercial and administrative centres, take up the rest of the land.

In both rural and urban areas, women are increasingly involved in the labour market. In rural areas, women still spend a disproportionate amount of their time on unpaid work (both on and off-farm). This limits their access to income-generating opportunities, resulting in a situation whereby women end up playing a limited role in the formal sector, and being represented disproportionately in the informal sector. In urban areas, an increasing number of women are joining

[5] Ref?

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the labour market. However, their employment is still characterised by low productivity, low pay and long hours of work[6].

1.2 Legal Framework for the Management of Land

Prior to the arrival of colonialists, Kenyans held land communally. Although every African had an ancestral land base, which was considered important for the continuity of the family, clan, or tribe, absolute ownership of such land was rare, even by the head of a household or family. The level of rights of use and/or control over the land by the individual members of a family was set by customary law. Any disputes over rights of access, use or control over land were settled by elders' tribunals. This land tenure was subverted by the colonial settlers who usurped high potential areas, and confined the African population into "reserves" within the marginal lands. This move effectively eliminated access to, use and control of the best lands by the African population and curtailed beneficial inter-tribal relationships.

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Expropriation of land by white settlers resulted in increased pressure on land supply and a weakening of the traditional economic base of the African population. It also curtailed the indigenous population's authority over land use as new land use patterns were forcibly introduced. The development of permanent cash crops in exclusive holdings within the reserves led to a situation where production of foodstuffs was way below subsistence demands, resulting in periodic food shortages.

Land scarcity in the reserves became a critical economic and political issue. Demands for the restoration of "stolen lands" became commonplace, even before the Mau Mau revolt "exploded", leading to the declaration of a state of emergency in 1952. The land issue could no longer be ignored.

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[6] Ref?

Instigated by landlessness within the reserves, a spontaneous movement, whose origins were in Kiambu reserve, started and spread quickly to almost all the African reserves. The years 1937-52 were characterised by growing incidences of labour strikes, labour withdrawal, violence and sabotage, fomented by popular discontent arising out of landlessness, unemployment, low wages, accelerated population growth, increased pressure on land and declining soil fertility within the African reserves. Within this scenario lay the foundations of the Mau Mau rebellion.

As black rule became imminent in the late 1950s and early 1960s, settlers were forced to pre-empt manoeuvres that would safeguard their interests, as well as provide a framework for the organisation of the post-colonial economy. One such manoeuvre was implementation of "The Settler Plan"; an elaborate scheme of constitutional and statutory guarantees of property rights, aimed at making the survival of the colonial economy possible within the political authority of the independent state.

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The colonial administration, assuming that the land issue was essentially one of "tenure" and "the technology of production", adopted a policy of "confirming security of tenure through indefeasible title in the reserves" and "intensification of agricultural production in more areas". This was done with the hope that Africans would be able to make sufficient returns on their small plots of land, and abandon their demands for redistribution of European-held land.

1.3 Prevailing Legal Regime

There is a wide body of laws governing access to land in Kenya today. The principal ones are:

- The constitution
- The Trust Land Act

- The Land Adjudication Act
- The Land Consolidation Act

The constitution is the supreme law of the land. Apart from its numerous provisions that establish the structure of government, chapter IX of the constitution provides for the governance of trust lands. These are lands ordinarily accessed under customary land tenure. The constitution vests these lands on the county councils within whose area of jurisdiction they are situated, to hold them for the benefit of the persons ordinarily resident on the said land. The management regime for trust lands is set out in the Trust Land Act.

The Trust Land Act, for its part sets out the procedure for administering trust land. It outlines the circumstances under which leases and licenses may be issued for the use of trust lands. Apart from powers vested in local authorities, the Trust Land Act also provides for the Commissioner of Lands to manage trust lands as an agent of the county councils.

The land Adjudication Act deals with the ascertainment and recording of rights and interests in land. It provides a mechanism through which title to trust land held under customary tenure may be ascertained and recorded. Such ascertainment is done through an adjudication process that involves surveying, demarcation and recording of title to land.

The Land Consolidation Act provides for the ascertainment of rights and interests in, and for the consolidation of land in special areas with a view to controlling the division of property to ensure that plots are not divided into undersized units. Consolidation is ordinarily done simultaneously with adjudication.

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1.4 Purpose of the Research

This research examines issues affecting women's land rights in two communities in Kenya, namely the Kamba and Kikuyu. Both communities have unique issues that affect women's access to and ownership of land, which are predominantly governed by their respective traditions and cultures.

The study will consider the effects of tradition and culture on land as far as Kamba and Kikuyu women are concerned. It shall seek to determine how women access land in these communities, the constraints to women's productivity and livelihoods arising from the nature of their land rights and what can be done to secure access and ownership of land by women in these communities.

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The research was therefore guided by the following three hypotheses:

1. That the existing land tenure is a constraint to rational land use planning and discriminates against women;
2. That lack of coherent inheritance laws and the prevalence of discriminatory traditions and beliefs enhance family land disputes, land crime and migration;
3. That ignorance of their legal property rights impedes the capacity of rural women to secure their interests in land.

The objectives of the study are three-fold:

- To establish the impact of individualization of land tenure on Kenyan women;
- To establish the major factors affecting access to and control of land by Kenyan women; and
- To identify existing policy and legal framework governing access to land in Kenya

In line with these objectives the study suggests intervention strategies for improving access to and ownership of land amongst Kamba and Kikuyu women in Kenya.

1.5 Research Methodology

The establishment of "units of analysis" poses a major problem in the course of any research on social issues in Kenya. This is because there are many overlapping cultures, within which are various dominant, sub-dominant or ethnic and sub-ethnic groupings, without clear-cut boundaries between them.

Due to a limit in time and financial resources, a cost-effective method of sampling, applicable to large-scale studies had to be adopted. This was a kind of probability sampling, involving selection of groups/"cluster samples", and then selecting "sampling units" from within the clusters. The sampling units so selected could, however, more correctly be termed as "convenience samples", because convenience to the researcher and access to the areas by research assistants were considered, as well as proximity to Nairobi, infrastructure and socio-economic development, amongst other factors.

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With Kenya being designated the "primary sampling unit", Central Province and Eastern Province were said to be "sample places". Kiambu District in Central Province and Machakos District in Eastern Province were then regarded as "chunks" out of the sample places, with Kikuyu Division of Kiambu District and Central Division of Machakos District being taken as "segments". The "clusters" were Kinoo Location in Kikuyu Division of Kiambu and Mutituni Location in Central Division of Machakos Districts respectively. Randomly selected dwelling units/households/farms were taken as the "units of analysis".

The research findings for each specific area, especially in terms of socio-economic activities and development cannot be generalised to the entire population or be applied to different settings. Such findings are considered as

having a limited "external validity" or "generalizability". As it was difficult to achieve "representative sampling" within a society exhibiting such a great diversity in cultures and socio-economic activities as Kenya does, the resultant "field" findings cannot be applied uniformly across the country.

Being qualitative in nature, the research involved observations/interviews "within natural settings" i.e. being a sort of "focused interview", it addressed itself to respondents involved in a particular situation/bias – that is women vis-a-vis land access/use/control/inheritance - focusing on the subjects' actual experiences within the "situation" under study. It also involved some analytic induction in that tentative hypotheses were "put to the test" in the field, with an intention of either confirming, reformulating or rejecting the said hypotheses. As it involved the observation of a single group relative to some specific event/time (existing land tenure), the research could also be likened to a "one-shot" case study.

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In terms of "manageability", limitations in time and resources did, to some extent, affect the thoroughness or the "exhaustiveness" of the research. The research assistants were not given any training, especially on the various interview procedures. This, therefore, led to there being an over-dependence on the schedule-structured interview, which involves questions identical in wording and sequence for all the respondents.

It would be a breach of protocol for one to undertake research on social issues without notifying the relevant authorities within the "area(s) of research". Therefore, the research was only done after consulting with the respective D.O.s, Chiefs, Assistant Chiefs and the local authority [councillors] of both research areas. The two research assistants were then sent to the field, that is, one to each of the two locations that made the "areas of research". Twenty days were spent in the field, with approximately one hundred and twenty questionnaires being randomly administered in each location.

A minimum of two focus group discussions were organised in each location. The questionnaires comprised open-ended questions, whereby the respondents' answers had to be recorded in full.

All in all, the respondents did grasp the import of the research since, access to, use and control of land is an issue that affects almost every citizen. However, many of the respondents had "too high a hope" for immediate "feedback"/ "follow-up", arising from the research.

1.6 Research Area

The research was undertaken at two locations in Kenya: Kiambu district and Machakos district. In Kiambu the field research was conducted in Kinoo location within Kikuyu division; while in Machakos fieldwork was done at Mutituni location in Central division. The research locations were selected on the basis of their diversity in terms of land use and land tenure. They are thus representative of the vast majority of Kenya as far as land issues are concerned.

Kiambu is the smallest district in the Central Province of Kenya. The population of the district is estimated to be just over 800, 000, with the predominant community being the Kikuyu. Although the land in Kiambu has a high agricultural potential, it cannot be tilled economically due to excessive fragmentation. The vast majority of the female population is engaged in subsistence farming.

Machakos is one of the 12 districts of Eastern Province. Its population is projected to reach 1.1 million in 2001. It is made up predominantly of the Kamba, a traditionally agro-pastoralist community. Rural-urban migration has resulted in a higher number of females being found in rural areas where they are the major contributors to family labour on farms. There is, therefore, a need to empower them, not only economically, but also in their ability to make critical decisions on production and utilisation of the resources available at the "household level".

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2.0 Research Findings

The questionnaires were administered mainly to women who were the main target group. The detailed questionnaires raised many issues, but the analysis below shall be limited to a select number of parameters that respond to and address the issue of women's land rights. The findings from the two research sites are analysed separately, starting with Kinoo Location.

I. Kinoo Location

2.1 Land Rights

a) Individualisation of Tenure

Land is mostly registered, but few women hold land in their own names. Even women who have rights to land have them registered in the names of their spouses. Daughters rarely have rights in land, save for the few who inherit land from their fathers. Women try to protect their interests to land by resorting to the local administration or Land Control Boards, for instance when the husband decides to sell land, or to use the title to the land as security in loan acquisition without consulting the wife.

b) Inheritance

Traditional patterns of land inheritance still pre-dominate despite individualisation of tenure. This results in land and other property being almost exclusively inherited by the male heirs. An example from the field was a case involving a man, whose children were all daughters. One of the daughters was a single-mother to a son. The farmer declared his grandson heir to the "family land".

Many of the respondents spoke of bequeathing land to all their children, irrespective of gender; so as to enable them to "meet some of the basic socio-economic needs", citing changing lifestyles, the ever rising inflation coupled with unemployment, plus the "instability of many marriage institutions".

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Since unmarried or divorced daughters do not have any guaranteed share of land within their paternal "heritage", they are, sometimes, forced to buy or rent land, from which to eke out a living. Daughters, however, do have a right to land use within their paternal homestead. Where this happens, however, it is limited to annual crops, implying that they can plant no "permanent" crops or erect "permanent" structures. The daughters are expected to leave their paternal homestead on betrothal. Some divorced or unmarried daughters are allocated land by their fathers, but this is usually smaller in size than the portion allocated to sons

Widows are rarely disinherited although most have the land registered in their late husbands' names.

2.2 Land Use

a) Size/Use

Many of the parcels of land are very small, most of them below 2 acres in size. For most of the respondents, decision-making on land use including the type(s) of crop(s) to be planted; under what acreage; application of fertiliser/manure or other farm-inputs; and alternative/non-farm uses is done jointly with their spouses. In instances where the husband is employed elsewhere and, thus, lives off-farm, the wife manages the farm and makes all the decisions. Subsistence farming predominates, involving the growing of such food crops as maize, beans, vegetables, potatoes, arrowroots, sweet potatoes and fruits such as bananas.

Alternative land use involves the keeping of dairy cattle, requiring limited cultivation of fodder, and building of rental units for "outsiders" working either within the district or in Nairobi. A few farms have piggery while others keep poultry.

b) Labour

Because most of the land parcels are quite small the labour of women and children is what is mostly utilised to farm. It is only on a few farms where, either because the acreage is higher, or because the farming practices are labour-

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intensive, that labour is hired on permanent or temporary basis. Because farm produce does not meet all the needs of their families, many women are forced to look for other means of supplementing farm produce/income. Quite a number of respondents were employed either in the formal or the informal sectors and still finding time to work on their farms in the evenings and over the weekends.

2.3 Income-Generation and Distribution

Most of the respondents said that the annual income/produce they get from the farm was not enough to meet the family's annual requirements. The few exceptions were due to "diversity in land use" and more acreage relative to other farms – for instance a five-acre farm with dairy cattle, poultry, rental units and food crops. On the whole, the study found out that the income generated from the farm was controlled by women. A few farms had such income being jointly managed by the couple. Fewer still were the farms in which the income generated was controlled by a man, such exceptions being where the "returns from farming were high" for instance in cash crop production or commercial farming.

Vending of farm produce such as fruits-especially bananas, milk, vegetables, potatoes, and eggs in market places and in the neighbourhood is the most regular form of income-generation for many of the respondents. Other sources of income for women were retail and small-scale businesses, food kiosks and cafeterias, and hiring out rental units.

2.4 Access to agricultural and other services

None of the respondents had benefited from any Government Extension Service provided by the Agricultural Extension Officers. Most of the dairy farmers are small scale and only seek the services of a veterinary doctor/officer when it is necessary and urgent. Banking/credit facilities are not accessible to many of the respondents. There are virtually no co-operatives within the area of study. The

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respondents also felt that development of social services within the area was vital as it would not only improve the quality of life, but also generate jobs, increase market outlets, on top of motivating investment and checking rural-urban migration.

2.5 General Suggestions

The respondents' suggestions pertaining to women's land rights are set out in the table below:

Suggestions Pertaining to Women's Land Rights
• Couples should have a "joint title" to their land, or the wife should have a copy of the original title if it is in the name of the husband.
• There should be greater representation of women on Land Boards, Land Adjudication Committees and Arbitration Boards
• "Special Land Boards" should be scrapped as their actions sometimes are in conflict with those of the permanent Land Control Boards
• All children should inherit land equally, regardless of sex.
• Women should be enlightened on their legal rights generally and their land rights in particular.
• Women should network and lobby the government for their rights in a more organized manner.

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II. Mutituni Location

2.6 Land Rights

a) Individualisation of Tenure

The land is held in individual tenure and most of the respondents received their title deeds in 1972, with others receiving them in 1976 and 1978. A number of respondents are yet to receive title deeds even though the land has been adjudicated. Some cite financial constraints as being the reason for their being unable to follow up the matter. The land is generally registered in the names of the men. Even widows have the land registered in the names of their deceased husbands.

b) Inheritance

Family land is inherited by sons. With land purchase, however, the inheritance patterns sometimes change. Some of the respondents, who had bought their own pieces of land, saw the need of bequeathing a share to all their children, irrespective of their gender.

Problems arise when a father decides to allocate land to any unmarried, or divorced daughters. In most instances, such women eventually get forcefully evicted from the land by their male siblings, who believe that daughters should not have a share of paternal land. On finding themselves landless, some of the women become "tenant farmers" on their kins' land. Many of the respondents who come from this kind of context complained about the prevailing arrangement which involves paying for one's tenancy through labour (working on the landowner's farm), and through giving the landowner part of the produce that a tenant harvests. They pointed out that the amount to be paid is not fixed, and many tenants find themselves working "unproductively" for very many hours.

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2.7 Land Use

Size/Use

Many of the plots are below one acre in size. Most of the respondents practise subsistence farming, growing such food crops as millet, maize, beans, avocados, mangoes, vegetables, cassava and sweet potatoes, amongst others. In most cases women make decisions on land use.

Coffee is the main cash crop in this area. It is grown on farms with a larger acreage although some of the smallholdings have a few coffee bushes. Alternative land use, for many respondents involves keeping indigenous poultry, indigenous cattle, goats and/or sheep. A few others keep dairy cattle.

a) Labour

On average, the parcels of land are very small in acreage such that women, with the help of their children, adequately manage all the aspects of farming. Husbands provide casual labour to the large-scale farms. For many of the respondents, off-farm labour involves working on other peoples' farms, especially farms with "considerable" acreage, during peak seasons. Self-help groups are only found amongst the more elderly residents of the area. These are mainly for traditional social purposes – such as the "age groups" and not "strictly for work".

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2.8 Income -Generation and Distribution

The annual income/produce from most of the farms barely meets the family requirements. As it is insignificant in amount, any income generated from farm work" ends up being controlled by women. The income has to be sought from other off-farm sources to supplement what is got from the farm. By vending fruits, especially bananas, vegetables and milk, women try to supplement the income realised from farming. Other women vend water to business premises, while others sell firewood.

Other sources of income for the women include providing labour on farms with a large acreage, braiding of ropes and weaving of baskets from sisal, and small-scale businesses.

2.9 Access to agricultural and other services

Most of the respondents have not received any services from Agricultural Extension Officers or any other Government Extension Services. Banking/credit facilities are not accessible to many. Many respondents within this area did not give such services a high priority. Social services are underdeveloped in this area. There are, however, a number of co-operatives which provide some services to the residents of the area. Among these are: a Coffee Co-operative which provides farm inputs and markets the produce, a Dairy Co-operative [marketing of milk/temporary jobs for milk vendors] and a Horticultural/French beans Co-operative [marketing of horticultural produce, especially French beans. However, not many of the respondents are actual members of such co-operatives. For most, the co-operatives represent "marketing outlets" or opportunities of income-generation.

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2.10 General Suggestions

Many respondents pointed out the need for equality in land inheritance between sons and daughters. They argue that if a woman inherits land, she has an "economic base" to fall back on particularly when a husband neglects his financial responsibilities.

Title deeds for women would enable them to secure loans to develop themselves, for developing the woman is like developing the whole family. Secure land rights for women would not only lead to socio-economic development, but would also alleviate any fears and anxiety pertaining to land alienation, leading to stability within the family.

2.11 Responses from key informants

Though the research was generally on women's land rights, some male respondents were also interviewed. These included some members of the clergy, administrative officials who either chair or sit on the Land Control Board, and those who are involved in resolution of conflict over land. A brief summary of such respondents' remarks is provided to give the "official position", and also to provide a " dispassionate view" on the land issue.

a) District Officer

The DO chairs the Divisional Land Control Board. The Land Control Board sits once every month. Any cases that could not be resolved by the Chief/elders are brought before the Board. In both locations it was reported that most of the cases handled by the Land Control Board are reported by women whose husbands use the title deed to secure a loan, without consulting them, or intend to sell part or the entire "family land". In such cases, the transactions are blocked, if they have not yet been effected. If the loan has already been acquired, however, it proves more difficult as it would involve compelling the husband to pay it back. Other cases are brought up by daughters, or mothers on behalf of their daughters, contesting their being excluded during the sub-division or allocation of family land. Some of those cases involve unmarried or divorced daughters. For the cases deemed deserving, the parents or brothers are ordered to allocate them land.

For widows, proof of marriage is essential. Only then can the administration help them repossess any land that might have been encroached on by relatives. Even though, after such a decision, some widows find themselves living in such a state of tension with their relatives that they opt to sell such land.

The District Officer said that he normally advises women on absolute land rights, encouraging them to have a joint title deed with their husbands. As for men, the District Officer advises them to allocate land to daughters as well as to sons, citing to them the prevalence of broken marriages. He felt that the Special Lands Control Board should be scrapped since having two "overlapping" Boards sometimes creates loopholes for illegal proceedings to take place, as a result of

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graft. Another recommendation was for there to be more women chairing/sitting on the Land Control Board and/or any Land Adjudication Committees/Arbitration Boards.

b) Land Control Board Officer

This officer also cited cases similar to those pointed out by the District Officer. The officer felt that more women representatives should sit on the Land Control Board as most of the land disputes adversely affect the women. In case of land transfer, the public officers involved in the transaction ought to demand the presence and/or the signature of the "lady of the house", so as to prove that she is aware of, and consents to the said transaction.

c) Chief

He handles more than 8 cases related to land each week. Some of these cases are resolved by elders while others have to be referred to the Divisional Land Control Board for arbitration.

Most cases involve: -

- wives suing their husbands for using title deeds to secure loans;
- the head of the household allocates the entire parcel of land to the first-born son, based on the assumption that the son would thereafter allocate his other siblings a share;
- daughters demanding a share of land from "reluctant" fathers;
- daughters being disinherited by their brothers
- sons defrauding their mothers/siblings of land and either selling it off secretly, or using it to borrow money.

d) Assistant Chief:

An assistant chief who is female, pointed out cases similar to those cited by the chief, but, in her case, she takes the initiative of holding seminars once in a while for women in general, or for specific women's groups, to advise them on their land rights and the need for women have joint title to land with their husbands. If that is not possible, she advises them to have a copy of the title

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deed or its number. She also advises the women to encourage their spouses to bequeath land to daughters as well as to sons.

e) Members of the Clergy:

Notable respondents amongst the men were two members of the clergy. Many of their parishioners, especially women, approach them whenever in difficulty. In order to help such parishioners find a solution to the problem, the clergymen:

- advise the women on land rights;
- often hold seminars on succession/inheritance rights;
- advise men to allocate land or prepare a will on the same while they are still alive;
- contact the relevant authorities on behalf of the "aggrieved";
- sometimes engage a lawyer, for any cases they deem to be "beyond their intervention".

f) Men in General

Asked what they thought regarding land inheritance by daughters, many of the male respondents supported the notion for various reasons.

- Some cited the many socio-economic changes that have come up [retrenchment, unemployment, inflation etc.], adversely affecting many families. With land ownership, women could help uplift their families economically, since most women work for the welfare of their families.
- One cited a "gloomy future" for daughters, especially due to diseases like AIDS, which leaves orphans without any other recourse apart from family land.
- The homestead is "a woman's domain". There should be, therefore, no problems over a couple having a joint title to their land.
- When in a position to, daughters, more often than not, give more assistance to their parents than sons under similar circumstances do. It hurts when one

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fails to allocate them land hoping that they will get access to land in their matrimonial homes, only to see some of them return home "disinherited by their husbands". Therefore, daughters, especially those deemed to be responsible, should be allocated land. In every homestead there is a wife, mother and/or daughter. Improving their welfare, therefore, augurs well for the entire family.

Not all men, however, were that supportive of land inheritance by daughters. Quite a number of them expressed some reservations about the idea. Some of the reasons advanced against were:

- Married daughters are supposed to have access to land in their matrimonial homes. They should try to preserve their marriages, not "wrecking them either because of 'women's rights', or because they would hope to get land within their paternal homes".
- Allocating a daughter family land might lead to "strangers living amongst the family", should such a daughter and her spouse decide to live on the said piece of land, or, in the extreme, it might lead to the daughter and her spouse disposing such land.
- The marriage institution could be endangered, especially when an "independent–minded" daughter is allocated land. On getting married, such a daughter might neglect her duty of "working towards the stability of married life", knowing that she has "something to fall back on" should the marriage fail.
- "Power struggles" as to who should "head the household" might arise between husbands and their wives, where land is jointly registered.

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3.0 Analysis

3.1 A General Perspective

The main purpose of this research was to establish the major factors affecting access to and control of land by Kenyan women and how these factors affect food security and contribute to poverty in the country. Recurrent famine and poverty are the real threat to democracy, as the democratic rights of poor and hungry citizens tend to be "reduced to mere commodities for sale". Poverty, when coupled with the ravages of famine, hinders the larger percentage of the population from participating effectively in or contributing towards the country's "socio-economic" and "politico-legal" spheres, despite the fact that increased efficiency in such spheres is crucial to economic growth and development. Such recurrent famine also ends up creating a "food-aid generated dependency", characterised by the erosion of a people's initiative to produce sufficient food locally.

Most of the peasant farms are inefficient in their resource management reflected in their land use and "off-farm" economic activities and produce below their "optimum levels". Some of the farmers do not have access to the more "lucrative" markets as they lack the necessary market information and end up disposing their produce at their "farm gates" in distress sales during peak seasons. Poor transportation facilities and a crumbling infrastructure have also had a negative impact on farming resulting in high transportation costs and high cost of farm inputs and capital goods. The excessive fragmentation of land to sub-economic parcels is also another setback in agricultural production, implying that, more research, applicable to small-scale farming, needs to be carried out.

Almost all of the small-scale farmers make "ecologically risky" decisions that lead to over-use of land and, thus, environmental degradation. This is characterised by the tilling of the same piece of land, with the same tools, under the same crop, year after year, without any regard to the requirements of agronomy. With time, such practises "exhaust" the land so that it can no longer "feed the family".

Kenya's susceptibility to famine is further exacerbated by the food crop - cash crop ratio. Most of the high potential land is under cash crops, with the

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remainder having very high population densities resulting in excessive fragmentation of the land. The high potential area is less than a fifth of the total area of the land available in the country. The rest of the land lies within the "arid and semi-arid lands", and, thus, cannot produce high yields unless under irrigation.

3.2 The Position of Women

Individual land titles were introduced with the rationale that the resultant "security of tenure" and the ability of one to secure a loan against the title to one's land would result in rapid development. However, that expectation has not been realized because of other factors that were not anticipated when this argument was advanced. Among these factors are the following:

- The registration process was "inherited" from the colonial administration, which had a "skewed" land tenure system characterised by unparcelled large-scale farms with "tenant labour" (squatters), and other excessively small parcels with high population densities within the high potential areas.
- Individualisation of tenure led to the nullification of the traditional mechanisms of "absorbing landlessness" resulting in the emergence of a landless class, squatters or tenant farmers - majority of whom are women.
- The registration process is not a "conclusive exercise" as each successive generation sees a "new crop" of landowners, as fathers allocate land to sons who also require individualised titles to the progressively smaller parcels of land allocated to them.
- The Banking sector, due to existing risk management policies, prefers not to grant loans against the security of the "small holdings"
- Almost all titles to land are in the name of men.

These factors affect women most as they are at the "mercy of men" since most of the individualised titles are in the names of men who can dispose of the "family land" as they wish and can even secure loans against the land titles any time they feel like. Even when men opt to secure loans to invest in agricultural

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production, many opt to grow cash crops. This not only results in women losing the land they have been using for food production, but also being required to provide labour cash crops, without any guarantee of sharing the proceeds realised from the sale of such crops.

The overall effect is that women have a limited access to funds, a factor that places constraints on their ability to undertake innovations, and thus expand or increase agricultural production. Further socio-economic constraints, especially for women in rural areas, are posed by the "rural labour structure", which is characterised by a high dependency ratio, latent unemployment, and a skewed division of labour due to rural-urban migration.

In summary, the major setback of the agricultural sector is that women, the primary producers of the sector are marginalized in their access to and control of productive land, by their poor earnings which constrain their ability to diversify their sources of income, and by their low levels of education which limit their capacity to innovate.

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3.3 Legal Provisions

Currently, Kenya has no specific legislation on the issue of division of matrimonial property and other family-related issues. The applicable law is the 1882 Married Women's Property Act of England, which has been used by the courts to recognise and give effect to the contribution of the woman in the acquisition of matrimonial property, even where such contribution is not by way of direct cash. Nevertheless legislation needs to be enacted to cover such issues in a manner that is relevant to current realities.

Although the country now has a Family Division of the High Court with the mandate to address issues affecting family relations, rights and responsibilities, this alone will not translate into meaningful opportunities for women, unless the legal framework is itself changed to respond to the concerns of women.

4.0 Conclusions and Recommendations

In all "predominantly rural countries" of which Kenya is an example, the peasantry, majority of whom are women, are the principal generators of wealth. The research "Women and Land in Kenya" addressed itself primarily to the issue of women's right of access to and control of land, especially within the agricultural sector. However, care was taken not to study the circumstances affecting "women's ability to empower themselves socio-economically" in complete isolation of those affecting society at large.

It was also considered imprudent to study such circumstances only within the agricultural sector. Land is essential, not only for agricultural activities, but also for a variety of other uses like housing and the whole range of other socio-economic activities like the siting of industries/commercial and administrative centres, mining, quarrying, forestry etc. If women, therefore, were to be accorded security of tenure on the land there would be a resultant increase in the full and committed participation by women in development programmes, enabling a more rapid growth of the national economy.

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Given the limited availability of agriculturally productive land, the solution to an increase in agricultural production might lie in research geared towards intensified agricultural production, both within the smallholdings and the large-scale farms. This, coupled with price-control mechanisms, the establishment of agro-processing and manufacturing industries within rural areas, and the expansion of irrigation networks could work at bolstering food security within the country.

However, there are other underlying factors that affect women's ability to empower themselves socio-economically. These include: low levels of education, landlessness, excessive land fragmentation, low prices of farm

produce, poor infrastructure and lack of credit facilities. These too must be addressed in seeking to improve agricultural productivity generally, and women's on-farm incomes in particular.

Outlined below are some general suggestions that could level out the field and thus enable more effective participation by women and society at large in the country's economic growth and development.

4.1 The government

The government has a major role to play, as far as women and land in Kenya is concerned. To begin with, government needs to create a policy environment that effectively empowers Kenyan women through legal means and provides security of expectation for all women irrespective of tribe, age or status. Women should be involved as owners and managers of resources and not simply as participants in development projects. This however does not mean that the government involves itself in giving women "tokens" or "gifts", but that women are recognised as major stakeholders.

Government needs to address the land tenure systems and undertake reforms that will strengthen the position of women in their claims to land. Once such reforms are in place, efforts must be made to ensure that they are aware of these rights and are able to claim the benefits thereof. The marginalization of Kenyan women in land tenure can no longer be justified by the excuse that traditions and customs are responsible. Where traditions and customs are repugnant, they should be done away with in a manner agreeable to all communities.

National Development Plans should be specifically gender sensitive and not seen to browse over the issue of gender as a mere formality. The contribution of women to the development process has to be highlighted and incorporated from the planning stage in all National Development Plans and policy documents.

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The government has appointed a Commission of Inquiry into land laws in Kenya. It is hoped that as the Commission tours the country collecting peoples' views, the voices of Kenyan women on land shall be heard. To this end there is a need to publize officially through all forms of media, electronic and print and through the administration, the role and the specific terms of reference of the Commission to enable rural and urban women to make decisions as to whether it provides them with a forum to address their issues concerning land.

There is also a need for the appointment of gender balanced Land Control Boards at grassroot level, to listen, and to help both rural women and men to address land issues. Its members should consist not only of administrators but ordinary women and men who interact with the communities on a daily basis and understand their problems.

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4.2 Education

For a people to participate effectively in any development process, they must possess a reasonable degree of literacy so as to be able to "appreciate" the programme's import to them and to the country at large. Poverty and the high cost of education have resulted in low levels of education, especially among the women, since many families opt to educate boys at the expense of girls.

Subsidies for lower primary education would not only impart basic literary skills on almost all the children but would also help correct the gender imbalance in education. Girls with an inclination to academic pursuits could be identified and supported, alongside the boys who excel academically, but whose parents cannot afford to educate them "any further".

Family life education is also crucial, especially at the adolescent and pre-adolescent stages. It would not only prepare the youth emotionally, but would also prepare them for the "socio-economic aspects" of the family institution.

Family life education should impart on the youth ideas about matrimonial property and the duties, responsibilities and expectations of married life. Such knowledge should help reduce incidences of gender-based domestic violence and discrimination.

Civic education, on national and social issues, is also vital; to "sensitize" the people to the need for "mechanisms" to allow for the involvement of all in the development process.

4.3 Development Administration

One of the intentions of the Affirmative Action Bill-2000 was to promote gender equality in the decision-making and policy-formulation processes of the country. However, the approach adopted by many of the lobby groups was viewed negatively in that they were assumed to be "clamouring for a share of the top positions. What such lobby groups ought to have done was to first make the society at large aware that such equality [in the decision-making/policy-formulation processes] is applicable not only at the national level, but from the level of the most basic production units, i.e. the grassroots levels.

By involving more women in planning for development programmes and projects at the grassroots level, women with the "ability to hold national positions" can be identified. They can then be encouraged to vie for such positions. Another benefit from the increased involvement of women in the planning, implementation and evaluation of development programmes and projects would be the people's deeper and sustained commitment to and, hence, better maintenance of the projects.

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4.4 Land Management

Increase in population leads to an increase in the pressure on a limited land base. This makes land reform for a more even distribution of income, especially along gender lines crucial. Coupled with agricultural outreach programmes directed towards women, such land reforms could significantly improve output, income and family welfare in general.

Women are disadvantaged due to their inability to use land to secure loans. This is because most of the land is registered in the names of men in spite of the fact that the law governing issuing of title deeds does not discriminate against women. Women's ignorance of property rights has led to their marginalization from land ownership. The solution to this problem, therefore, lies in enlightening women on their general rights including rights to land. Women also need to be enlightened on the opportunities for economic empowerment that title to land offers.

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4.5 Diversification of Economic Activities

Socio-economic diversification within the rural areas would help cushion the effects of adverse weather, and the limited income from the sub-economic land parcels. The setting up of agro-industries to process agricultural commodities, plus other agro-business within the rural areas, would offer more marketing outlets for farmers and, at the same time, generate more employment opportunities.

Many of the women's groups are formed for social and cultural reasons. Rarely are such groups formed with an economic objective. Therefore, women's groups need to be provided with practical skills and thereafter be encouraged to register themselves as co-operatives, societies or companies, for the purposes of investment, production and trade. This would go a long way in supplementing farm production, as it would enable the women to tap the entire range of resources, both natural and human.

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20. The Registered Land Act – Cap 300 of the Laws of Kenya.
21. The Subordinate Courts (Separation and Maintenance) Ordinance – Cap 153 of the Laws of Kenya.

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"Beyond the Radical Title"

A RESEARCH ON WOMEN'S ACCESS TO, OWNERSHIP AND CONTROL OF LAND IN TANZANIA

GCRDA

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August 2001

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ACKNOWLEDGEMENT

This study is a result of the assistance and understanding of many persons to whom I wish to express my sincere gratitude. I would like to thank the Eastern African Sub-Regional Support Initiative for the Advancement of Women (EASSI) for sponsoring the research. Thanks to Elizabeth Akinyi Nzioki for her constant supervision and close follow-up in the course of this research.

My special word of appreciation to the assistant researchers and associates who were with me in the field as well as in the course of writing this report.

All the people in Mbeya and Morogoro regions who generously gave their time to share whole-heartedly their perceptions and opinions about rights of women in land. Without them this research would haven't been a success.

I wouldn't forget the countless number of colleagues who supported this study by providing the necessary information and proof reading.

Tumaini. E. Silaa

July 30th 2001.

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EXECUTIVE SUMMARY

Ownership of land by women in Tanzania is traced from the pre- colonial period where land was held under customary tenure. Characteristics identified to this system included the communal ownership of land and usufructory right of women to access, though men were the owners of land. Although men controlled the distribution and allocation of land, land had not yet become a commodity, women were relatively indispensable and their security in land was unlikely to be threatened.

The literature has revealed that during colonial period land acquired commercial value due to introduction of cash crops. Eventually this lead to land becoming a private property. This was facilitated by the introduction of Land Regulations that ran parallel with the customary land tenure system. That was the beginning of infringement of women land rights. The same process continued even after independence.

The main questions that this research set out to answer are: -

- *Whether the reform of land policies and laws have had an impact on women's land rights.*
- *What are the factors affecting ownership of land by women?*
- *Whether customary and traditional land tenure have impact on women's land rights.*
- *Whether the society at large and women in particular are aware of the land laws and other laws pertaining to property ownership.*
- *Whether women participate in matters related to land issues.*

Research methodology

The study makes a critical analysis of land laws and policies as well as relevant research papers. The researcher has interviewed people in the field to enter into those peoples' personal world, to understand their inner perspectives and the meaning they make from those perspectives. The purpose is to identify gaps and barriers that hinder women from realizing their legal and human rights over land.

The methodology used in this research is from a feminist African perspective that takes women as a starting point in order to provide sufficient information to

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understand the complexities surrounding the issue being researched. The study involved focus group discussion, interview of individuals, elites, leaders, and women groups and land allocation committee members.

Scope of the study

In addressing the above questions two societies were selected. These are a patriarchal society and matriarchal society. **Patriarchy** is a system of social organization marked by the supremacy of the father in the clan or family, the legal dependence of wives and children, and the reckoning of descent and inheritance in the male line. **Matriarchy** is a system of social organization in which descent and inheritance are traced through the female line. A total of six villages comprising patriarchy and matriarchy societies were visited for research purposes.

The specific tasks of the study are:

- To review existing literature on land laws, policies and research papers and identify gaps
- Conduct a comprehensive assessment of existing land policies and other legal frameworks and make concrete recommendations for change.
- To conduct field study using participatory methodologies (African Feminist Methodologies and Analytical Tools).
- To identify actors and actions at the community and National levels.
- To identify striking cases of women's experiences for the land tribunal.

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Findings

The following findings were made by the research:

- In matrilineal societies, women have strong land rights, which are unaffected by marriage while in patrilineal societies they occupy inferior position relative to men, and their right to land is determined by marriage. Women in patrilineal systems have access to land but lack ownership and control. The access ceases upon divorce, and for a daughter if she marries.
- In matrilineal societies women do inherit land. Land belongs to the clan. Men, the uncles, are the ones who are consulted in making an important decision. However the matrilineal system has been largely influenced by

laws so as to enhance women's security in land, while legal services should be availed to women in rural villages.

At sub-regional level, there is a need to develop ways of sharing information, strategies, initiatives and developments that are taking place within the East African countries, and the rest of the world on women and land rights. EASSI should find ways of supporting proposed actions at the national level in the member countries. It should also identify common problems that cut across women land rights in the sub-region and design a common a strategy to achieve the desired impact.

Further research needs to be done on how to democratize decision-making powers at household level, as it is at this level that the roots of discrimination against women are planted.

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land policies, such as the Villagisation Policy of 1975 and intermarriage of people from other societies.

- It is assumed that when land is allocated to the head of a household, it is allocated to both, the wife and the husband. But in practice, land is registered in the name of the farther or the husband and therefore leaving women with usufruct right in land only.
- Participation of women in Committees dealing with land matters leaves a lot to be desired. Women have not been effectively and actively involved in land administration and management, although they are the users of land. The traditional set ups as well as the statutory ones are heavily dominated by men.
- Lack of legal and human rights knowledge by decision makers and by women themselves has resulted into further denial of women's land rights.
- Women have access to land through men, as daughters or wives. In all cases it was found out that the product of women's labor from the land is totally controlled by men. As a result women have no resources to acquire their own land and other properties. Given this situation women are poorer than men and occupy an inferior position in the society.
- The existing Law of Marriage Act, Land Laws, the Law of Persons and The Customary Law Declaration are interpreted on the background of customary law, and as a result women are denied rights. Moreover these laws are contradictory in their application.
- Divorce is one of the factors that leads to denial of women's land rights. At the same time attempts by women to have their own land is curtailed by prevailing customs and might lead to divorce.
- Customary and religious practices are factors diminishing women land rights.

Recommendations

There is a need of sensitizing the society on women's rights. Sensitization should aim at changing the people's attitude and way of thinking. There should be greater awareness about women's rights among women themselves but also within Land Allocation and Dispute settlement Committees and among extension services workers, traditional leaders and Primary Court Magistrates.

Credit facilities should be availed to women to empower them economically. Efforts should be made to harmonize contradictory land and property related

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1.0 INTRODUCTION

Land is a central resource in securing livelihoods and addressing poverty in most developing countries. It is a basic source of livelihood and denying access to it amounts to serious infringement of the right to a means of livelihood.

That women are discriminated against in the access, ownership and control of land and other productive resources has been acknowledged in major international documents such as the Copenhagen Declaration 1999 and CEDAW. The Beijing Platform for Action, the Copenhagen Declaration, CEDAW, and other such documents have urged Governments to undertake legislative and administrative reforms to grant women full and equal access to economic resources including the right to inherit and own land and other properties. This is important for the promotion of social progress and development and for the attainment of full equality between men and women.

In Africa, access to land has become a critical issue in recent years, partly as a result of increasing population pressure, land scarcity, land degradation, decline in agricultural productivity and economic stagnation. Land reform interventions have been introduced to respond to these problems. The benefits of these interventions as far as women are concerned have however been minimal even though they are the key producers and laborers on land.

In Tanzania 85% of the population live in the rural areas, and depend on land for their livelihood. Agriculture is the backbone of the country's economy and production relies on farmers and pastoralists. Within this framework women feature as the real producers and laborers on land, playing a crucial role in agriculture.

1.1 Problem Statement

In Tanzania land is publicly owned and the President has the radical title. Government has the ultimate authority over the management and administration of land. Under the 1923 Land Ordinance, the president through the Ministry responsible for land can allocate a plot of land by issuing a title deed to an individual. The same law provides for natives to continue owning and developing land under customary and traditional laws. Few women have land titles in their names; even though the statutory law does not discriminate against women in the issuance of title deeds. There are limited opportunities for women to acquire land otherwise than through inheritance. Under Customary laws, women's rights to land are indirect, insecure and inferior to those of men.

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The population of rural Tanzania is divided into patrilineal ad matrilineal societies. The patrilineal society comprises about 80% of the rural population. In this society, succession is reckoned on male line, and generally women's status is lower than that of men. The remaining 20% of the population is matrilineal. Their inheritance system benefits the man's uterine brothers and his sister's sons. Both in patrilineal and matrilineal societies, women play a great role in agricultural production. They are the tillers of land.

Women have not been able to realize their full potential in agricultural production under the customary or statutory land tenure systems. As a result gender imbalance in land access and other land-oriented problems, the majority of women living in rural areas are vulnerable to diseases, subjected to abject poverty and largely threatened by food insecurity.

1.2 Justification

The Tanzanian economy is likely to be based on agriculture for the foreseeable future. As such, the country must sustain itself with food and if possible produce surplus for export earns. The eradication of poverty cannot be accomplished through anti-poverty programs alone but will require democratic participation and changes in economic structures in order to ensure access for all women to resources, opportunities and public service. Studies indicate that by year 2015, the number of people living in absolute poverty could be halved if countries follow policies that reduce gender inequalities and create income-earning opportunities for poor people[1].

The African Charter on Human and People Rights and other International Conventions, most of which Tanzania is a party to, present the advancement of women and the achievement of equality between women and men as a matter of human rights and a pre-condition for the attainment of social justice. Gender equality is a measure of a just society, in which equality of rights over productive resources would be an important part. If women are to enjoy equity with men in life long, access to and ownership of land regardless of their marital status, then their land rights must be secured. Only thus shall women would to see themselves as equal partners in the management of both households and national affairs.

[1] *World Bank Report 2000*

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1.3 The Purpose of the Research

The purpose of this study is mainly to focus on women's independent rights over land ownership with the ultimate aim of suggesting the way these rights can be enhanced.

The specific objectives of the study are:

- To review existing literature and identify gaps
- Conduct a comprehensive assessment of existing land policies and other legal frameworks and make concrete recommendations for change within the country
- To conduct field study using participatory methodologies (African Feminist Methodologies and Analytical Tools).
- To identify actors and actions at the community and national levels.
- To identify striking cases of women's experiences for the land tribunal.

The research shall seek to answer the following questions:

- Whether and to what extent the land policy and legal reforms have had an impact on women's land rights.
- What are the factors affecting access to, ownership and control of land by women?
- Whether customary and traditional land tenure have impact on women's land rights.
- Is the society at large and women in particular aware of the land laws and other laws pertaining to property ownership rights.
- Whether and to what extent women participate in matters related to land issues.

The following hypotheses inform the research:

1. Women have access to land but lack ownership and control of land and its produce.
2. Customs and traditions contribute to a large extent in denying women land rights.
3. Ignorance of legal rights (land rights as provided by different legislation) contributes in denying women their rights on land.
4. Bureaucracy s and unknown procedures discourage women from acquiring land in their own name

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1.4 Evolution of the Legal Framework

The *Report of the Presidential Commission of Inquiry into Land Matters* provides a historical overview of the evolution of land tenure in Tanzania. It details how before the advent of colonialism, land was held communally under traditions and customs of the various ethnic communities. An individual's title to land was determined by membership to a particular family or clan, and land was for use by the family for subsistence. There were no individual titles in the modern sense. Men as heads of households were often the administrators of land but not its owners. Women had security in land and were able to grow crops of their personal liking.

The interest of European powers in conquering Africa was primarily the exploitation of African resources, chief among them being land and minerals. In order to fulfill these objective large tracks of land were alienated and allocated to European settlers for plantation agriculture. In Tanzania, this alienation was made possible through Imperial Decree issued by the German colonial power. The decree provided that all land, whether occupied or not, was to be treated un-owned crown land and vested in the Empire.

When the British took over from the Germans after the 1st World War, nothing changed. The Land Ordinance of 1923 declared all land in Tanzania to be public land in the control of the Governor. Allocation of land to Europeans continued under the Right of occupancy system[2].

The Ordinance appeared gender neutral in the sense that it did not discriminate between men and women in matters of holding land, however, by maintaining cash crop production and at the same time preserving native customs, it meant that security of women in land was no longer ensured. Moreover, men and not women, were taught modern agricultural techniques. The introduction of the money economy based on agriculture gave the men power in the economic, social and political spheres and set the stage for the marginalization of women.

[2] *Right of occupancy was defined under section 2 to mean a title to the use and occupation of land, and in 1928 the definition was extended to include the title of a native community lawfully using or occupying land in accordance with native law and custom*

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At independence, Tanganyika (Tanzania Mainland) continued to use the colonial Land ordinance. Such reforms as were introduced, including the Villagisation Programme did not in any way address the place of women as primary land users and producers.Reforms.[3] The Village and Ujamaa Villages (Registration, Designation and Administration) Act, of 1975 provided for allocation of land to a head of "Kaya" (a household or family unit) and these were invariably men.

The rhetoric for equality between men and women was nevertheless an integral part of the doctrine of Ujamaa and Self-reliance. The champion of Ujamaa and Self Reliance, Mwalimu Julius K. Nyerere stated that: *"...It is true that the women in traditional society were regarded as having a place in the community which was not only different, but was also to some extent inferior. This is certainly inconsistent with our socialist conception of the equality of all human beings... If we want our country to make full and quick progress now, it essential that our women live in terms of full equality with their fellow citizens who are men."* [4] In practice however, the vulnerability of women subsisted.

1.4.1 Inheritance

There is no general Law regulating matters of inheritance in Tanzania. Existing laws are either carried over from the colonial era or codify existing customs and tradition. Inheritance matters are therefore, dealt with by customary and religious law. Where the deceased leaves a will, property shall be administered according to the wishes of the deceased. Where no will is left and customary or religious laws do not govern the parties, then the Indian Succession Act of 1865 may be applied by courts.

The Local Customary Law (Declaration) Order No. 4 of 1963 codified various customs. This order contains rules regulating matters of inheritance. It is the law that regulates inheritance amongst the patrilineal communities. The order provides that women cannot inherit clan land but can use it during their lifetime without power of disposing it. Women can only inherit clan land if there are no men in the clan. Given the wide definition of relations in African societies, it is inconceivable that a clan would have no male member!

[3] Ibrahim Juma-Problem of the National Land Policy. Change magazine, vol. 5 first quarter, and 1997.
[4] Reproduced in the book, *Human rights in Tanzania, selected cases and materials*, by Chris Maina Peter pg 389.)

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A childless widow is entitled to use part of the land of her deceased husband only for as long as she remains unmarried. Her usufructory right ceases upon remarriage and the land reverts back to the deceased's relatives, as it also does upon her death. In practice, even this limited right of access does not protect widows. Instead, the tendency has been to dispossess widows unless they agree to be inherited along with the property of their late husbands by the deceased's clansmen.

In some instances Courts have made efforts to declare these discriminative customs as outdated and unconstitutional. The case of **Bernado Ephrahim v Holaria Pastory and Gervasi Kaizilege (Civil Appeal No. 70; 1989)** is a good example. In the case Justice Mwalusanya stated in his judgement that;
"I have found as a fact that S. 20 of the rules of Inheritance G.N. No. 436/1963 of the Declaration of Customary Law, is discriminatory of females in that unlike their male counterparts, they are barred from selling clan land. That is inconsistent with Art. 13(4) of the Bill of Rights of our Constitution on account of sex". This case has affirmed the right of women to inherit clan land or self-acquired land of their fathers and dispose of the same in the same way as men.

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However, as long as the law is in force, such protection is limited to the particular case. Those who do not go to court to challenge the law continue to suffer under it as long as it is not repealed by Parliament.

The Indian Succession Act of 1865 applies to African Christians and Europeans dying domicile in Tanganyika. Under this law widows are entitled to one third of the deceased husband's estate including land. The children regardless of their sex are entitled to two thirds of their deceased father's estate including land to share the same equally. Unfortunately, this law is very rarely used and is unknown to most people. Among Africans, it is the discriminatory customary law of the deceased husband that is often applied in distribution of the estate.

Courts are empowered to apply rules of Islamic law to members of the African community who follow Islamic law in matters of marriage, divorce, guardianship, inheritance and succession to mention a few. Islamic law is founded in Quran, and the general rule is that by a way of Will, a Moslem cannot dispose off more than one third of his estate after payment of funeral expenses and debts. Two thirds of the deceased's property must follow principles of intestate succession as provided

by Quran where by heirs are grouped in four categories and make a total of 12 sharers. Women widows are among the sharers whose shares are $1/8^{th}$ of the deceased's property only. Although there are other benefits, which go with the $1/8^{th}$, normally these are disregarded due to influence of patriarchal norms.

The law of Marriage Act of 1971 recognizes the right of married women to acquire, hold and dispose of property. Further the law provides for distribution of property upon divorce, though it is silent on distribution of property upon death. Married women can also enter into contracts, can be sued and sue in their own name. The spouse who owns the home is stopped from alienating the same while the marriage subsists without the consent of other spouse.

Although this law seem to have effected considerable reform with respect to the rights of married persons to matrimonial property, its effectiveness is compromised by the hold of customs and traditional practices.

The Constitution of the United Republic of Tanzania provides for equality between the sexes. Individuals have the right to possess property and to get protection for the property acquired legally. [5] Article 13 prohibits discrimination. Recently this article was amended to include the word 'gender' in its definition of the word 'discrimination'. This is a welcome provision, which is expected to promote women's rights in the country.

1.4.2 Recent Legislative Reforms

In 1999, Tanzania enacted two major pieces of legislation to regulate land matters. These were - The Land Act, of 1999 and the Village Land Act, of 1999. A Presidential Commission Of Inquiry Into Land matters, of 1991 and a Land Policy of 1995 preceded the enactment of these two laws that repealed the Land Ordinance of 1923. The two Laws will be discussed later; suffice it to say that, the Laws have already come into operation.

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[5] *Article 24of the constitution.*

The Presidential Commission of Inquiry into Land Matters and Women's Land Rights in Tanzania

The Presidential Commission of Inquiry into Land Matters identified the existence of unequal access and control of land by women and that the problem is more acute in succession where women are not allowed to inherit land. However, the commission did not go into details of the causes for such irregularity as it said that it did not have sufficient time to look into the issue in depth. The issue was included in the Commission' terms of reference when it had just about three months left to the end of its work.

Given the time left for the Commission to look into women land issue, one is not surprised to see that there are only broad suggestion on women land rights. Although the Commission interviewed some women, their voices seem to have been left out, through the selected documented cases by the Commission.

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The National Land Policy recognizes that women are discriminated against in matters of land ownership and control. It notes that customs which protected women have been eroded. However, it fails to discuss the root cause of this inequality and discrimination though, and the recommendations it makes for the way out are not tremendously useful or radical.

It suggests the following as the solution to the problem of women's land rights:

- That women shall have legal rights to own land but inheritance of clan land shall continue to be governed by customs and tradition provided those customs and traditions are not in conflict with the constitution (1977) constitution of the United Republic of Tanzania.
- That ownership of land between husband and wife shall not be subject to legislation
- That family land owned customarily shall not be disposed without the consent of both spouses.

1.4.3 The Land Act and Village Land Act of 1999

The Land Act of 1999

The Land Act declares that a woman has the same rights to acquire, own and deal in land as a man has. It has been argued that this provision is a mere restatement of the law as it already exists, and adds little to the existing legal situation. There are however, those who feel that the provision marks the

beginning of manifestation of women's rights, which were previously taken for granted.

Section 161 (2) create a presumed right in nature of occupancy in common to land held in the name of one spouse and the other spouse or spouses contributing their labor to the productivity, upkeep and improvement of that land.

This provision extends its protection to both ownership rights, i.e under the right of occupancy and customary right of occupancy and hence protects the majority women. The same section makes a disposition which has not been consented to by the other spouse or spouses void or voidable at the option of the party not consenting.

The Village Land Act, 1999

The Act provides for the management and administration of land in villages. It too provides that women have the same right to acquire land as men. The Village Council can allocate a woman land after the approval of the Village Assembly. Although village assemblies are comprised of both men and women, they are ordinarily dominated by men.

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The Village Council consists of twenty-five members of whom one third must be women. The Act specifies that in determining whether to grant a customary right of occupancy, the village Council should not adopt or apply discriminatory practices or attitudes towards any woman who has applied for a customary right of occupancy.

The Act has provided for equal participation of women and men in Village Land Council and Village Adjudication Committee. Quorum at a meeting of the village land council is stated to be four, of whom at least two should be women. Village adjudication committees are enjoined to safeguard the interests of women, absent people and persons under disability. Village land committees mediate between and assist parties who are involved in land disputes to arrive at a mutually acceptable solution to the dispute.

Section 20(1) of the Act legalizes application of customary law in dispute settlement, succession or inheritance and any other matter affecting land held

under customary law where the matter is not provided for under the Act or any other enactment. Subsection 2 restricts application of the said customary law and any decision taken in respect of land held under customary law by stating that it should be in accordance with the fundamental principles of land policy and any other written law. It further makes it inoperative and void, if is denies women, children and persons with disability lawful access to ownership, occupation or use of any such land. (Emphasis /mine).

This provision leaves a lot to be desired. Because one needs to differentiate between what is lawful and what is a right. The provisions have clearly indicated that customary law is applicable, and customary law is in fact part of the Laws of Tanzania. Customary law is discriminative as already stated. Customary law is what lawfully limits women's rights in land.

1.5 Research Methodology

In this study, the method to be used focuses on the process of conducting critical assessment of existing land policies and laws, how they are related to realities, grievances, complaints and women's expectations in land rights. To achieve this, theoretical framework intended to bring a better understanding of the issue being studied guides the study. These are the grounded theory and the African feminist approach.

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Grounded theory takes women as a starting point in order to provide sufficient information to understand the complexities surrounding the issue being researched. Through this approach a researcher can engage on empirical knowledge and data collection on women's lived realities in law, local customs, practices, and procedures in dialogue, with theoretical generalization about the position of women. The approach employs and follows the principles, which allows the researcher to embark on a research field with open mind as much as possible. As a result one gets a holistic understanding of women status and positions in society researched on as far as land issue is concerned[6]

The African feminist approach takes further the grounded theory by emphasizing on qualitative method where detailed research method should use traditional

[6] Berton, et.al (1998:25

devises such as questionnaire, and interviews, and handle them in a manner that is sensitive to the needs and aspirations of the people. The research method should be introspective bringing out women feelings, including anger and frustrations and hence comprehend women realities on land issues. Nzioki therefore advocates for action research and discourages research as a mere academic exercise.

This particular study will use a multi method approach as enumerated above to reveal the best result. Structured, group discussion, observations and participatory research methods are used. This kind of approach is flexible and not completely specified in advance; rather it is molded as fieldwork proceeds. However it requires the researcher to develop closer relationship with people behind the study, so as to understand their structure, functions and decisions and attitudes. Moreover it allows men and women to speak for themselves, as it is an interactive process in which data and theory reveal reality and perceptions about norms, and constantly engage with each other to help the researcher decide what data to collect and how to interpret it. This gives the theory necessity of been deemed most appropriate for this study.

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Research focus

The study is fundamentally concerned with how women handle land issues, particularly the question of access, ownership and control of land within a given social setting. The study was carried out in regions that practice patriarchy system in Mbeya, where Ileje, Chunya and Rungwe districts were selected. While for matriarchy system Morogoro Rural District was selected.

The Interview process

The research sought to contribute to the cultivation of insight and understanding of women access, ownership and control of land. Informants were chosen according to their ability to provide rich descriptions of the experience they encountered during accessing and control of land. Informants selected were placed into categories based on the position they hold with different questions for each category of informants.

Data analysis in this study was an on going process, which began in the pre-field phase, and continued in the field work and post field phase. The initial analysis of data during data collection fielded immediate insights in the field. In depth and un-structured open – ended interviews was used in this study, and guided by the checklist containing questions prepared by researchers. Interviews were conducted to individual men and women, elites, focus group and government officials, so as to enable one get the picture of what is happening in the field on the issue researched. The unstructured open-ended questionnaire was used where the sample was not too large and in depth knowledge was required.

Unit of Analysis

Focus groups were used to generate relevant information and encourage the participation of both men and women as they interact and compliment each other in economic and cultural spheres. This collective focus makes women more visible in survey data, by using a group to elicit women's worldview, activities and roles. Two groups were formed. One composed of women only and the other with men on and women. Members of both groups were randomly selected from the sample frame formed purposefully. Group discussion was intended to elicit women's rights, views and their roles in respective communities.

Different village leaders were chosen by virtue of the administrative position they hold in their respective villages. They helped researchers to gain insight on matters of land appropriation, ownership and controlling in both matrilineal and patrilineal societies.

Government Officials were chosen by stratified sampling i.e. the grouping in terms of their same characteristics (administrative level) one official is taken from each strata (local and central government levels). This technique is employed to improve representation and help the researcher to study the differences and gaps that may exist on land policies, and various issues on land tenure.

Elites were selected through stratified techniques on the basis of their experience in the research topic. They are considered to be influential, prominent, and well informed in the community in all issues pertaining to land ownership and control.

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2.0 RESEARCH FINDINGS

Our research findings are guided by the following themes: -

(i) Community conceptions on land
(ii) Women's access/ownership and control of land
(iii) Women's knowledge over land rights
(iv) Factors limiting women's ownership and control of land
(v) Management, use and administration of land – involvement of women.

I. Mbeya Region

Mbeya region is divided into eight administrative districts. Our study was carried out in three districts, namely, Chunya, Rungwe and Ileje. In these districts one to two villages were selected for the study. The criteria used for selecting the villages are the socio-economic practices. The selected villages are Mapogoro (Chunya District), Mbambo (Rungwe District) and Ilulu and Isongole (Ileje District). All these villages follow a patriarchy system. The economic activity carried out in these areas is agriculture. Cash and food crops are cultivated and livestock reared.

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Conception of Land

Through individual in-depth interviews women defined land as a plot of land where they can cultivate food crops, such as cassava, maize, and groundnuts. They said land is very essential for building house, farming and their survival, as their children can inherit it and continue with the economic activity that is agriculture. "*Without land there is no life* "said one woman at Isongole village.

The focus group discussion defined Land or "*Ardhi*" as farms "*Mashamba*" with perennial crops such as coffee and bananas, trees, or seasonal crops such as beans, maize and vegetables. It also includes unoccupied land which could be cleared and grow crops, forests and cattle grazing areas. The interviewed groups of matrilineal society also shared this definition.

2.1 Ownership, Access and Control of Land by Women

Customary and traditional land tenure

In our study area, land is mostly owned under customary tenure. It is men who own and control it. According to Nyakyusa and Walambya customs and traditions, land ownership is within the sphere of competence of a man. A woman to own

land is treated as something unnatural. The interviews with women respondents have revealed that married women feel more secure on men's land than making efforts to acquire land of their own as it would result into being divorced. Divorced woman loses her access to land that has been supporting her and the children. Furthermore her parents would be required to refund the "dowry" (bride price).

Upon death sons inherit land previously owned by their fathers. Daughters rarely inherit it; they can inherit if there is no male person in the clan. One man at Mapogoro village said, "sons plan with their fathers and they have the right to inherit upon death of their father and daughters are for mourning." *Mtoto wa kiume anapanga mipango na baba na ana haki ya kurithi akifa. Mtoto WA kike Ni wa kupiga mayowe wakati baba akifa*"
In some instances the widow can have access through her children only if they are grown up and they chose to remain with her.

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2.2 Ownership of Land Through Allocation by Government

1. Right of Occupancy system

Both men and women can own land through application to the Ministry of Land. This system is mostly applicable on surveyed land, mostly in urban areas and in some District towns. Under this system a person is granted lease of 33, 66 or 99 years, and is given a certificate of ownership. This is a system of documentary ownership of land and it has more security of tenure compared to customary ownership. Our study reveals that women hold less land as compared to men because the whole process of land allocation involves money. Statistics at Ileje District Land Office indicate that in the year 1996/1997 no single woman was allocated land compared to thirty-seven men who were granted right of occupancy. Further more in 1997/98, twenty-two men were granted right of occupancy and no single woman was ever granted. In 1998/99 nine women were granted right of occupancy compared to eighty-four men. And in 1999/2000 four women were granted compared to fifty men.

2. Land allocation by Village Authorities under Villagesation process "operation sogeza" of 1974/5

Villagers were and still are allocated land by Village authorities. A specified portion of land is allocated to each household. The head of the household in most cases is a man. In these areas it was identified that few women were allocated land in their own names, most of them were aged divorcees or widows. For instance in Ilulu village one woman, a divorcee owns land allocated to her by village authorities.

2.3 Women's Knowledge Over Their Rights

The interviews with divorced women revealed a high degree of ignorance of legal and human rights. Divorce in our study areas (patrilineal and matrilineal) is governed by customs and traditions, in which case a divorced woman is entitled to her clothes, some kitchen utensils and some of the harvested crops of that season if any. This state of affair exists despite the Law of Marriage Act of 1971 that provides for division of matrimonial assets on divorce.

There was no single case where the Law of Marriage Act of 1971 was applied to distribute matrilineal property during a divorce, though a statutory law is supposed to supercede the customary law. A woman interviewed at Itumba admitted that before meeting the researchers she did not know that a woman had a right to own land. People in the researched area are not aware of other laws governing land tenure in Tanzania including the new land laws.

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2.4 Women Participation in Land Use, Management and Administration.

Land use

In all study sites, the population interviewed admitted that women are great laborers on the land but do not own or control the products from it. It is the man who decides on the appropriation of the harvest from the land. Women cultivate, harvest and store. Very few men work on their land, as a result married women lead a hard and intolerable life. This situation has given rise to matrimonial conflicts and more women seek divorce than men. For example in the primary court of Itumba in Ileje District, there were 37 women as compared to 14 men who

sought for divorce in 1998; in 1999, 45 women and 9 men sought for divorce, while in year 2000, 34 women and 10 men filed divorce case.

Commenting on the increase of women seeking for divorce in court, the Itumba primary Court Magistrate stated that lack of family maintenance from the husband, extra marital affairs, violence, drinking and non assistance in farming and cooking for men who do not provide food, have been among the reasons given by women seeking divorce.

> *Maryanne Mwesongile (49) is happily remarried .Her occupation is farming, petty business and selling of local brew .She shares every thing with her new husband and whatever they get from their joint effort is collectively shared and planned .Her first marriage survived for fifteen years .The reason for breakage of marriage was that her husband was lazy and did not take part in any domestic activities especially farming. Moreover the husband was controlling and misusing the harvests, leaving the family to starve .In court she was awarded custody of two young months' children and nothing as a matrimonial property. She left behind other two children. When she returned to her parents, her father found a house for her from the neighbors, and he gave her a piece of land to earn her living .Two years letter when her ex- husband died, the brother in law of the deceased was appointed the administrator of the estate .He confiscated all the properties. Later on he sold all the farms and chased the two children to the street. Eventually their mother had to rescue them.*

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2.5 Factors Affecting Women's Access to, Ownership and Control of Land

During the interviews we discovered that economic or financial constraints, customs, traditions and cultural beliefs, divorce, lack of knowledge and improper interpretation of concepts limit women's efforts to realize their land rights.

Economic Factors

In our study area it was noted that women have not been able to acquire land that is being allocated by the Ministry of Lands. The main reason being economic constraint. For example between the 1997/98 and 2000 only twenty-five women had applied for offer of right of occupancy compared to seventy-nine men. The

women interviewed attributed this trend to economic constraints on their part. Land allocating authorities have introduced a cost sharing exercise in the process of land survey and demarcation. The government has no money to conduct survey. Those who want to be allocated have to contribute to surveying work. Only those who pay are considered for allocation. At the time of our research it was found out that applicants are required to contribute to cover some costs. T.Shs. 4500/= to 6000/= is required when applying for a plot of land before getting the letter of offer. The total amount needed for Title deed is T.Shs. 28,660/=. This has been a major hindrance to majority of the women to access and own land.

Cultural beliefs

In Chunya – Mapogoro Village, women interviewed said they were reluctant to apply for allocation of land as this was seen as something unnatural. Women as daughters are supposed to use land owned by their fathers. Attempting to get their own land is a sign of misbehavior, which is immediately condemned by the entire community. On being married, they use land owned by their husbands. Women wanting to acquire land will be seen as indifferent or prostitutes and will not be accepted in this society.

Though there is ample land in Chunya, customs and traditions have made it impossible for women to acquire it. Land allocating authorities in the village are reluctant to allocate land to a woman applicant on pretext that they might cause family disintegration. On the other hand as soon as a son gets married he is regarded as a grown up person, regardless of his age, and the father or the village council allocates plot of land to him.

Customary system of inheritance upon death of a husband denies a woman her right to inherit land. A woman is seen as a property that is inherited with other matrimonial properties. If she refuses to be inherited she is chased away, or as women of Ilulu village said: "the relatives of the husband will create the environment that will force you to leave or agree to be inherited." Most women have opted to be inherited so as to have the "security of tenure" for themselves and their children because going back to their parent's home makes them more insecure.

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Divorce

Divorce is another factor found to deny women land rights. In all the villages visited, interviews conducted and data collected from court, there were very few women who were given land or even a piece of land as part of the matrimonial assets during divorce. Some women have been married for fifteen years or more but on divorce lose land.

The following case was decided in the primary court of Itumba in Ileje District: -

> ***Petitioner, who was the wife, was married to the respondent for almost 18 years. Two reasons were given re for divorce. First that the husband had refused cultivating the farm and therefore life was becoming very difficult for her and the children, (they had four children) and secondly there was no peace and harmony in the house. The honorable magistrate found out that there was no matrimonial property. Nevertheless the Court ordered the matrimonial house and the plot (farm) to remain with the husband. (Ref: Civil case No. 21/2000).***

Existence of contradicting Laws

Primary courts of the areas researched were found to be using a different law in matters of divorce. During the interview the Primary court Magistrate informed the researchers that they apply The Law Of Persons. This is an old law, which among other provisions, provides for return of bride price or dowry by the parents of the female divorcee. It also talks of division of harvested crops on divorce. On the other hand, there exists the Law of marriage Act of 1971, which provides for division of matrimonial assets acquired during the subsistence of a marriage. Matrimonial assets can include land and its fixtures. This law does neither provide for payment of dowry as a condition before marriage, or return of the same upon divorce. Returning of dowry is a serious matter in this areas, and refusal of the parent or returns them, can lead to him being sued. Fear of return of dowry forces women to tolerate abuses by husbands.

The Law of Persons also contradicts the recently enacted Land Act, 1999 and Village Land Act of 1999 which presumes co-ownership of land between spouses where a spouse who doesn't own the land, contributes his /her labor towards productivity, upkeep and improvement of the land in question land. The following case highlights what transpires in one Primary courts in granting divorce.

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II Morogoro Region

The study was conducted in Morogoro rural district, at Matombo Division, Kisemvu ward, Kibangile and Mtamba Villages. The economic activity of the area is agriculture. Crops cultivated include bananas, fruits, (such as oranges pineapples, mangoes) and coconuts. Other crops include food crops like maize, rice, cassava and yams. Moreover, small mining activities are taking place in the area.

2.6 Ownership, Access and Control of Land by Women

1. Customary and traditional land tenure

The society is matriarchal in nature. Naming of children follows the mother's line. In matriarchal societies, the clan owns land. Clan leaders are the uncles who of-course are men. Men as husbands do not own land. Upon marriage, they move to the land allocated to their wives by the family, and upon divorce men leave the land. Daughters like sons can inherit land from their mother or uncle.

A major difference that was noted between patriarchy and matriarchy is that in matriarchy women are empowered in many aspects. Some women in the research area do own land. Neither the son nor the uncle can interfere with the land that belongs exclusively to a woman. First-borns regardless of their sex do have certain decision making power, especially within the family unit.

Necta is a living example to this situation. She has six children and she is separated from her husband. Since 19972.She is living in the house that they bought together with her husband. In absence of her husband she has got a piece of land that she inherited from her father. Through farming and petty business she has managed to buy a piece of land, on which she is building. "When I am old, this house will give me some earning for my survival" narrates Necta. In another incidence, she said that; in their family they are four, three daughters and one son. "At one time, after the death of our father, our brother wanted to mess us up, by assuming the ownership of the inherited land. For example he will harvest the coconuts from all the trees, and give us only six, two for each of us. He was humiliating us. Being the first-born and knowing that this was our property I reported the matter to the ten-cell leader. Eventually the land in dispute was divided equally among four of us. and everybody is happy".

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2. Ownership of land through allocation by Government. Land allocation by Village Authorities under Ujamaa policy "operation sogeza" of 1974/5.

Land in the area studied is grouped into three categories: -

a) Residential land (ardhi ya makazi)
b) Agricultural land – non permanent crops (ardhi ya kujikinga na njaa)
c) Agricultural land – permanent crops

a) Residential land

During the operation of establishing Ujamaa villages (villagisation) heads of the household, who mostly were men, were allocated land for residential purposes. This land was just enough for putting up a residential building. It was assumed that this land was given to husband and wife as a family. But in real sense it was registered under husband's names.

b) Agricultural land for non-permanent crops

The second category of land was set aside for non-permanent crops. This land is set aside for growing drought resistant food crops. The researchers were informed that the spirit behind this land is any adult person who is able should cultivate, and is allocated a piece within this land so that he/she cultivates drought resistant crops in case of inclement weather. However, the village council has been using the 'patriarchal system to allocate these plots to the head of the household, usually a man.

c) Land for permanent crops

This category of the land, is allocated according to ones ability to cultivate .As in the previous categories, this land is also allocated in the name of the household head, who in most cases is the man.

The research established that through out the years in all these three categories of land, only one woman, who was a widow was allocated land.

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2.7 Women's Knowledge Over their Rights

As in Mbeya region the level of legal literacy is very low. When interviewed women as well as men seemed to be ignorant of prevailing laws such as the Law of Marriage Act and the Land acts of 1999. Most people apply religious laws, customs, general knowledge and Islamic law. For example in case of divorce a woman is returned back to her parents to wait for remarriage. No case is taken to court to legalize the divorce. She is left without any matrimonial property including land. This state of affairs exists despite the Law of Marriage Act of 1971 that provides for division of matrimonial assets on divorce. There was no single case where the Law of Marriage Act of 1971 was used to distribute matrilineal property during a divorce, though a statutory law is supposed to supercede the customary law.

2.8 Women Participation in Land Use, Management and Administration.

1. Land use

In all study sites, the population interviewed admitted that women are great laborers on the land but do not own or control the produce from it. It is the man (husband) who decides on the use and produce from it. Women cultivate, harvest, and store, budget and cook. Very few men work on their land, as a result married women lead hard and intolerable life.

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Women in the study area have access to land owned by head of household (farther or husband). In rare cases unmarried women can acquire land from their parents where they can build a house and grow crops. Women also inherit land from their parents. In most cases widows are returned to their relatives. If a widow has grown up children she may remain at the deceased residence under the condition that she does not re-marry. In some cases, widows are chased away even by their own children.

Agricultural land is normally divided into two plots namely head of household plot and cooperative plot owned jointly by husband and wife. The husband uses casual laborers to plough his plot. Produce from that plot belongs to him alone and he can sell and spend the cash the way he likes. Of course the wife has no right to question.

The wife and children work on the joint plot and the produce from it are for the family consumption. It is the woman who has to ensure food security in the

household. Given the woman's responsibility in matters of food security she cannot sell part of the food except by her husband's consent. When the consent is obtained, it is the man who goes to the market to sell the crops. In that process husband retains part of the cash from the sales for his private spending.

2.9 Factors Affecting Women's Ownership and Control of Land

Villagization process

The matriarchal system in the researched area is disintegrating and being replaced by patriarchy due to intermarriages, movement of people and the villagisation process. Men took advantage of the the Ujamaa Villagisation system while women were disadvantaged. As a result women have lost even the little power and security they had over the land. As discussed earlier in the process of allocating village land women were not considered.

Asha S. Banjulu narrates: –My husband was involved in a fatal motor accident. His leg was seriously wounded. In attempt to save my husbands life he was admitted in several hospitals such as Morogoro, Muhimbili in Dares Salaam and Kilimanjaro Christian and Medical Center-KCMC. We stayed in hospital for three months. During this period the relative of my husband never assisted me –until my husband died. We buried him and on the second day the relative of my husband came asking me to show them the properties I had acquired with my husband of course including the farms. They counted furniture, beds, cooking utensils and the harvest in store. On the third day they brought my relatives and handled me to them. Immediately after that they distributed the properties and farms among themselves, they even distributed the farms which I had acquired jointly with my late husband. My husband did not inherit any land from his parents; we bought five farms together. All farms except one was registered under his name. I managed to get the one that was registered jointly, after threatening to take court action. Now I am living in house that I built before I got married and it is on the other land that I inherited from my mother.

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Economic factors related to land prices

Most women use their earning from their farms to provide for their families. Little or nothing is left as excess to sell and get some money to buy the land. Hence they cannot procure the available expensive land through purchase.

Religious and Cultural Beliefs

According to Islamic Law (Edah) and some other cultural beliefs, a woman is supposed to remain in her house for forty days or more, after the death of her husband. During this period she is restrained from working and making any decisions. It is at this time when her in-laws without her participation or conceit resolve major issues over inheritance and division of matrimonial assets. Many women affected by this situation in surveyed area lamented that it is on fortieth day after the death of their husband when they discovered that they had lost their land, and other properties.

Unequal participation of women in decision-making

Under matrilineal society system the uncles still have a lot of powers on major issues like disposition or allocation of clan land. Women find themselves in a disadvantaged situation compared to males. The following case highlights the enormous powers that are vested in unless regarding clan land:-

> ***Grace Raphaels uncle gave her apiece of land, because her father had no land. She cleared and cultivated it. She planted coconut and orange trees. After several years, when she had just started harvesting, her uncle demanded back his farm. She learned that, the uncle wanted to sell it. She requested to buy the same, but the uncle said that, he is the owner and he had the right to choose the buyer and not her. Grace thought of seeking redress from the court, but she was intimidated, and after all her only witness who was her father, was already dead. So the farm was forcibly taken from her, and sold to somebody else who was not even his or her family member. The farm was even sold at a throw away price, which she could afford.***

Participation of women in various decision-making bodies, such as the Village Council which is responsible for allocating land and Dispute Settlement bodies, is minimal. Although this being a matriarchal society women in the surveyed area

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are courageous in expressing themselves, they have not been able to participate fully in decision making. Some of the reasons that were advanced to explain this included: -

- Lack of proper information during elections or establishment of certain bodies.
- Influence of tradition and manifestation of patriarchy system.
- Lack of timely information and invitation during meetings.
- Improper timing of meetings.

Women knowledge over land rights

Women's knowledge over their land rights as provided under various laws is minimal. However some women are courageous in enforcing their customary land rights. Interviewed women were not aware of the laws governing land matters. Men on the other hand were aware of those laws that are related to paying taxes and school fees.

The interviewed people complained bitterly about ignorance of law. One person was heard saying that; " we need to know these laws just like we know how and when we should pay the taxes. You go every where, there are posters and notices explaining about the taxes, and the "Vitongoji Leaders" are busy educating their people on these taxes." (Vitongoji is the lowest Government administrative machinery in the village.)

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3.0 CONCLUSIONS AND RECOMMENDATIONS

This section attempts to highlight some of the similarities and differences revealed by the research findings. The general as well as specific recommendations are then given, depending on the specificity of the problem.

The research has revealed that the laws have a major bearing on women's land rights. The introduction of the Land ordinance of 1923 took away the security in land that women enjoyed under customary law. The more the value of land rose, the more women become insecure.

The Ujamaa and Villagization Policy continued to allocate land to men and women were forgotten in the implementation. In matrilineal societies, the said policy introduced a kind of new land tenure system. Instead of land being controlled by the maternal uncles and in some case women, its control was vested on men.

The research has revealed that participation of women in decision-making fora that address land issues is minimal. Even where women are involved, their voice cannot be heard because the men dominated the proceedings. This situation is even worse in patriarchal societies.

The Village Land Act, provides for equal representation of women and men in bodies dealing with land dispute settlement, but it leaves out the crucial issue of representation in Village Councils that deal with allocation of land.

The society at large is ignorant of the Constitution, laws and the issue of human rights in general. As a result, customary and religious practices still prevail to the detriment of weak group such as women and children. There is a need to educate people on their rights, especially on the laws that affect their daily lives. In particular the laws related to women's property rights must be taught to both men and women.

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3.1 Recommendations

3.1.1 What Should the Government Do?

Formulation of By-Laws

The research has revealed that there are customary practices that are operating regardless of the existing statutory laws. The Village Authorities in cooperation with the District or Municipal Council should prepare by-laws to declare certain customary practices unlawful. Practices such as wife inheritance do not only render women insecure on land but also endanger their lives as they are exposed to the HIV/AIDS disease. This in turn affects production on the farms and the welfare of children.

Other customary practices such as the payment of dowry should be regulated. The Law of Marriage Act of 1997 does not regard it as one of the elements of legalizing the marriage, however dowry is widely practiced in our societies. The by-law should regulate the amount to be paid, as most of the people feel that it is a symbol of unity between two families. Due to economic hardships dowry has been converted into a source of income. Since the husband feels that he gave out almost all of his income to the wife's parents, he behaves as though he bought his wife. Thus, upon divorce, the woman who has been working on the farm leaves the land and goes back to her clan people. In this process not only is the labour wasted, but the woman is doomed.

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Review contradicting and discriminative laws

The Government abides by the international conventions it has ratified and enact gender responsive laws. It should also repeal laws such as the Law of Persons Act, that are discriminatory of women.

The and Laws need to be revised and improved upon. To ensure security in land for married women, the law should provide for their names to be written in the land certificates, as the presumption of co- ownership alone is not adequate in a situation where upon the death of a husband, the customary law becomes the basis of inheritance.

Sensitization of Leaders

Village Councils, Village Adjudication Committees, Village Land Councils, opinion leaders as well as the District Councils should be sensitized on women rights in general and the provisions of the Land Acts in particular. This will enable them to arrive at just decisions and administer the law correctly.

School curriculum to include human rights topics.

The government should include human rights and gender equality in School curriculum. This is a long-term investment towards a just society.

Legal aid programs

The Government in cooperation with the NGOs should design a mechanism of providing legal aid to poor and vulnerable groups in the rural areas.

3.1.2 What Should be done by the NGOs and Community Based Groups?

Human rights and legal literacy training

There is a need to sensitize the society on women's rights. Sensitization should aim at changing the people's attitude and way of thinking. Rural populations should be made aware of legal provisions on equality of the sexes. Awareness should be created on laws relating to marriage and property rights, inheritance, constitutional rights and the land laws.

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The research has revealed that some of the unfair acts and decisions that are taken against women are purely as a result of ignorance of the law. Legal awareness programmes would assist in minimizing such actions. In order to improve women's rights in land women leaders and groups, members of Village and District Councils and Village land Council, extension service workers, traditional leaders and Primary Court Magistrates should be trained. Furthermore, NGOs providing legal aid should find ways of extending their services to rural villages.

Provision of credit facilities to empower women economically

This can be done by the Government as well as by the Non Governmental organizations. Such credit facilities are will empower women economically. This facility must have manageable conditions so that those needy women can easily

access them. Women should also be trained to manage well their income earning activities.

3.1.3 What Should EASSI Do?

EASSI needs to develop ways of sharing information on strategies, research initiatives and developments that are taking place within the East African countries, and the rest of the world on women and land rights. It should support actions at the national and regional levels that take forward the recommendations from such initiatives. In addition, it should identify the common problem that cut across women land rights in the sub-region and design a common a strategy to achieve the desired impact.

Further research needs to be done on how to democratize decision-making powers at the household level. For a long time, the nucleus family has been left to conduct its own affairs on pretext that it is a private affair. However it is becoming increasingly clear that the ideals of democracy and good governance need to be inculcated from the household level if they are to take root at the national level.

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WHO DEPENDS ON WHOM?

WOMEN'S LAND RIGHTS

CCRDA

August 2001

By: Ms. Evelyn Nyakoojo

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ACRONYMS

DRB	Domestic Relations Bill
PEAP	Poverty Eradication Action Plan
PMA	Plan for the Modernization of Agriculture
NAAD	
NGP	National Gender Policy
PPA	Participatory Poverty Assessment
ULA	Uganda Land Alliance
UPPAP	Uganda Participatory Poverty Assessment Project
UWONET	Uganda Women's Network

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Acknowledgements

I wish to acknowledge the tremendous contribution of my colleague Mugisha Catherine Rwanika, towards this research. I am indebted to her for her positive energy and attitude that she put into each and every activity of this work. I also wish to thank Grace Nyakoojo and Stella Namanya, the research assistants for their support and enthusiasm. I cannot forget to mention the field assistants, Charles Byamukama of Africa 2000 Kabale, Chris Namara, District Community Development Officer, Kabale, Fabious Ndozireho, Assistant District Community Officer and Steven Sabiiti, District Community Officer, Hoima for all their support during field- work.

In a special way I wish to thank EASSI for having given me the opportunity to do this work – an experience that has further enabled me to have more insight into the complex situation our sisters in the rural areas live in. I cannot forget to mention the big contribution made by EASSI technical committee on land and to them all I say thank you.

Last but not least I wish to thank all the men and women of Muko, Muyumbu, Lake Bunyonyi, Buhamba, Kinogozi and Buswekera in Kabale and Hoima districts for their participation and ideas that are part of this report. I wish to dedicate this work to the women in those communities who work so hard to maintain their families under very difficult conditions.

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Abstract

This paper reports on the research on Women and Land Rights carried out in the two districts of Kabale and Hoima. The research was commissioned by the East African Sub- Regional Support Initiative (EASSI). The research formed part of a wider initiative involving action oriented research on women and land rights in six countries, namely Eritrea, Ethiopia, Kenya, Tanzania, Rwanda and Uganda.

The research in Uganda sought to add the voices rural women and men to the discourse on women's land rights, and to identify the linkage between the rights on or the lack of thereof to food insecurity and poverty levels in households and communities. The research also documented what has been going on in lobby and advocacy for women's land rights since 1995, by highlighting achievements and challenges that face those who are involved in the process.

The importance of women's land rights is borne out by the fact that the majority of women are engaged in agriculture, which is the backbone of the Ugandan economy. Although they contribute over 70% of labor for agricultural production and 80% for food processing, women do not own or control land. They only access land through marriage or male relatives As a result they lack control over the proceeds of their labor on the land.

The research confirmed that the government of Uganda has made major strides in the policy and legal arena in so far as giving effect to the rights of women is concerned. The Constitution of Uganda and a host of policy documents have recognized the importance of gender balance in the development process. A National Gender Policy is being implemented and there is a ministry of state with specific responsibility over gender.

However, notwithstanding these policy and legal commitments to gender equity, the position on the ground is far from satisfactory. The social, political and cultural structures that are expected to implement policy and enforce the law are still for the most part dominated by those who have little regard for gender balance. A lot

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remains to be done to address these structural hindrances and to operationalize the constitutional provisions that guarantee equality between men and women.

The research also found that the rural women of Uganda are keen to own and control land as a way of ensuring that they also control the proceeds of their labor on land. They view spousal co-ownership as a major building block for their security of access to land in marriage. With ownership and control of land, women would be better placed to make a meaningful contribution to food security and poverty alleviation. However, this is but one factor among many in addressing the problems of food insecurity and poverty. It will be necessary to address all aspects of the problem, including technology and credit, if agricultural productivity is to be increased to ensure food security in Uganda.

The research identified the major achievements of the lobby for women and land rights in Uganda since 1995. In particular the impact of the lobby on the Land Act was seen as a major breakthrough, eventhough the clause on spousal co-ownership did not end up in the Act. The reinsertion of the clause was identified as one of the major challenges facing the lobby today.

The research makes concludes with a number of recommendations to EASSI and other actors that if followed through will help consolidate the gains made with respect to women's land rights since 1995. In particular, the study recommends that rural women be targeted and mobilized for effective advocacy, as their absence from the discourse provides an opening for those who are opposed to women's land rights to assert that the concerns raised thereby are elitist and only serve the interests of the urban women.

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1. BACKGROUND

The overall objective of the Eastern African Sub-Regional Support Initiative for the Advancement of Women (EASSI) is to monitor the implementation of the Beijing Platform for Action. The platform highlights twelve critical areas of concern one of which is women's economic empowerment and elimination of poverty. Within the framework of this specific concern, EASSI has recently undertaken an action oriented research project on women and land rights in Eritrea, Ethiopia, Kenya, Rwanda and Tanzania and Uganda. The research sought o examine women's economic empowerment vis a vis their independent rights on land and how these rights impact on food security and poverty. This paper documents the findings of the research in Uganda.

The research aims to add the voices of rural men and women into the discussion of women and land rights, food security and poverty eradication. It also looks at the on-going lobby and advocacy for women's rights on land, focusing especially on co-ownership of land by spouses. It is hoped that the results of this research will assist in exploring opportunities to empower rural women through identification of new actions, actors and allies, particularly, among policy makers and NGOs concerned with development and poverty eradication.

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1.1 Context

In 1995, more than 1 billion people were said to be living in extreme poverty; with the overwhelming majority being women[1]. According to UNDP Poverty Report 2000, this situation has not changed. Instead, the number of income poor in the developing world since 1998 is on the rise. Uganda, ranked as the 159th out of 175 poorest countries in the world, has 44% of her population living below the poverty line and thus unable to meet their basic needs of food, shelter, clothing, health, education and transport[2]. 48.2% of these poor live in rural areas with agriculture as their main economic activity.

[1] Beijing Platform for Action, 1995
[2] Uganda Participatory Assessment Report 1999

The agricultural sector is the mainstay of Uganda's economy. Most of the poor, the majority of whom are women, depend on small holder agriculture. They have received little benefit the current economic growth[3]. Rural women in Uganda contribute about 70% of agricultural labor and over 80% of food production and processing[4]. They spend about 90% of their time on activities related to land. They are thus the backbone of Ugandan agriculture and economy.

Despite this contribution, women own just about 7% of the land. The majority of women access land through their husbands or other male relatives. Over such land they have user rights and little decision making power. Men, who own and control land, spend fewer hours working on the land than women do. For example men in Lira spend 2-3 hours a day in the gardens[5]. This gender imbalance in land ownership and control on the one hand and the investment of labor on the other is further reflected the way agricultural inputs and benefits are accessed, which in turn affects food availability and poverty levels. Yet the gender dimension has received the least attention by those who have contributed to the discourse on causes of poverty.

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Like elsewhere in the sub-region, land reforms have been initiated in Uganda with the objective of addressing issues related to land ownership. The initiative led to the passing by Parliament of the Uganda Land Act of 1998. Despite these efforts, the laws that would assist in implementing those reforms remain rooted in gender insensitive cultural and legal frameworks that discriminate against women.

PEAP, PMA and other government economic policies aimed at reducing poverty and food insecurity have not sufficiently addressed the gender inequalities regarding land ownership and control. Efforts by women activists and other pressure groups to get women to co-own land on which they spend most of their productive years and energies are resisted by some policy makers who claim that it has no bearing on rural women's realities. They dismiss it as elitist women's ploy to advance their own

[3] NAAD Pre-appraisal document, Final Draft, working paper 1
[4] National Gender Policy, Min. of Gender, Labor and Social Development, 1995
[5] Mugisha, 2000

economic and political gains[6]. Many rural men, on the other hand, perceive women as property and, therefore, to them the issue of women owning and controlling land simply does not arise.

1.2. Justification for the Research

Land is a basic resource critical for the survival of rural communities. Women are central to the rural economy and therefore to the survival of rural communities. Rural women do work that is directly related to production of food and food security[7], eventhough they are constrained by heavy reproductive work. They work up to 16 hours a day. Most women are not remunerated for their work and their economic contribution is not given its full value in official statistics. In addition women have limited control over factors of production, which are owned and controlled by men.

Generally it has been proved that when women have control over land it improves food security and family welfare. While men in Uganda engage in cash crops such as tea and coffee that are often long-term investments, women tend to invest in quick maturing food crops. Tenure security is one of the basic requirements for increased investments in agriculture[8]. Women would certainly make better use of land, produce more food and earn more money if they had guaranteed rights on land. Such rights would motivate them to make correct long, medium and short-term investments[9]. Apart from actual agricultural production, women could, if they had control over land, use it for other economic alternatives such as renting it out or using it to access credit and improve their other income generating ventures.

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Currently, there is a lobby and advocacy for the introduction of a land policy in Uganda, and the insertion of the clause on co-ownership of land by spouses in the Land Act. The co-ownership provision was in the original Land Bill but was omitted from the Land Act when it was finally passed into law. This initiative - intended to, among other things, enable women have access to and control over land – has proved to be a daunting task.

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[6] *New Vision* August 3rd 2000
[7] FAO 1999
[8] *CBR Publications 1998*
[9] FAO 1999

However, it is clear that the price the country pays for continuing with the present gender imbalance in land ownership and control is continued poverty and food insecurity. The argument for women's land rights has to be seen from both an economic and a fundamental human rights perspective. It then makes eminent sense that the women who are involved in agricultural production should have rights over the means of production. Empowerment of women and equality between men and women are a prerequisite for achieving economic security, political and social development.

This research seeks to bring into focus the importance and need for women to acquire independent rights on land and for men to take on more responsibility for household agricultural production in order to increase food security and reduce poverty at family and community levels.

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1.3. Purpose of the Research

The research serves two purposes. First, it aims to add the voices of rural women and men to the current land debate and lobby process. It also intends to highlight achievements and spell out the challenges of the lobby and advocacy for women's land rights in Uganda. It is hoped that the study findings will be used to increase the impetus of challenging the status quo through lobby and advocacy for improvement of women and men's lives. It is also hoped that the results of this research will lead to:

- Increased political consciousness among women and men on women's land rights
- Increased confidence among rural women to demand for their land rights.
- Increased networking, lobby and advocacy for commitment to gender responsive land laws among policy makers, legislators, the media and the general public in Uganda.
- Linking up land rights for women with food security and poverty levels at household, community and national levels.
- Increased sharing of experiences on issues related to women and land rights at the sub-regional level in Eastern Africa.

Specific Objectives of the research are:

1. To document women's realities and experiences regarding access to, ownership of and control over land and benefits of their labor.
2. To identify and amplify linkages between poverty levels, food security and women's land rights.
3. To review and highlight achievements made and challenges faced by those involved in the lobby and advocacy process since the Uganda Land Act of 1998.

1.4. Area of field study

The research was done in Kabale and Hoima districts. Kabale is located in south west of Uganda and Hoima is in the north west of Uganda. These two districts were selected for fieldwork because of the contrasting nature in land availability.

Kabale has an acute land shortage. Nearly all hills have been dug up and wetlands have been reclaimed for subsistence and commercial farming. Kabale has a population of about 629,400 people of whom 297,200 are men and 332,200 are women. Because of Kabale's a high population and its attending scarcity of land quite a number of people have had to migrate to other districts.

Hoima on the other hand, has low population of 288,992 people of whom 126,870 are men and 152, 042 are women. Many of Hoima's hills and wetlands are still intact and in general, a lot of underdeveloped land is available for cultivation.

In both districts, majority of the people own land through the freehold land tenure system. Their major source of income and sustenance is agriculture. The question for the team was whether women in Hoima might have better experiences on land than those in Kabale.

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Table 1: Some population and land related statistics in Kabale and Hoima

	KABALE	HOIMA
- Cultivable land	• 2,356 Km2	• 6,633 Km2
- Population density	• 254	• 60
- Average land area cultivated per person	• 0.286 Ha	• 0.318 Ha
- Area required for 1991 population	• 1,710 Km2	• 1,240 Km2
- % cultivable land used in 1991	• 73%	• 19%

Source: World Bank Uganda Agriculture Sector Research, quoted in Land and Poverty in Uganda, Learning from the Poor. June 2000 (Final Draft) UPPAP, Ministry of Finance and Economic Development.

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1.5. Communities Consulted

The field research covered three communities in each of the two districts where a total of 228 people were interviewed and participated in focus group discussions. Out of these 119 were women and 109 were men. Respondents included a cross section of people representing local council officials, policy makers, civil society and the community.

In Kabale district, the research was carried out in two areas where Africa 2000 Network, a UNDP supported project, operates namely Muyumbu and Lake Bunyonyi communities. Community Development department, a local government department selected the third community, Muko. In Hoima the team worked with two communities under the Sub-county Integrated Development Association (SIDA) programme namely Buhamba and Kinogozi. The third was Buswekera where Africa 2000 Network works. In each community 30 respondents were invited 15 men and 15 women although in some cases more people than expected, turned up.

Because this research was designed to be action oriented the choice of working with and through existing NGOs and CBOs in the communities visited was strategic. It was intended to continue encouraging any action the communities would initiate as a result of participating in this research.

The field research was designed to be gender focused. This is why both men and women were purposely interviewed. Despite this focus, women were given special attention because of their role and disadvantaged position in agricultural production.

1.6. Methodology

As this was a qualitative research, it used methods that were intended to bring out views and feelings of men and women about issues related to women and land rights, food security and poverty eradication and the linkages between them. The research team endeavored to use participatory methods. Below are details of some of the methods used.

Key informants were interviewed from among government policy makers, NGOs involved in lobby and advocacy and researchers on land at national and district levels. These key informants were targeted especially when collecting views and data on the process of lobbying and advocacy for women's land rights since the Land Act 1998.

At community level, **focus group discussions** were conducted for men and women. Participants were members of organized groups comprising both men and women. They were selected, at the request of the research team, by community facilitators, from amongst their partners. Because they were already organized, they were well suited to continue discussing issues raised in the discussions and to act on them. The same groups can be channels for collaboration between national groups and communities especially in lobby and advocacy for women's land rights.

The issues and purpose of the research would be introduced to women and men together in **a workshop**. Then men and women would be separated to discuss

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issues related to women and land rights and afterwards they would come together in plenary to share the results of each group. Group results were further discussed and recommendations made by the participants in plenary. The team also used these **feedback workshops** as a way of sharing research findings and confirming recommendations. They were also used for stimulating the communities to take responsibility for improving women's situation in relation to their land rights in their own areas for increased food security and poverty reduction at household levels.

Narrative inquiry was used to get individual women's experiences on land. Women in the group discussions who owned land and felt empowered to use and control their land and those who had had problems related to land were interviewed in depth. A minimum of four women in each community visited were given the opportunity to share their experiences with the team in this type of interview. It was also an opportunity for the team members to increase their understanding of women's feelings when they are in control of land and when access to land is threatened. This process brought out unique experiences and some of their voices form part of this report.

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Table 2: Interviewees by gender

District	Key Informants Male	Key informants Female	Focus group discussion Male	Focus Group Discussion Female
Kampala[10]	2	4		
Kabale	4	1	58	59
Hoima	3	2	61	60

[10] Kampala interviewees represent policy-makers and relevant researchers only

1.7. Analytical Framework

The analysis focuses on gender relations at the level of the household, but a link is made with community, district and national levels. The analysis is based on questions relating to women's independent rights on land and their impact on food security and poverty. Such questions included, but were not limited to:

- How is land acquired and who controls it?
- What type of rights do women have and what influences such rights?
- What are the effects of women's rights on land or lack of them on poverty and food security at household, community and national levels?
- What are the implications for policy implementation, lobby and advocacy for women's land rights?

The questions above represent four levels of analysis. The four levels can be likened to a tree, thus:

1. Values, attitudes, traditional beliefs and customs on one hand, policies and laws on the other, operate side by side and affect women and men differently. They are like **roots** supporting existing imbalances in gender relations. They set men and women's roles and responsibilities, the dos and don'ts at family level. It is here that men and women's access to, ownership of and control over land and benefits derived therefrom are determined.

2. Social systems such as clan heads/village elders, peer groups, government programmes and procedures as well as religious structures function as the **trunk** maintaining or reinforcing the status quo. Women's access to land, inheritance of land and purchasing of land are checked here. In addition to enlisting compliance, the structures and systems are and can be agents of change. Society has put in place mechanisms to deal with men and women who do not comply. These are given or called names such as traitors for men and in the case of Hoima, "*kyeyombekiire*", (a woman who has "built" for herself)

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3. The symptoms of the first two levels manifest themselves in form of gender inequalities. They can be observed in every day behaviors and practices of men and women. These are likened to the **tree's branches and leaves**. The inequalities are also reflected in socio-economic and political spheres as well as in inefficiencies in the application of laws. It is here that the assigned and changing roles and responsibilities of men and women are observed. This is where decisions regarding food production, consumption and control and their effects are seen. It is here that men may chose to work or not to work on land, having acquired a "tractor" in the form of a wife. Over-drinking and domestic violence may also be observed at this point.

4. Gender inequality in form of food (in)security, (under)development/ poverty and (in)secure family units which further reinforce and maintain gender imbalances at household, community and national levels are like **fruits** reaped from the three levels above.

The analysis recognizes the strong hold that customs and other traditions have among families and communities and the dual, often contradictory systems (written laws and unwritten cultural practices) that govern the lives of the people in rural communities. Given that laws are meant to take precedence over customs and traditions, level one and two call for concerted effort to bring the two systems together for meaningful development.

Lobby and advocacy process is analyzed mainly in relation to co-ownership of land by spouses. The question is at what level are advocacy efforts targeted?

1.8. Report Format

The report has an introductory section that covers background information to the research, methodology used and a brief description of the area of study. Section two reviews the literature and the social/legal context under which men and women in Uganda operate. Section three presents views and feelings of rural men and women regarding women's land rights, food security and poverty. Section four examines

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achievements and challenges of the lobby and advocacy process for women's land rights in Uganda. The final section gives our conclusions and recommendations for EASSI and other interested actors involved in lobbying for women's land rights.

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2. LITERATURE REVIEW

The literature reviewed included relevant documents on land tenure systems and ownership. The Constitution of Uganda and the Land Act 1998 were important sources on the legal system within which women live and work. The National Gender Policy and the documents setting out the government's economic and poverty eradication's initiatives were also reviewed. Newspapers were another source of information especially regarding the public's views on women, land and co-ownership.

2.1. Land Tenure and Ownership

From the literature reviewed, there is no consensus as to whether women ought to own and control land or not. Sebina[11] argues that the traditional and cultural practices of most communities in pre-colonial Uganda enabled both men and women to access land. According to her, neither men nor women owned land. They both had equal access to the land and the issue of ownership did not arise. It is only when colonialists introduced capitalism that the issue of men owning land was introduced.

With the introduction of capitalism in Uganda, women and children were expected to provide free labor in order to maximize on profit. Land and property were appropriated by men as "bread–winners. Even today, men continue to be regarded as bread -winners even in circumstances where it is their wives who actually sustain the families. According to Sebina, it is therefore incorrect to assert that traditionally, land belongs to men.

Other research done on land in Uganda has concentrated on land accessibility and ownership by peasants and the problems that arise between land-lords and tenants. These studies do not focus on the special problems women peasants have to

[11] Sebina, 1995

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contend with. Such studies include among others those done by Nyangabyaki Bazaara[12], Mugisha Robert[13] and Muhereza[14]

This lack of gender specific information regarding land ownership, accessibility and control was identified by UWONET in 1997. The network recommended further research in the area of women and land rights. In trying to fill that gap, Kharono observes that *"reversing processes which structure and impoverish women requires among others, action which removes women from their positions of powerlessness and entrapment and addressing the barriers to their productivity and control over resources and benefits."*[15]

Kharono contends that the actions necessary to bring about changes have to begin from recognition of women's achievements, capacity and resourcefulness and desist from stressing their neediness and dependence. Projecting the women as victims and vulnerable people justifies their being treated as objects and completely ignores the fact that they are the backbone of agricultural production and food processing. She recommends among other things, action research and documentation of women's experiences and realities with regard to land matters and the land act itself[16]

There are also assertions that the issue of women's land rights is an elitist issue and does not necessarily originate from the real felt needs of rural women[17].

However, studies by Ovonji et al.[18], UWONET[19], ULA[20] all indicate that co-ownership of land by spouses is not an imported, western idea that has no relevance to

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[12] 1992 and 2000
[13] 1992
[14] 1998.

[15] Reference, and page number?
[16] Kharono Elizabeth, 1998, "Feminist Challenges to the Land Question in Uganda: Options for Meaningful Action – A Concept Paper".
[17] Provide references for these assertions
[18] 2000
[19] 2000

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Uganda. Nor is it an issue specifically for the urban middle classes, where women are increasingly able to survive outside of land. Rather, women's land rights is a rural and household, peasant-farming issue defined within the agricultural economy. It is in the rural areas that lack of ownership is felt most in social and economic life of a woman and where adoption of co-ownership of land by spouses will be most transformational[21].

UPPAP revealed that many rural people emphasized the importance of land as a productive asset. During the UPPAP study of 1999, the people indicated that without adequate arable land for cultivation and pasture as well as for construction of homes in urban areas, vulnerability to poverty was inevitable. Lack of land affects production, food security, and income-generation. It also limits general household well being and development of not only this generation but also future generations[22].

Yet there still appears to be an assumption, especially among policy makers, that women depend on men and do not need to own land. This is despite the fact that research available has indicated that increasingly, women are contributing more than men to the welfare of their families and communities. Can real development take place without land reforms that will enable women, the producers, to own and control the major factor of their production?

A study carried out by Dr. Joy Kwesiga in 1998 to establish the extent to which women have access to and control over land and agricultural technologies in Uganda indicated that one of the major challenges that face those lobbying for women's land rights is

"the need to ensure that laws governing domestic relations (marriage, beliefs, and expectations etc) are fair to women. The value attached to women, societal views, beliefs and expectations regarding women have to move at the same pace with various innovations. The land act and other related official provisions, are state responsibilities. However, the state has to move with the community because the

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[20] 2000

[21] (Ovonji 2000).

[22] (Min. of Finance and Economic Development, 2000).

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latter cannot just be harassed into change. In particular women still lack the political power, the public push, the critical role in decision making. Uganda has several components of affirmative action in the political arena, but the process is still at the beginning. Changes cannot be achieved unless women themselves see the need for this and therefore the right to make demands. It is possible to achieve change, but a lot of work must be done in all fields – economic, political and through social services, especially education and health. A package is required[23]

This research on women and land rights can be seen as one way of responding to the challenge posed by Dr. Kwesiga. It is designed to stimulate action among community men and women in areas where it was conducted. It is also intended to build on observations and recommendations made by earlier researchers as well as identify actions that can be carried out especially, at community and local government level to build the confidence of women to demand for their rights over land. In addition it will examine ways and means of ensuring that responsibility for food security is shared between men and women as well as local and central government machinery.

In a short study conducted for the Land Act Implementation Unit by Ovonji- Odida[24], it is indicated that the existing gender inequality in relation to access, use and control of family land in Uganda is a major factor contributing to household poverty. The study recommends that since eradication of poverty is a priority of government it is imperative that land tenure relations within the family be addressed.

In another research done by UWONET in Mbarara district, it was found that women who owned land were seen to be in full control over land use which promotes effective utilization of land, food security and less dependence on men. Such women were seen to be motivated to work harder and would add value to their families. In contrast, land-less women were considered to lead a life of misery, no peace of

23 Kwesiga 1998

24 provide reference

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mind, shabby, poor health and therefore of less contribution to development at household and community level[25].

2.2. The policy framework for gender equity

This part presents an overview of the current social/cultural, economic and legal framework within which women in general and rural women in particular live and work. This framework also defines the environment within which lobby and advocacy for women's land rights are being pursued. The part highlights national policies and laws that are designed to set the direction for socio-economic development in Uganda.

Different societies in Uganda have conferred different roles and responsibilities to men and women within the households and in communities. In general, they have entrusted reproductive chores, food crop production and food processing to women. But, resources such as land needed to meet these responsibilities are vested in men. Today, both women and men in Uganda participate in social and economic developmental processes although increasingly women are taking over roles and responsibilities previously associated with men. However, decision-making roles at all levels remain dominated by men. In 1999 women constituted only 39% of decision-makers in Uganda[26].

In the past, women's contribution has not counted for much in our country's economic statistics. This is because women have been viewed as reproducers and not producers of wealth. In the past, male extension-staff have targeted men for new agricultural technologies, information and skills[27]. It is now acknowledged that this gender imbalance is an impediment to national development in Uganda.

To redress gender imbalances, government has instituted The National Gender Policy (NGP). Its overall goal is to mainstream gender concerns in national development processes in order to improve the social, legal/civic, and political,

25 UWONET 2000

26 Ministry of Gender 2000

27 Kwesiga 1998

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economic and cultural conditions of the people of Uganda in general, and of women in particular. Its aim is to ensure the planning, resource allocation and the correct gender perspective informs implementation of development programmes at all levels. The policy is itself informed by a recognition of gender as a critical development concept essential for identifying and understanding the social roles and relations of women and men of all ages, and how these impact on the development process.

At the international level, the Beijing Platform for Action adopted unanimously an agenda for women's empowerment and seeks to reverse widespread international and national policies and programmes that have had a disproportionately negative impact on women. It calls for establishing principles of shared power and responsibilities between men and women at home, in the workplace and in the national and international communities. It also advocates for promotion of economic rights including access to and control over economic resources such as land. Uganda actively participated in the Beijing process and has adopted the Platform for Action.

The Poverty Eradication Action Plan (PEAP) aims, among other things, to eradicate poverty in the coming two decades by improving incomes and quality of life of the poor. A Participatory Poverty Assessment (PPA) monitoring project has been set up to compliment quantitative data in reviewing PEAP priorities. PPA is based on priorities of rural communities consulted. It also facilitates capacity development at the district level to ensure that the planning process is participatory and consultative.

The Plan for Modernization of Agriculture (PMA) is another government plan to eradicate poverty in Uganda. The PMA document states that 85% of the Ugandan population earns its livelihood from agriculture. The mission of PMA is 'eradicating poverty by transforming subsistence agriculture to commercial agriculture.' Its strategies include among other things, "Making poverty eradication the overriding objective in agricultural development. Guaranteeing food security through well functioning markets and improved incomes rather than through household self-

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sufficiency. Ensuring that all intervention programmes are gender focused and gender responsive."[28]

Both PEAP and PMA recognize women's role in agriculture and their special category among the poor. Both initiatives recognize the need to strengthen the land rights of the poor. Both identify activities to increase the abilities of the poor to raise their incomes. However, PMA does not touch the crucial issue of how production will be increased when women are working alone in the agricultural sector.

The Ministry of Gender, Labour and Social Development in the National Action Plan on Women 1999 notes that these initiatives and others like *Entandikwa* (a government supported credit scheme targeting the poor) and The Programme For Alleviation of Poverty are virtually silent on gender disparities.

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2.3. The National Constitution and the Land Act 1998

The 1995 Constitution of Uganda explicitly and implicitly treats men and women equally. Article 26(1) protects all persons from deprivation of property, while Article 31(1) provides that men and women are entitled to equal rights in marriage, during marriage and at its dissolution.

Article 237(1) declares that land in Uganda belongs to its citizens in accordance with the land tenure systems[29] provided for in the constitution. However, the constitution is set within the context where "Customary practices such a patriarchal marriages, male inheritance and male control of decision making, have systematically excluded females from ownership of property, especially land."[30].

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[28] provide reference page for this quotation

[29] The four land tenure systems operating in Uganda are: 1. Customary land tenure meaning, a system of land tenure regulated by customary rules. 2. Freehold land tenure, which means holding registered land in perpetuity. 3. Leasehold land tenure meaning, holding of land for a given period from a specified date of commencement on agreed upon and specified terms. 4. Mailo land tenure which means the holding of registered land in perpetuity and having roots in the allotment of land in the 1900 Uganda agreement.

[30] ULA Report 2000

The Land Act 1998 article 40(1) protects spouses, children and orphans by restricting family members from transferring land except with written consent of the other spouse and that of dependent children of majority age or the committee for children below the age of majority. This protection is however, amenable to abuse. For one, few women can read and write. What would stop a man from coercing and forcing his wife or wives into giving her/their consent? In all the land tenure systems recognized by the Land Act 1998, access to, ownership of and control over the land and its produce tends to follow customary practices where a man is the ultimate controller.

For another, there is general ignorance of the law by both men and women. Thus, the known customary beliefs and practices within which men and women are socialized tend to be given prominence over the laws. It is one thing to put in place a gender sensitive constitution and legal framework. It is quite another to be able to implement it for the benefit of women.

Without fundamental changes in the laws that are not congruent with the modern constitution as well as in traditional attitudes, beliefs, knowledge and practices that subordinate women, their rights to land will remain limited notwithstanding the liberal policy and constitutional provisions. This will be at the expense of food security, poverty eradication and development. Thus, there is need for continued raising of awareness amongst legislators and law implementers on women's human rights as enshrined in the constitution and to act on this awareness for them to own property such as land. Women also need to network and mobilize to assert their legal rights.

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3. FINDINGS OF THE FIELD STUDY

Men and women in all the six communities the team interacted with, see land as a resource of both wealth and power. One man in Kabale remarked, that without land, one has no life. This section presents and analyses views, feelings and experiences obtained from men and women on women's independent land rights, poverty and food security in the communities visited. Men and women access land for various uses, but the discussion below shall be limited to agricultural production.

3.1. Land Ownership and Control

All respondents in the six communities the team held discussions with in Kabale and Hoima indicated that land belongs to men who are the heads of households. In the men's focus group discussions in Kinogozi, Hoima, men pointed out that land, regardless of how it was acquired, belongs to the man and the wife (wives) he has at that moment. The man owns and controls it, while only has user rights over it. There are a few men in both districts who allow wives to exercise some control over land. Such liberal men are, however, branded traitors especially by fellow men.

A few women may gain control over land given to them by their fathers as a wedding gift (*okusheba*) in Kabale. Traditionally, the daughter and her husband then control its use, but in a few cases, the woman's father remains the owner. While in the past a word of the father was enough for everyone concerned to know the gift land belongs to the girl, over the years things have changed. It is increasingly becoming a common practice in both Kabale and Hoima for women who get land from their parents to sign agreements to protect them from siblings and other relatives who may want to take the land away from them. In Kabale the few women who inherit or buy land say they control it fully and their male relatives may not interfere with it. Women can sell the land they own, but they are expected to consultant their husbands or fathers before doing so.

To justify their owning and controlling land men said, "A woman comes into a man's house without land. He gives her a piece(s) to till, in most cases given to him by his father. While in her husband's home, she grows food that they all consume, she is

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clothed, housed and protected. What more does she want?" Reasons for this phenomenon include paying bride price and household power politics.

3.1.1 Bride Price and Power

Traditionally men in Kabale and Hoima, as in many other parts of Uganda, pay bride price for their wives. Traditionally, bride price was a token of appreciation to the bride's parents from the bridegroom's parents for having raised a girl good enough for their son. Today, through this act, women are regarded as the property of men. In Kabale one of the key male respondents likened paying bride price to buying a tractor!

With increased commercialization, bride price has become an income generating activity for the girl's family. Marriage itself has been commercialized. And women, who rarely benefit from this transaction, have to pay the price by being treated as the property of the men who pay the bride price. They are expected to do all the production work as well as the reproductive and other domestic chores.

Some of the adverse effects of commercializing marriage include a growing number of young girls leaving or being forced out of school by parents to get married. Cohabitation, in which both the boy and the girl view their marriage as temporary, is on the rise. Men in Hoima remarked that women "*batungwa na ndagenda*" meaning that married women always feel that they can go any time. Women do not necessarily like this situation but they are trapped in it.

Although women respondents realized and accepted that bride price was paid for them, they did not like the idea of being referred to as property. They were shocked to hear men refer to them as such. They could not believe that they, who think, plan and work for their family's well being could be equated to a chattel. The discussions were thus revealing to women who showed their concern and displeasure about such a comparison.

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Apart from the commercialization of marriage, ownership and control over land have implications for the household power balance. In an agricultural setting, land is a source of wealth and power for the person who owns and controls it. Men benefit from this status quo. It gives them cultural legitimacy or "right" to control women's labor and agricultural produce. As a respondent in Kabale said, *men have to have authority over women*. This is particularly true for men who solely depend on the land for their livelihood. Land ownership is one of the means through which men exert this authority. Women on the other hand feel extremely cheated to work on land they do not own or control and to toil but have limited say on the produce.

3.2. Land Acquisition

"There is no need for women to be involved in any land transactions," said the men in a focus group discussion in Muko. Men in all the group discussions held during the research shared this feeling. And the ways through which land is acquired favour them over women.

In all the areas in which the research was undertaken, there are four methods for acquiring land. These are inheritance, purchase, allotment and borrowing or renting.

Land is inherited by men, both in Kabale and Hoima. Inheritance is the major method by which men acquire land. Women do not go into marriage with land. They find it where they are married. It is under very rare and exceptional circumstances that women inherit land from their parents and this is when the parents have no sons. Otherwise, this is not the norm. It was stated in Kabale that a man who has only daughters, is regarded and regards himself as childless. A story was told of a man who had daughters only and owned a lot of property. In his will he left all his property to the church and nothing to any of his daughters. The community regarded this as normal by the rest of the community.

All young men in the communities the team visited in Kabale expect to inherit land from their fathers. As a result, the young men do not see the need to work hard and buy their own land. Failure by a father to give land to a son can result in a son killing his own father. The young men who do not inherit land feel redundant and resort to drinking instead of finding other ways of earning a living.

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Land purchase was said to provide an avenue through which women can own and control land. In practice however, it is the men who have economic power and are thus able to purchase land. Even the produce of women ends up in the control of men and can thus be used by them to buy land. In both Kabale and Hoima when a husband and a wife put money together to buy land, the land title or agreement is made in the names of the man, regardless of the proportionate contribution by the woman.

One man in Hoima remarked, "*Why on earth would a woman want her name on a land title unless she is planning to leave her husband*?" During men's focus group discussion in Muko community in Kabale, men argued that if a wife provides all the money or contributes part of it for buying land with her husband, it is enough for her name to be appended to the agreement as a witness. If the husband has more than one wife, it could be mentioned in the agreement that she contributed money that bought that piece of land. This would protect her from the co-wives and their children. As one man in Hoima observed, "*The owner of the land has the authority in the home. When a woman buys and owns land you know you are finished*".

Interestingly as this discussion was going on in Muko, there was a case in court that very day, at the same venue that illustrates the need for women to have their names on agreements of properties acquired by both husband and wife for their own protection. In that case, A woman in Muko was seeking court's assistance to claim her share of the land from her husband. She had been married for twelve years. Together with her husband they had acquired land and other properties. Later he decided to chase her away empty handed. She claimed he had married another wife and they were not looking after her children well. She wanted the courts assistance for her to go back to her house and land so as to take care of the children. The man was adamant about having her on "his" land. It was no longer "their" land.

This case illustrates the dilemma in which women find themselves. Even if they contribute money to buy land with their husbands, their rights over that land is not necessarily guaranteed. Unfortunately, when there is dispute over land involving a man and his wife, the courts and land boards that are male dominated have more sympathy with the man than the woman.

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Allotment of land is done by clan heads and LCs. It is only possible where there is adequate land as in Hoima. To qualify for allotment of land, a man presented himself as ready to start a new home or get married. Women would not, ordinarily use this method to acquire land. This practice is however, dying out due to the commercialization of land.

Both men and women can borrow or hire land for cultivation for an agreed period of time. Payment is in form of cash or sharing crops that are grown on that particular piece of land and may be quite costly. In a few circumstances it may be free of charge especially if obtained from relatives or friends. This method is also abused when poor land-less people especially women are given virgin land that they clear and as soon as it is cleared the owners take it back and give them more virgin land to clear. The poor are exploited by using their labor to clear thick forests and bushes.

When their husbands die women can own and control land previously owned and controlled by their husbands. Some such women could pass on the land to their daughters as well as sons. This practice was more common in Kabale than in Hoima. However, the story below shows that widows do not always stay on the late husband's land and by virtue of being widows, may in fact lose the land to other relatives.

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My name is Tumwijuke Anne (not real name). I am 30 years old. I was educated up to senior two. I am a widow. When I was with my husband I did not get on well with my in laws. My husband died before his parents had given him land. While he was alive, the parents would just give us access to small pieces of land for cultivation. Even then every year they would give us access to different pieces, which meant that we had to open up new land all the time. My husband had tried to complain to the LCs about the fact that the parents had refused to give him land. That did not help.

After his death, the parents started taking away the little land that they used to lend us and yet I had children to feed. I appealed to the LCs but that has not stopped the brother in law from grabbing all the land from me. When I appealed to other family members, my brother in law claimed that his father had given the piece of land in question to him. When the father was asked about the matter, he also said that he had given the land to

his living son. My father in law said that he had withdrawn the land from his late son.

Some family members decided that my brother in law should stop using the land but the father in law decided otherwise. He ordered his son to continue using the land. These family members have advised me to take the case to higher courts. My father in law refuses to go to court because he claims he is too weak to go to court. He says that if he has to attend court, he has to be carried in a car. I do not have money to hire a car for him! I do not know what to do now yet I have small children to take care of.

Such are not so isolated. Widow's protection on the land depends very much on their relationship with the male-in-laws.

In general, men in both Kabale and Hoima seem to fear that women with land are likely to be difficult to control. A man in Hoima said, "good governance starts at home. Homes should be peaceful. Thus anything that can disturb a home should be avoided. The current craze for women to own land is the beginning of destruction of homes". Women, on the other hand, feel that if they owned land, it would be good for the whole family.

The existing methods of acquiring and controlling land as seen above are skewed in favour of men. The one sure way of getting women to own and have some control of land could be through co-owning land with their husbands. However, this should be for all women and men living together, regardless of the type of marriage. It should not be limited to legally recognized marriages because the majority of people in the rural areas are in unions that are not legally recognized.

3.3 Women's Rights on Land

To the women in the focus group discussions in all study areas, owning and controlling land means having all or nearly all of the following:

- Having a written document, whether a title deed to or an agreement over the land
- Being able to decide what to do on that land, when and how.
- Having the freedom to sell, mortgage or give it a way or part of it to any one.

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- Having a say on what is produced or comes from that land.

Given this understanding there are very few women in the area of study who own and control land. In general, married women have access to their husband's land. But like everything else, the story below goes to show that there is little security for the women even in this.

I am called Elina Byamukama (not real name). I am 40 years old. My home is in Nyamurambi Parish – Kanyamatembe LC1 – Muko Sub County. I have five children – three girls and two boys.
The first born is 15 years and the last born is 11 years old.

When I got married my father gave me land and my father-in- law also gave us land. I started working hard, and we acquired some property and we started buying more land. I gave all the money to my husband to do business. We used to trust each other. He was a priest (catechist). I used to give him money and he would buy land in his names and I would sign as a witness. Afterwards he married another wife who had children from another marriage.

He left me and started staying with the new wife although I was the wedded wife. He started taking away the land from me and gave it to the other wife. This was land that we had bought together using money that I had earned. He also took away the land that his father had given to us and he claimed that the father had just lent us the land. Even the piece of land, on which the house I was living in was built, he took it away and gave it to the new wife. He forced me to consent and he also sold a plot we had bought together. He took all the house property. He even sold the land that I had eventually acquired for myself along the swamp.

I reported to the Swamp Society and they said that as a woman, I was not supposed to own any land!

I continued to rent and cultivate land in the swamp but he hired policemen who came to beat me up and chased me away from the garden. As we speak, even the little land that I was remaining with for growing food for my household consumption has recently been sold off. My husband has been chasing me from the land using a panga saying that he will kill me! He even goes to the extent of bringing his new wife to harvest the crops I have grown. He says that my children will only get land when he dies. I am the one who pays school fees for my children.

I took the case to court and he was given a refraining order and we are still waiting for the land tribunals. Despite the restraining order, he still chases me away from the land. I have no rights over the land that I contributed to buy. My children are malnourished. The LC does not help me because they support him. He is the LC 1 Chairman! I tried Probation Office but he goes to them and tells them lies about me. Now I feel I have reached the end of the road.

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Some widows may be evicted from their land by their own sons, as was the case in Kinogozi, Hoima. One widow reported that her son gave her an ultimatum to either leave the land or die. Some brothers also send away their sisters when their fathers die, observed women in the same community.

Men's control of land extended over to produce from land as well. In all communities visited, it was said that men control produce, although the degree of this control varies from home to home. In households where husband and wife work together, they plan together and ownership of produce is shared. Where men are more involved in cash crops production, women control food crops although they are expected to consult their husbands if they should wish to sell some. Where men are redundant, they tend to take full control of the produce. Widows have full control over the agricultural produce in their households.

Generally speaking, women have access to land through male relatives. This access is, nevertheless determined, among other things, by the existing relationship between the woman and the male relatives. When women resort to the law to protect their rights, the law enforcement officials connive with men to deny them justice. This means that for the status quo to change, structures and systems as well as the people within them need to be targeted so that they can appreciate the value of women owning and controlling land.

Even women need to targeted in this connection, for they too have been socialized to accept their lower status. As the LCV Secretary for Production Kabale observed, "Traditionally, men own land. Wives accept this as a way of life, if you try to change, they will think that you are trying to disturb their homes".

A few women who have tried to change this situation have been attacked by fellow women, especially the older ones, who accuse them of wanting to change tradition. Society has put into place taboos and derogatory labels for women who show tendencies of independence.

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In spite of all this, women who own property feel empowered and proud of their achievements. Many other women especially, the young look up to them as role models. Others who feel frustrated by lack of control over land and their produce are turning to trade as a way of gaining control over their incomes. A woman in Kinogozi, Hoima district, on realizing that her husband was giving away her gardens to the other wife, decided to buy her own land and build her own house which she intends to rent out to a primary school nearby. She still lives and works together with her husband but she feels more in control over her own crops and property.

Yet, as the testimony below illustrates, not all women feel empowered enough to empower their own daughters. The testimony is by a woman from Kabala, who said she would pass her land on to the sons and not daughters. Daughters, she believes would get land only if they do not get married or when they are divorced. This testimony shows that in many ways women are agents for the propagation of cultures and traditions that subordinate them to men. While it is still very important to target them for positive changes, focusing on them alone may not improve the situation of girls. Both men and women need to be targeted for real change.

Moreover, the structures of governance that are critical for the implementation of policy and the enforcement of the law will also need to be made more responsive to the ideals contained in the policy and law. Women will only benefit from the good policies and laws when the systems and structures that implement the law understand that law, have the skills to enforce it and have developed the right attitude to gender issues.

My name is Loy Tindamanyire. I am 40 years old and married. I did not go to school because I was an orphan. My husband was also an orphan. I have seven children – two girls and five boys. I also have grand children from my daughters who are married.

My husband and his brother had land that they had inherited from their father. After some time my brother in law sold his piece of land and migrated to Bunyoro. My husband had also wanted to sell his land and migrate but I refused. My husband was not happy with the fact that I refused to migrate to Bunyoro. He as result decided to stop any assistance to me.

He used to work at the island by cutting grass using a machine. He now claims that he

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cannot do heavy work in the garden because the machine damaged him. He does fishing on a small scale and uses the income for his booze. I do not mind doing all these after all I am servant. Even if I ask him to work and contribute to the home, he refuses. I have to keep peace.

I built my own house using iron sheets. I make decisions on the land. For example I decide what to grow and where on the land.

At first my husband did not like my being in control, but now he likes it because he gets free benefits from my labor. I use the cows to pay bride price for our sons, and the children are happy with the economic progress that I am making.

I am proud of my achievements and have since bought more land with the income I got. Even recently I bought land for seventy thousand shillings. All in all I have bought seven pieces of land. When I am going to buy the land I inform my husband and he comes along and he becomes the witness as we make the agreement. But the agreement is made in my names. I will pass my land to my sons but not to my daughters since they will get married

3.3.1 Linking Women's Land Rights to Food Security and Poverty

> ***"If land belonged to women, they would grow food crops on good pieces of land. Currently, men grow cash crops on good pieces, yet when they sell, we hardly see the money"***
> (a woman from Muyumbu women's focus group discussion)

For the purposes of this paper, a household is food secure when it is sure of its ability to provide adequate food for all its members throughout the year. When all households in a community and all communities in Uganda are able to feed all their members on sufficient quantity and quality of food all year round, then the communities and the nation will be deemed to be food secure.

Poverty, on the other hand, refers to a lack of the means to satisfy basic material and social needs.

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Although there were more signs of hunger and food shortage in Kabale than in Hoima, the communities consulted and key informants met all agree that most families are food insecure and poor, in varying degrees. The communities that the team had discussions with in Kabale said that most families in Kabale eat one meal a day. The team saw a number of school-going children looking underfed and many out of school during school time. All these were mentioned as some of the symptoms of poverty.

In Hoima, the LC 5 officials reported that there was no one in the district going hungry on account of not having land. Only a few youth have no land of their own, but they can still access some land from the clan.

Other respondents in the district confirmed this and added that in general, there was no problem of food in Hoima district. The team observed that school children looked well fed and quite a number of them carried packed lunch. Even the small kids who were returning home for lunch carried food containers indicating that they carried snacks to school. Unlike in Kabale, communities in Hoima reported that they had more than one meal a day. Food insecurity in Hoima was said to be mild and seasonal. Although they experience bumper harvests the foods would run out by the next planting season, as it is sold to meet other family needs. Nevertheless, there are crops like cassava and fruits that they can eat throughout the year. Yet though they may be food secure, most people in rural Hoima are said to be poor.

Participants in the research in Kabale and Hoima identified many factors that cause food shortage and poverty at household level, with different households experiencing a number of them in different degrees. In general, the causes listed below were identified, in an aggregated order of severity, as being the major ones. All the causes need to be addressed in the fight against poverty and in increasing food security at family level. They are directly linked to both food security and poverty and need immediate attention. A few are further selected and discussed below because of their direct impact on women and their role in ensuring food security.

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Table: 3 Causes of food shortage and poverty in Kabale and Hoima

KABALE	HOIMA
1. Limited knowledge and skills - Illiteracy, - Ignorance of good farming methods / practices as well as planning	1. Limited knowledge and skills - Illiteracy, - Ignorance of good farming methods / practices
2. Limited resources - Labor, mainly women doing most of the agricultural work. Men put in few hours or none at all. - Shortage of arable land, fragmented land and of poor soils - Unequal access to factors of production between men and women	2. Many unproductive people to feed - Many people especially youth and men who are redundant - Over drinking
3. Many unproductive people to feed - Limited application of family planning methods - Many people especially youth and men who are redundant - Over drinking	3. Co-habitation, many women aren't sure of how long they will be in their homes
4. Limited market outlets and storage facilities - Lack of market for the produce - Selling food at harvest time - Lack of appropriate storage facilities and technologies	4. Women doing most of the agricultural work. Men put in few hours or none at all
5. Misunderstandings in the families - Stealing food for sale by some men and some women	5. Poor leadership
6. Unpredictable weather patterns	6. Ill health
7. Limited technical inputs - Limited extension services - Lack of draught resistant crops	7. Limited market outlets and storage Facilities - Lack of market for the produce - Selling food at harvest time - Lack of appropriate storage facilities - and technologies
	8. Misunderstandings in the families Stealing food for sale by some men and some women
	9 Limited technical inputs - Limited extension services - Lack of draught resistant crops - Poor yielding seeds - Limited animals

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- Poor yielding seeds - Limited animals - Use of a hoe 8. Ill health especially due to malaria 9. Co-habitation, many women aren't sure of how long they will stay in their homes 10. Limited credit facilities - And where available, high interest rates 11. Poor leadership	10 Use of a hoe 11 Limited credit facilities, and where available, high interest rates 12 Poor road network which limits ability to market produce. 13 Large scale commercial farming, which results in poor people being displaced. 14 Staying on fragmented small pieces because of strong sentiments about leaving their birth place for un-occupied land away from home.

Knowledge and skills in agriculture

Both districts identified limited knowledge and skills as the most limiting factor in food security and eradication of poverty. There is, therefore, a need for local governments and NGOs operating in the area to intensify education and training in areas such as good farming practices and planning that men and women find limiting. Linked to this is limited technical inputs and more specifically, limited extension services. Most agriculture and veterinary extension officers are men. They tend to pass on information about technology and improved methods of farming to men who will not necessarily apply them. Men recipients in turn choose what to pass on to their wives, in most cases leaving out vital bits of information that are likely to empower or liberate women from poverty.

Absence of men in agriculture

Throughout the communities visited, men presented themselves as if they work for their families. But when women said the contrary, men did not refute it. Men and women in the two districts agreed that many women were working alone in the fields and that this was affecting food availability in their families. Examples of women working alone to grow food to feed about 10-15 unproductive people were given. Sometimes the little they produced was sold to supplement family income. Very few men were participating in crop production.

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In Kabale it was reported that 1 out of 10 men were involved in agricultural production work and the rest spent their time partly in casual labor and partly in drinking. The team was informed that in the Rukiga sub-county where the Secretary for Production LC 5 had been visiting for the four weeks immediately preceding the visit by the research team, he only met one man working in the fields. In Hoima, it was reported that about 3 men out of 10 work in the gardens.

The few men who work in the fields concentrate on cash crops. Women's crops are produced basically for home consumption, although some food may be sold to solve urgent needs in the home. With increasing exports of non-traditional cash crops, what used to be women's crops are gaining high cash value and men are taking over the control of such crops.

During feedback workshops in Kabale and Hoima, grassroots women representatives insisted that their working alone is a major cause of food shortage in the districts. The same issue has also come up in researches done in other districts. Policy makers at local government level and ordinary men at grassroots level recognize this problem but do not regard it as the most serious cause of food insecurity. Until unbalanced gender division of labor is taken seriously by policy makers, food insecurity and poverty will continue to characterize rural communities.

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Table: 4 Men and women's crops in Kabale and Hoima.

Kabale Men	Hoima men	Kabale Women	Hoima Women
Cabbages	Tobacco	Beans	Sweet |Potatoes
Carrots	Coffee	Peas	Cassava
Tobacco	Groundnuts	Sweet Potatoes	Groundnuts
Tomatoes		Sorghum	Beans
Irish Potatoes		Maize	Maize
Bananas			Millet

While women will work on men's crops, men do not have to work on women's crops. Men's crops take priority over the best available, suitable land. Women can then use

whatever remains. In Hoima, men's crops are grown close to home making it easier to manage.

However, it was generally accepted by all respondents in all communities consulted, that in the few cases where men and women work together, their homes had more food and stability and were the envy of the neighbours. The testimony below illustrates this fact.

My name is Feddy Byanyima(not real name)
I am 47 years old. I did not go to formal schools, but I learnt a few things in clubs. I have been married for 24 years. I have eight children - five girls and three boys.

I bought land and the agreement was put in both our names. We live together and do everything together. Even when my husband is the one who buys land both our names appear. On our land I grow food and sell some to get school fees for our children.

I have no problem with my husband because he supports me. We dig together, and do most of the work together. People in the village say that they feel sorry for him. They think that I control him but it is only my husband and I who know what goes on in our family. We know what we are up to.

We consider ourselves successful because our children have gone to school and we are happy. Our first born is a qualified primary school teacher, others are in secondary and primary schools.

I have the freedom to suggest that we sell part of the land and my husband cannot refuse if we have to settle a problem. The proposed new law on co-ownership is good for both men and women.

I cannot allow my husband to bring a new wife in the home I have worked so hard to build. I would send away the second wife! Definitely I would not allow another wife in my house!

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3.3.2 Women and decision making

In all the communities consulted, it was generally accepted that women make decisions on what food crops should be grown, on what part of the land. Only in very few circumstances would men make such decisions. Women explained that this was due to the fact that men had given up their responsibilities of providing for the family.

Women further reported that although they do most of the work, men get interested in the crops when it is harvesting and marketing time and take full control over the produce and income. Men in Muko community for example, were proud to say that women control fresh food crops still in the gardens, and that they (men) take over immediately after the harvest.

In a few cases women have some control over food and they can sell some of it if they have a problem to solve in the home. They can do this only if they have informed or consulted their husbands. In some cases men steal the food to go and sell and when the women realize what is happening they also resort to stealing their own food to go and sell to cover requirements in the home. However, all widows said they have control over their produce.

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Women the team met indicated that they did not like this situation where men did all the marketing and took control over all the income. This is mainly because men neither consult them on the need for the sale nor inform them of the amount that they get from the produce. Women feel frustrated but hardly complain because they fear to be beaten by their husbands. A number of women interviewed indicated that they let the men do the marketing because they want to keep peace in the home. Violence against women was reported as a common occurrence especially in Kabale.

3.3.3 Redundancy and alcoholism

There is a lot of redundancy in both districts, especially of youth and men, which leads to alcoholism. Alcoholism has affected the amount of production that is done at household level. Less food is grown because able-bodied people have turned to drinking. In Kabale, *waragi*, which is made out of molasses obtained outside the

district, has replaced "*omuramba*" the traditional local brew from sorghum, which has less alcohol content and is more nutritious. This has resulted in the lowering of the price of sorghum. In turn, this has increased poverty in the homes (many people used to grow sorghum for cash income).

The need for men's physical input into the pre-marketing phases of agriculture is a necessity for increased agricultural production. This calls for a change in their attitude from thinking that they are doing their wives a favour and just "helping" them with agricultural work to that of working for themselves, their families and the development of the country.

3.3.4 Limited resources

Shortage of land in Kabale is a limiting factor for agricultural productivity. Men between the ages of 18-35 have no land that they have inherited from their parents and therefore have no land for production. They do not see other alternative income generating work and so they justify their drinking habits and redundancy. Men in Muyumbu insist that even if women had maximum control of the land and that they work with their wives, there will still be hunger because of limited land and high population. In Muko, men were convinced that there was no way poverty would be eradicated through the use of land.

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In Hoima, the most limiting factor was not land but lack of labor to till the land coupled with the use of a hoe. Lack of motivation to work hard by women in co-habitation unions was also high on their list. Added to this is limited market outlets and poor infrastructure and road network.

Misunderstandings in the families between husband and wife and sometimes in-laws, reflecting lack of trust and partnership, as well as loss of family values also play a big part in reduced production and sharing of resources at the household level.

The survival of communities consulted depends a lot on the labor of women. Yet women do not have independent rights on land. What they have are user rights as daughters when single and as wives when married. Only a small fraction of women own and control land in the sense that they can decide on its utilization, sell it, mortgage it or pass it onto a person of their choice.

Giving recognition and effect to women's land rights is critical for food security and improved nutrition. Increased supply of food will improve the health and welfare of the family members, and in turn contribute to improved productivity on land. On the other hand, continuing to deprive women of rights over land inevitably leads to food insecurity at the household, community and national levels.

Yet it not enough to secure women's land rights. Technologies for improved agricultural output also need to be secured. The hoe needs to be replaced by more advanced technologies for agricultural production. In addition, the men need to be actively involved in agriculture. The example of one in ten for Kabale and three in ten for Hoima is grossly inadequate if households, communities and the nation are to be food secure and poverty is to be reduced.

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Where there is a land deficit, as in Kabale, alternative means for securing livelihoods need to be considered. Other income-generating activities separate from the land need to be looked into. The income so earned can then be used to buy food for families.

In essence, women's land rights must be addressed in combination with other factors that impact on food security and poverty levels.

3.4. Who depends on who?

"Women have ceased to be helpers of men and are becoming sole providers for their families" (women in the district feed back workshop in Hoima)

The findings of this research confirm that contrary to the prevailing wisdom, men have come to depend on women. Most men and women respondents in both districts of the study stated that women's priority was to ensure that there was food in the home, while men's priority was cash income and drinking. It was observed that some men in Kabale even fail to pay tax because they have given up working. They have no choice but to either sell land to pay tax (and use the extra money to buy drinks) or go to prison.

When they are imprisoned for non-payment of tax, their, wives are pressured by society to bail them out. As a copping mechanism, women decide to budget for their husbands' tax to avoid family land being sold off. This makes men get away with not paying tax and not working as hard as is expected because they know their wives will take care of them.

This reversal of roles has created conflict homes to the extent that men have given up most of their responsibilities including paying school fees for the children. Men argue that since women have income from group activities and other sources, they might as well do everything. They also complain that when children complete school and get employed, they are more interested in supporting their mothers and not their fathers. Therefore men do not see the reason for paying school fees for their children! These trends call for a review of family values, roles and responsibilities as between men and women.

When men were asked why they do not work with their wives on land, they had excuses that were not very convincing. Men in Kabale indicated that there was not enough land for them to work along side their wives. If they work together, work will be finished quickly and their wives will be redundant! Women were not expected to have free time or to relax. In Hoima where there is still enough land for both men and women to work together for increased household production, men regard themselves, as "*abanyoro*" chiefs who should not do farm work.

Women in both Kabale and Hoima are convinced that if they controlled land and produce, there would be more food available for family consumption and poverty

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would be reduced. There would be fewer food thefts, more investments on the land, better soil management and farming methods. Some men agree with this, but others dismissed it, contending that given their kind nature women will give away much of the food at the expense of the family if they assumed total control over the land.

3.5 Respondents' Suggestions for Achieving Food Security and Reducing Poverty

All respondents were not happy with the current food insecurity and poverty levels. They suggested what they could do, and what the district and central government can do to improve this situation. Some of their suggestions are listed in the box below.

What to do

- Women and men should learn and practice better farming methods, better nutrition and work together for better agricultural production.
- Husbands and wives should practice family planning to ensure that they get the number of children they can look after well.
- Men and women should check the time and amounts of alcohol they take
- Men and women should plan together and agree on what to sell and what to keep for family consumption
- LCs should mobilize and encourage men and women to attend meetings and learning sessions to acquire new knowledge and improve on their skills
- The districts should arrange and organize training, pass bye-laws on drinking time
- Districts should pass bye-laws against husbands taking land from their wives to give to other wives or to sell off.
- The central government should introduce new high yielding, drought resistant crop varieties.
- Government should ensure that the Land Act 1998 and other acts and policies affecting people are explained to them and are enforced.

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Given the experiences of women on land as observed in the research, there is need to ensure that women acquire increased independent rights on land in order to increase food security and reduce poverty. A lot is going on in lobby regarding this issue but most women are not aware of what is going on. There is need to connect with rural men and women in the on-going lobby for the proposed co-ownership of land, for example. They have views on this subject that need to be considered. Below are some of the ideas that came up on this subject in the course of the research.

3.6 On Spousal Co-ownership

Co-ownership as proposed in the Land Bill refers to a situation where two or more people have joint interest in property. Where land is co-owned it may be held jointly or in common, and the co-owners will be referred to as joint tenants or tenants in common respectively. Joint tenancy arises where land is registered in the names of two or more persons without any words to show that they are to take distinct and separate shares. At death property passes on to the surviving tenant(s). Under tenancy in common, tenancy shares in the property are distinct and fixed although not divided. Shares of one tenant are not affected by the death of the other[31]

("*Co-ownership makes sense, not only of land but of all the property. But it is best if they have acquired it together*" Per Kabale LCV chairman)

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In all the discussions held, views were sought from both men and women on the proposed clause on co-ownership of land by spouses. There were mixed feelings about co-ownership, some people supported it while others opposed it.

There were men who did not want the issue of co-ownership to be discussed during the meetings. They feared that if women got to know that men claimed that land belongs to them alone and that women do not own land, it might affect women's level of production. One respondent in Hoima requested the team not to discuss that issue during the plenary, where men and women shared the outcome of separate group discussions. This attitude confirms the fact that men are aware of the

[31] Uganda Land Alliance Fact Sheet 1

importance of women's contribution especially in the agricultural sector but enjoy the status quo, and would not like to see it changed.

In both districts there were respondents who felt that the proposal of including the clause on co-ownership of land by spouse in the Land Act threatens men's power. Some such men are angry and feel that this type of law should not apply in their homes. The reasons advanced by men against spousal co-ownership are set out in the box below.

Reasons Against Spousal Co-ownership

- women will marry men simply to get land
- will not be easy to implement in a polygamous marriage
- foreign women will marry men Ugandan men in order to acquire land.
- Will inhibit men's freedom sell land and migrate to other areas in search of better opportunities
- Women are a means of production and therefore should not own land!

On the other hand, all women would like to co-own land with their spouses. They wished the proposed clause were a law. In order to avoid a situation where women may marry for the sake of getting property, women proposed a minimum of say 5 to 12 years in marriage to be considered before one becomes entitled to co-owning land. This shows the goodwill from women who come into marriage with intentions of staying for life.

Other reasons advanced in favour of spousal co-ownership are set out in the box below

Reasons for Co-ownership

- Women would feel more secure and would be more motivated to work even harder on the land and produce more food.
- Women would take greater care of land and would invest in long-term crops such as trees.
- Widows and orphans would be better protected and their livelihoods secured.
- Co-ownership would boost women's sense of self-worth and would make gender equality meaningful.
- Made sense for land purchased jointly by the spouses
- Will discourage polygamy and thereby contribute to family stability

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There was greater acceptance by male respondents of co-ownership over land purchased jointly by the spouses. In addition, younger men were more inclined to support co-ownership than their older counterparts. Among the older men, there was support for their daughters co-owning land with their husbands, but resistance to their daughters-in-law enjoying the same benefits with their sons!

What is clear is that the majority of the rural people do not understand what co-ownership means nor do they understand the existing policy on land ownership and utilization. The current debate on land ends mainly at the national level. A District Assistant Community Officer, Hoima contended that only about 25% of the people in the district get to know about these debates. There is clearly a need for sensitization and more involvement of rural men and women in debates on the Land Act in general and the proposed co-ownership clause in particular.

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4. LOBBY & ADVOCACY FOR WOMEN'S LAND RIGHTS

This section examines what has been done in the area of lobby and advocacy for women's land rights. Special emphasis is put on achievements made and challenges that need to be addressed in order to improve and/or increase opportunities for rural women to own and control land and the products of their labor on land. The paper focuses on the work of Uganda Land Alliance, which is currently the leading land lobby organization in the country.

The current lobby and advocacy for women's independent rights on land began with the establishment of Uganda Land Alliance (ULA) in 1995 as a consortium of NGOs and individuals[32]. ULA started as a pressure group with the mission of ensuring that land policies and laws are reviewed in order to address the land rights of the poor and to protect access to land for the vulnerable and disadvantaged groups and individuals[33].

ULA played an important role in the enactment of the Land Act 1998. Prior to this, and during the discussion of the Land Bill, ULA tried to demonstrate that some of the principles on which the bill was based would dispossess the poor. ULA realized that the land law favored the rich and foreign investors over the poor. It argued for the institutional framework for managing the land and mediating the land market to include women representatives.

ULA argued for protection of wives and children's land rights from irresponsible husbands or fathers and greedy in-laws, and suggested, among other things, incorporating co-ownership of land by spouses in the law as well as for consent of spouses and children before selling off land. While the consent of spouses was included in the land act, the co-ownership proposal that had received support of the legislature was omitted in the final text of the Land Act, 1998, allegedly due to technicalities in the parliamentary process.

[32] Other women's NGOs in ULA include FIDA, ACFODE among others

[33] ULA fact sheet II 1998

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Another active group that contributed greatly to the women and land rights debate is Uganda Women's Network (UWONET). UWONET is a member of ULA. It is a network of national women's organizations and individuals working through information sharing, communication and collective action on issues of interests and concerns to women. UWONET felt that poor men and poor women faired differently on land, and that women need to be taken as a different category of the poor.

During the discussions on the Land Bill, UWONET realized that information on women was lacking in the background information used to draft the Land Bill. This limited the public discussions on problem of women's lack of land ownership rights even though they play a big role in agriculture in Uganda. UWONET commissioned a preliminary study into women's views and suggestions on land in general and the Land Bill in particular in six districts of Kampala, Kibale, Lira, Mbale, Luwero and Mpigi[34].

- The findings of the UWONET study indicated that the majority of women have no control over land because they have no ownership rights over it. Their control over the produce from the land is also limited. As a result women's work on the land is made invisible. Women in these districts expressed the need for secure access to and control over land, not only because of their role in agricultural production, but also as a human right befitting them as adult individuals.

The rural women in those six districts indicated that they wished to own land in order to have security of tenure; to get value for their labour; to enable them to invest in more valuable assets such as shops, houses and coffee trees; and to have something to pass on to their children so that they too are valued as parents the same way male parents are valued.

They welcomed the idea of co-owning land with their husbands but were concerned that the draft bill was not clear in cases of polygamy. Co-ownership would protect women from being evicted by their in-laws after the death of their husbands. They appreciated the idea of consenting before selling land. This would protect them from

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being sold off and rendered land-less. But they saw possibilities of its being abused. Men could coerce and force them to give consent.

While the consent clause was incorporated into the land act, the co-ownership provision was excluded from the land act and was referred to the Domestic Relations Bill by cabinet! Women continue to lobby for the clause to be brought back into the Land Act.

4.2. Activities carried out to lobby for Land Rights of the Poor

A number of activities were carried out by the Uganda Land Alliance to lobby and advocate for women's land rights. The lobby targeted policy makers and the public. The activities included:

- Commissioning papers to explain and unpack the clause on co-ownership of land by spouses
- Lobby meetings with Members of Parliament (Caucus groups)
- Public dialogue
- Support to a Private Members Bill on Co-ownership of land by spouses
- Production of booklets and other materials on the co-ownership clause
- Press and media discussions as well as coverage on the co-ownership clause
- Research and information dissemination to highlight the situation of women and their limitations regarding land ownership and control
- Production of a documentary on co-ownership of land by spouses

4.3. Achievements of the Lobby and Advocacy Process

The present Land Act incorporated some of the issues advocated for like spousal and children consent before selling land. In addition, due to the pressure government has received from those advocating for women's land rights, the

[34] UWONET 1997

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Ministry of Water, Lands and Environment commissioned a research to find out if there is a case for spousal co-ownership of primary household property.

Some awareness has been created among policy makers and the public especially, at national level about the importance of the issue of women and land rights. Although the issue is not fully accepted, it has generated the interest of the public who contribute to the debate through the media. Having raised awareness of the public, parliamentarians and other policy makers about the concerns and interests of women regarding their land rights is no mean achievement.

Other specific achievements include the following:

- Pressure groups successfully lobbied for 30% composition by women on all district land boards and a number of districts are already implementing this provision.

- A land fund, which was originally meant for Kibale district was extended to other districts. This fund is supposed to be availed to tenants to be able to buy themselves from their landlords if they so wish. (This is a provision that can be extended to women groups to enable them buy land).

- Linking women and land rights with other issues such as human rights, food security and poverty eradication in key government policies such as Programme for the Modernization of Agriculture.

- Many NGOs now recognize women's land rights as an important development issue and a number of them have joined the Uganda Land Alliance while others have put land on their development agenda.

- Men have come out to advocate and lobby for the clause on co-ownership of land by spouses to be included in the land act. This is no longer a women's issue but a development issue.

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- Lobby groups convinced donors to support issues and activities related to women and land rights.

- Cabinet and parliamentary committees accepted to meet pressure groups on women and land rights and as a result of these meetings, cabinet went for more consultation before making a decision on the Land Act.

- Lobby groups convinced newspapers to give them free space. Use of newspapers highlighted concerns of women and land and exposed parliamentarians who were against the proposal on co-ownership.

As a result of the lobby and advocacy process, more articles and discussions on land related issues have continued to appear in newspapers and electronic media.

4.4 Challenges Facing the Lobby and Advocacy Process

Despite some achievements made by the lobby and advocacy process a lot still needs to be done. For example the land act in its present form leaves some gender gaps that the lobby and advocacy groups need to address. Some of them are highlighted here below.

Table: 5 Gender Issues in the Land Act 1998

Law Issues	Gender Gaps
• **Ownership** Land Act states that land belongs to all citizens	In reality men are regarded as owners and women only have user rights
Landlord and tenant relations Squatters on other people's land are free to buy themselves from the landlords. If a squatter has occupied a piece of land for 12 years and over by the time of the new constitution, he/she may keep that piece of land.	Men are likely to have money to buy themselves while women; with limited income may not have the money to buy themselves. Women who are married to squatters have double disadvantage and may have more chances of eviction especially at divorce or

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land.	chances of eviction especially at divorce or widowhood.
Individual ownership of customary land The land Act created openings for communal or customary land to be sold to individuals.	There is a tendency for poor people to sell their land to the rich and migrate to town. When this happens, women who are responsible for food production tend to become land-less. When customary land is sold women are likely to lose access to resources that they ordinarily used to access such as water sources, firewood and land for grazing small animals such as goats.
Co-ownership Clause	The co-ownership clause was not discussed in Parliament because the proposer Hon. Matembe was not in the House to present it. The clause has been personalized and other MPs men and women show little concern for women's land rights.
Co-ownership clause offers women in legally accepted marriages some protection.	It leaves out single or young women and majority of rural women who are in co-habitation unions (socially tolerated but not legally accepted) The unfortunate thing is that women in these unions consider themselves married for all intent and purposes. Other community members also regard them as married.
	Men can easily coerce their wives to sign.

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Consent by Spouse/children	Most rural women are illiterate and can easily be made to sign what they do not know. (an issue already identified by UWONET and ULA)
Recognition of customary laws allows men to marry according to the customs of a given community. The Land Act also allows customary ownership of land	These customs are not defined and dilute the provisions such as consent clause. If a wife refuses to consent, she may be divorced. This is not a ground for divorce in Uganda's laws. According to custom a man may divorce his traditionally married wife and marry another. At the worst this customary marriage allows one to marry more than one wife. Wives end up competing for the land and this can result into violence in homes.

Critics of the Land Act 1998 point out that it has not addressed the issue of landlessness. It only deals with citizens who already have some land but not those without any land. This is a challenge that advocates and lobbyists for land rights will have to address.

The following are challenges specific to the discussion on spousal co-ownership:

4.5 The Constitution is enough to protect women

The constitution is seemingly gender sensitive and it is used by those opposed to women's land rights to argue that women are well catered for in the national constitution. In general there is this blanket argument by a number of people including top policy makers who claim that there is no need for special attention to be paid to women because in the constitution, women are given equal rights with men to, among other things, own land. The challenge is for pressure groups for gender equality to lobby for laws that can meaningfully operationalize the constitution.

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4.6 Co-ownership is Foreign

Policy makers opposed to women's land rights use different arguments. One of the most common is the assertion that the issue of women and land rights is not a concern of rural women. One key policy maker is of the view that " *the issue of co-ownership is a cultural implant from outside".* Co-ownership is to him, foreign. If the idea is to work, there should be sensitization and cultural evolution for people to appreciate the importance of family harmony before co-ownership is made into law.

Cabinet has suggested that the co-ownership clause be placed in the DRB.. The challenge for those advocating for women's land rights is to get Parliament and Cabinet to appreciate that there would be no contradiction for co-ownership to be in both the DRB and the Land Act.

4.7 Lobbyists for Co-ownership have no Constituency

One key researcher informant claims that co-ownership of land by spouses did not originate from the constituency of women. Women of Uganda did not meet to identify their issues. To this key informant, these were issues being pushed by foreigners. This researcher reiterates the same argument that co-ownership got lost because it did not have any constituency and the demands were not based on well-researched information. He is of the view that the pressure groups lobbying for women's land rights could not talk for the poor. The challenge is to get more ordinary men and women from the districts to speak for it.

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Access to Land is Sufficient

Vice President Kazibwe made the work of advocates for co-ownership worse when she stated in the national media that women of Uganda need not own land. According to her, access to land by women is more important than owning and controlling land. This position has been opposed by the women activists and is seen by them as government ploy to deny women their constitutional and human rights. The challenge that the lobby and advocacy groups have is to convince the President and top policy makers of the economic and social values of women owning and controlling land and the product of their labor on land.

Some representatives of the pressure groups that were interviewed by the research team further identified the following additional challenges:

- How to convince members of parliament who have different political interests regarding land that women and their rights on land is an important development issue that deserves to be supported.

- How to convince and bring on board women in politics who own property in their own right and are, for personal reasons, opposed to men co-owning their property.

- How to get men and women in power and NGOs to be gender sensitive and take the issue of women and land rights more seriously.

- How to convince other actors not to give up the struggle but to understand that challenging policies is a power -related issue and is bound to be resisted.

- How to make men and women involved in lobby and advocacy realize that building consensus is not easy so that even when people disagree they should leave communication lines open.

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5. CONCLUSION AND RECOMMENDATIONS

This section presents the conclusions and recommendations to EASSI and other actors interested in advocating for women's land rights, food security and poverty reduction. First, the conclusions.

Ownership and Control of Land

Although the national constitution states that land belongs to all citizens, in practice land belongs to men. The existing methods of acquiring land favour men despite the fact that women are the major producers and users of land. Women, especially those in the rural areas have strong desire to own land but are constrained by customary and traditional values that accord them low status in society.

Food Security and Poverty

There are several causes of food insecurity and poverty including women's lack of land ownership. One major cause is giving women sole responsibility for food production; processing and provision without control over land the major resource. Guaranteeing their ownership and control over land and produce will greatly enhance food availability at household and community levels. However, all the other causes identified by communities and highlighted in this report would have to be tackled if poverty has to be eradicated. Men have to take responsibility for the welfare of their families and not leave women to do it alone.

Lobby and Advocacy

Lobby and advocacy for women's land rights has made great contribution towards raising awareness of policy makers and the public about land related issues. This has resulted in some positive provisions for partial protection of women and children. Having laws in place is one step towards assisting women to own and control land. However, more effort needs to be put into getting women and men, especially at the grassroots to know what the law is all about. Above all more women need to be supported to demand for their rights at household and community levels.

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Lobby and advocacy efforts need to be shifted to the district and community levels by creating linkages with district and community based organizations so that they can pick up the issues related to women and land rights. Concentrating lobby and advocacy efforts at national level and on the co-ownership clause deals with one aspect of protecting the legally married women. The process leaves out many young girls (future women), single women and those women who are in cohabiting unions.

RECOMMENDATIONS

These recommendations are made in line with the conclusions reached above

Land Ownership and control

The Land Act 1998 should be amended to address the issue of landlessness and accommodate the co-ownership clause. However, the co-ownership clause should apply to all women in marriage unions that are socially accepted (not only those legally recognized).

Food Security and Poverty

1. Men need to take responsibility for food security and welfare of their families if food has to increase in homes. (The men can provide cash for labor and food instead of spending it on drink). EASSI can organize meetings and dialogue with members of Parliament to take the issue of food security seriously. They can start with MPs from Kabale and Hoima districts.

2. Financial support and credit should be given to women groups to purchase land where available and to grow cash and food crops as a group for improved income. (Women in the villages are already using this copping mechanism) EASSI can link up with Africa 2000 Network and Local government departments of community development in the two districts to lobby financial institutions to give women's groups credit to, among other things, buy land.

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3. Policy makers in different key government ministries such as Agriculture, Finance and Economic Planning need to be targeted for awareness raising and information dissemination. Strategies for lobby and advocacy need to include the above mentioned ministries in order for them to put the issue of women's land ownership on their agenda as they draw up policies of agricultural modernization, food security and poverty eradication. The success of those policies will greatly be influenced by how women, who are the major actors in agricultural production, will benefit from those policies. The government should be made to understand that ultimately it has the responsibility to ensure that its citizens have enough food and do not die of poverty.

Lobby and Advocacy Process

1. NGOs and Pressure groups dealing with women's empowerment need to pick up the issue of land ownership especially, social and cultural beliefs that make it difficult for women to own and control land. Both men and women need to be assisted to realize that ***until everyone is empowered, no one is empowered***.

2. The research team observed that the lobby and advocacy process has focused more on legal reforms than other structural social and economic constraints that hinder women from achieving their land rights. There is need to put in place strategies that will deal with the cultural practices that deny women land rights and decision making power in their homes and communities. For the long term, the root causes and social, economic and political systems that reinforce and maintain the status quo have to be dealt with. Different levels of society need to be targeted from family, community, schools, colleges, clans, religious institutions as well as political set ups. Democracy has to start in the home before it can spread to the community, district and national levels. Short- term strategies need to target NGOs/CBOs dealing with practical issues to start identifying with the more strategic issue of women such as independent rights on land.

3. Researchers need to widely disseminate their research information so that policy-makers at different levels get acquainted with the results. Different researches done on the issue of co-ownership should be compiled and

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presented in one document to make accessibility by policy makers easier. EASSI could take the initiative to compile all research regarding co-ownership into one document. If the grassroots people have to benefit from this information, it should be simplified and translated into local languages.

4. More effort needs to be put into getting women and men, especially at the grassroots, to know what the law is all about. Above all women need to be supported to demand for their rights at household and community levels. This will call for consciousness raising and confidence building among women and men to accept and appreciate the need for change in the status quo. EASSI together with Uganda Land Alliance could for example support drama groups to popularize the issues of women and land rights so that ordinary men and women relate to them and internalize them.

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LIST OF PEOPLE MET

Key Informants

Kampala	1. Hon Baguma Isoke – Minister of State for Water, Lands and Environment 2. Ms Rose Mwebaze – Coordinator – Uganda Land Alliance 3. Ms Peace Kyamureku- Deputy Director General NAWOU 4. Ms Shiela Kawamara – Co-ordinator Uganda Women's Network (UWONET) 5. Dr. Sebina Zziwa Nalwanga Abby- Researcher Makerere Institute of Social Research (MISR) 6. Dr. Nyangabyaki Bazaara – Executive Director Centre for Basic Research (CBR)	**Interviews**
Kabale	7. Dr. Runumi Francis Mwesigye – Chairman LC 5 Kabale District 8. Mr. Rwanshaija Amos – Secretary for Production LC 5 9. Mr. Francis Tukwasibwe – Population Officer 10. Mr Chris Namara – District Community Development Officer 11. Muyumbu Bakyara Tweheyo Kukora Group 12. Lake Bunyonyi Integrated Dev. Project 13. Muko Sub-county	**Interviews** FGD

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Hoima	14. Mr. Kiiza Rwebembera – Chairman LC 5 15. Mr Alfred Kiiza Tibenderana - Deputy CAO 16. Ms Alice Nyangoma – Chairperson Women Councils 5 17. Ms Mary Ruberantware – Vice Chairperson NAWOU & Chairperson Women Council 3 18. Mr. Mukasa Gender Officer 19. Kinogozi Community 20. Buhamba Community 21. Buswekera Community	**Interviews** FGD

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