

# EFFECTIVENESS AND IMPACT OF CERTIFICATE OF CUSTOMARY OWNERSHIP OF LAND IN SECURING WOMEN'S LAND RIGHTS IN UGANDA

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# ABBREVIATIONS

ALC	Area Land Committee
CCO	Certificate of Customary Ownership of Land
COO	Certificate of Occupancy
CTCO	Certificate of Title of Customary Ownership
DLB	District Land Board
FAO	Food and Agricultural Organisation
FGD	Focus Group Discussion
GIZ	German International Cooperation
KII	Key Informant Interview
MLHUD	Ministry of Lands Housing and Urban Development
RTA	Registration of Title Act
UCOBAC	Uganda Community Based Association for Women and Children Welfare
SDG	Sustainable Development Goals
QC	Quality Control
UGX	Uganda Shillings

# Executive Summary

This study aimed to assess the effectiveness and impact of Certificate of Customary Ownership of land (CCO) in promoting and protecting Women Land Rights in Uganda. The CCO is intended to formalise customary land tenure through documentation, and its issuance and regulation is mandated to the Ministry of Lands, Housing and Urban Development (MLHUD). The issuance of CCO, which started after the enactment of the National Land Policy in 2013, has been supported through pilot projects undertaken mainly by the Civil Society Organisations working in collaboration with local governments and the MLHUD. Issuance of CCO has been piloted in Kasese, Kabale, Soroti, Butaleja, Katakwi, Pader, Nwoya and Adjumani. It has since not expanded beyond the pilot districts.

The report provides an analysis of the procedures and capacities of institutions issuing Certificate of Customary Ownership of land, how CCO has impacted women's security of land tenure in relation to the bundles of land rights, including rights of use, access, ownership, sale, decision making on the land and rights of transferring and inheriting land. The report analyses the successes and major gaps of CCO in advancing women's land rights in Uganda. It also assesses the implications of customary or traditions laws and cultural and religious beliefs and practices on the effectiveness and impact of certificate of customary ownership of land in the areas where they have been issued. It identifies best practices and lessons from implementing and managing certificate of customary ownership of land while providing recommendations that can inform policymakers.

## METHODOLOGY

The study adopted both exploratory and descriptive research, which was carried out within a cross-section where data was collected. Specifically, the study employed a mix-method approach where qualitative and quantitative methods were used simultaneously to collect data. A total of 169 women who have acquired CCO either individually or with their family members participated in the semi-structured questionnaire. The participants were drawn from four districts of Butaleja, Soroti, Kasese and Pader. These were selected through simple random sampling procedure at the sub-county level. 17 Key informant interviews were conducted with selected respondents at district and local levels. The key informants included Secretary to the District Land Board/District Land Officer (3), Sub County Chief (2), Member of District Land Board (1), Chairpersons Area Land Committee (5), cultural leaders (2), chairperson



Local Council III at Sub County (1), Parish Chief (1), Chairperson Local Council II at parish level (1) and NGO supporting land rights in Soroti district (1). These informants are involved in issuing CCO.

## FINDINGS

The procedures for acquiring a CCO, which starts from picking and returning filled application forms from sub-county to district level were in line with the Land Act procedures. About 90% of applicants for CCOs were satisfied with the procedure thanks to the benefits that accrued from CCO acquisition, such as land being free of dispute. The CCO acquisition, however, has some challenges including the lengthy procedure and costs for some Districts such as Kasese where the costs were not subsidised by the projects run Non-Government Organisations (NGOs). 73% of respondents were well versed with the procedure for CCO acquisition.

The study found that staff capacity designated at the sub-county to support the CCO issuance, including Sub County Chief/ Senior Assistant Secretary (the CCO Recorder), the Area Land Committee (ALC) members and technical knowledge is adequate. There is, however, inadequate funding towards the key institutions, including the ALC at the sub-county level and the District Land Board (DLB). Although NGOs have offered some financial support, the government should commit funds towards the CCO issuance process to benefit the population equitably.

The study established that the mode of land acquisition on which CCO is issued has implications on women's land tenure security. Land which women acquire through inheritance is more insecure than land they purchase. Inherited land has competing interests from in-laws and brothers. CCO can protect inherited land from outsiders but not insiders. The insiders are relatives who equally have claims and interest on the land. They can dictate rules of the game to the effect of excluding women from enjoying certain rights, which would legally arise from CCO.

Additionally, the study established that the CCO supports land tenure security for women in varying degrees which should be understood in the context of the customary norms that regulate customary land tenure. Specifically, the study established that more women have the bundles of rights in the fructus principles of land rights. This includes the right to sell (47%), rent out (80%) and use as security for loans (55%). The

study found that most women who have CCO do not trust that CCO can guarantee their future interests. Barely half of the women with CCO have the rights to transfer ownership of their land temporarily or permanently. Although 47% of women can sell their land, they are mainly those who acquired through purchase and those who processed CCO as individuals. Therefore, land which women acquired through purchase, individually or with their husbands, gives more different bundles of rights than inherited land.

The findings further indicate that the CCO has tremendous impact on reducing encroachment of land by outsiders and against the dispossession of women from access to land usage through the sale without their consent. The experiences of the respondents indicate that the acquisition of CCO's amplifies the voices of women within their families and establishes their authority. The percentage of women who had been dispossessed of their land or someone tried to do so reduced from 24% before acquiring CCO to only 3%. Women whose land had ever been encroached on reduced from 59% to only 6%.

Despite the significance of the CCO acquisition, the study also identified the lack of a registry as a major challenge towards harnessing the benefits arising from CCO acquisition. The study established that there was no clarity of capturing subsequent transactions that occur on land on which a CCO has been issued, which bars further protection of the vulnerable such as women. Therefore, the study recommends that the government fast tracks the process of creating an active customary land tenure register. Additionally, the study found that the CCO process is underfunded, the entire process has been funded by the civil society through pilot projects. In areas where the project has ended, the process has stalled. But the government needs to prioritise funding towards the CCO process. The study recommends that government finances the cost of issuing CCO, strengthens local mechanisms to urgently resolve disputes arising from applications for CCO. Importantly, cultural leaders should be involved in the survey of boundary and confirming names and entitlement of applicants and develop guidelines to support family decision-making on who should be included in the application for CCO.

# INTRODUCTION

Secure land rights for women are recognised as critical for achieving the Sustainable Development Goals (SDGs), particularly for eradicating poverty, ending hunger and promoting gender equality (SDG 1, 2 and 5). Compared to their male counterparts, Ugandan women have less access to land. Some may have fewer rights to the land they can access, and their land rights may be less secure, stereotypically enjoyed only at the mercy of their in-laws or their own brothers.<sup>1</sup>

Customary tenure is the predominant land tenure system in Uganda. About 80% of Uganda's land is held under this tenure<sup>2</sup>, which is administered according to customary rules and practices pertaining to a given geographical or culturally defined area. However, land held under customary tenure remains largely unregistered. Despite customary tenure being widespread, it is not homogeneous: Land can be communal or individualized and, in some cases, it is held by families, clans, or sub-clans. Holders of such land lack security of tenure and are prone to losing their land rights to land grabbers and other boundary encroachers.

Customary land is also largely governed by societal traditions, which are highly patriarchal. All these, in turn, restrict and discriminate against women's ability to inherit, own and decisions concerning land.

Article 237 of the Ugandan Constitution elevates customary tenure to be equal to other types of statutory land tenure, namely freehold, leasehold and Mailo, where the bundle of rights in land are clear, absolute, and exist in perpetuity. Section 4 of the 1998 Land Act and Chapter 4.3 of the 2013 National Land Policy of Uganda endow customary tenure with the attributes of freehold tenure: the land being held in perpetuity and having the same legal protections and standing in law.

Prior to the 1995 Constitution, Customary land tenure was very vulnerable, with no formal security. Consequently, the 1995 Constitution and subsequently the 1998 Land Act was designed to address three major problems associated with customary land in Uganda: "(a) it does not provide security of tenure for landowners; (b) it impedes development because it does not allow the advancement of land markets, through which, those who need land for development can acquire it; (c) it discriminates against women and does not accord them land rights"<sup>3</sup>.

The Land Act provides a number of tools for formalising customary tenure, including the Certificate of Customary Ownership (CCO), the Communal Land Association (CLA) and its common land management scheme for secondary collective land rights limited to users, and the Certificate of Occupancy (COO) on Mailo land<sup>4</sup>. Section 4 (1) provides a mechanism for protection of customary land rights by providing, inter alia, that any person, family or community holding land under customary tenure on former public land may acquire a Certificate of Customary Ownership (CCO) in respect of that land in accordance with the Land Act. Section 8 (1-7) of the Land Act provides for ways through which a CCO shall be recognized and managed to include; taken as confirmation and is conclusive evidence of customary rights and interest specified to it, confer on the holder of the certificate the right of the holder to undertake any transaction, subject to conditions, restrictions and limitations contained in the certificate.

In addition to the procedure for CCO acquisition provided for in the Land Act, the land regulations provide a procedure and prescribed forms for application for acquisition of a CCO. Compared to the stringent requirements for land registered under the Registration of Title Act (RTA), which requires survey, for a CCO, the Area Land Committee (ALC) is required to generate a sketch map indicating the land boundaries, rights of way and signed by the landowners, the neighbours, the Local Council 1 (village council), the ALC and selected elders in the community. However, all the pilots have exceeded the specifications of the Land Act. They have applied techniques as close as possible to fixed boundary surveys instead of basic mapping techniques required by the Land Act<sup>5</sup>.

Communal Land Association (CLA), on the other hand, is an association formed by any group of persons for any purpose connected with communal ownership and management of land, whether under customary law or otherwise. This applies in areas where land is held communally. Consequent to formations<sup>5</sup> and registration of a CCO, the respective land under communal land association, may be held under a Certificate of Customary Ownership by the managing committee on behalf of the CLA.

Other tools that are enhance customary land tenure include; the Certificate of Title of Customary Ownership (CTCO)<sup>6</sup>. The CTCO was proposed as a “remedy” to progress CCOs to the level of land title and tackle the common argument that CCOs are of lower stature than a land title. The CTCO was conceived as the instrument to level up the status of formalised customary lands to land title level to be at par with other registered tenures. Partly due to the absence of institutional infrastructure and administrative

capacity, this stipulation was not applied, nor was it encouraged by the Government of Uganda in the pilot projects. Additionally, it has also been argued that the assumption of progressing the CCO to CTCO title seems to be no longer valid, since the pilots so far carried out, placed the CCOs as close as possible to the land title as prescribed by the RTA<sup>7</sup>.



The issuance of CCOs, however, only commenced in 2013, after the release of the National Land Policy 2013, which came in 15 years after the enactment of the 1998 Land Act. The National Land Policy clarified the recognition of customary tenure and provided critical steps on its evolution and adaptability. This spurred a series of actions such as pilot projects for titling and formalisation, largely driven by Civil Society Organisations responding to post-conflict situations in northern Uganda and distress in localities with land pressure such as Kabale and Kasese districts. Issuance of CCO has been piloted in Kasese, Kabale, Soroti, Butaleja, Katakwi, Pader, Nwoya and Adjumani.

But it has not been expanded beyond the pilot districts. The pilot areas have high variations of customary land practices; for instance, in western and south-western Uganda, customary land is more individualized. In the eastern and northern parts, customary landholdings are slowly migrating from the control of clans to families and now individuals. By the end of 2019, a total of 20,883 parcels of land have been mapped,



comprising of 16,236.3 hectares belonging to 20,294 households<sup>8</sup>. Male accounted for 64% of the members of the said households, female 29% and minors 7% while there were also elderly (13%) and people with disability (1%).

The proponents of CCOs, especially the Non-Governmental Organisations supporting the issuance of CCO, relying on their self-process evaluation reports, contend that CCOs enhance tenure security for women and men. Critics, mostly based on a lack of rigorous evaluative analysis, argue that CCOs fall short of expectations and are actually disenfranchising and in some cases extinguishing some rights to land, especially for women<sup>9</sup>.

Oxfam in Uganda, in partnership with SIDA funded the "GROW Campaign" on the effectiveness and impact of CCO in securing land rights of women.

## PURPOSE AND OBJECTIVES OF THE STUDY

The purpose of this study is to assess the effectiveness and impact of the Certificate of Customary Ownership of land (CCO) in promoting and protecting Women Land Rights in Uganda.

## OBJECTIVES

1. Analyse the procedures and capacities of institutions issuing Certificate of Customary Ownership of land and whether the land rights derived are in line with international standards.
2. Examine how CCO has enabled or impacted on women's security of land tenure in relation to the bundles of land rights of usus, abusus, fructus, transfer and future interest
3. Explore the successes and the major gaps of certificate of customary ownership of land in the advancement of women's land rights in Uganda.
4. Assess the implications of customary or traditions laws and cultural and religious beliefs and practices on the effectiveness and impact of certificate of customary ownership of land in the areas where they have been issued
5. Identify best practices and lessons learned from implementation and management of certificate of customary ownership of land and suggest recommendation that can inform the government on areas of improvement.

# STUDY METHODOLOGY

## Study Design

The study on the effectiveness and impact of CCO of land in promoting and protecting women's Land Rights in Uganda was done using a combination of exploratory and descriptive research, carried out within the framework of a cross-sectional study. Here, data is collected within a single point of time. Combining exploratory and descriptive research design allowed the research to explore the research problem and established the magnitude or extent of the problem both qualitatively and quantitatively. This design provides the methodological rigour required in investigating the efficacy of policies, programmes and practices. The consultants understand that research information that is useful in advocacy for changes in policies and practices, such as on women land rights, should explore the main issues, their effects, and describe, using statistical values, the extent of the study problem. Furthermore, this study design provided in-depth and analytical research, aimed at accurately and critically analysing the extent to which CCO has been effective or not.

The study employed a mixed-method approach where both qualitative and quantitative methods were used simultaneously. This provided rich information required for measurement of CCO results, in ways that the data can be used to describe the impact in quantitative forms and explain the findings. Through this approach, the study explored the situations and explained the underlying reasons relating to current status of the CCO and generated statistical values on key findings regarding its impact and effectiveness on securing women land rights.



# Information on respondents

The primary respondents were women who have CCO, selected from four districts in Northern, Eastern and Western Uganda. There was no district selected from Central Uganda because there has not been CCO. The area is predominantly mailo land with freehold and leasehold. The secondary respondents included key informants who were involved in issuing CCO and have information and participants in the focus group discussion who had experiences with customary land. 251 respondents participated in this study. They include 169 women who have CCO, 17 key informants, 65 (27 women and 38 men) participants in FGDs.

**Table 1 Number of women who participated in individual interviews**

Districts	Number	Percent
Butaleja	50	29.6%
Soroti	40	23.7%
Kasese	50	29.6%
Pader	29	17.1%
Total	169	100%

The average age of respondents was 50 years. The majority were between the age of 45-59 as shown in the table below. Significantly, more older persons (above 60 years) who are the minority in population structure compared to young people, have acquired CCO. Their motivation for acquiring CCO was securing land for their children and grandchildren against land grabbing and unnecessary sales by their relatives.

**Table 2 Age group of respondents**

Age group	Frequency	Valid Percent
18-24	2	1.2%
25-34	17	10.1%
35-44	46	27.4%
45-59	57	33.9%

60 above

46

27.4%

The highest number of respondents were married (65.7%), followed by widows (24.9), divorced/separated (5.3%) and not married (4.1%). This does not in any way portray that the majority of people who acquired CCO are married as there are many young people, not yet married, whose names were included in the titles as part of the family, but they were not selected for interviews since the sample frame was based on names of the main applicants as recorded at sub- counties. A higher percentage of widows responded in Pader and Soroti Districts due to the mobilisation of NGOs who supported the implementation of CCOs. However, the vulnerability of widows to land grabbing is higher because of the cultural norms in these areas.

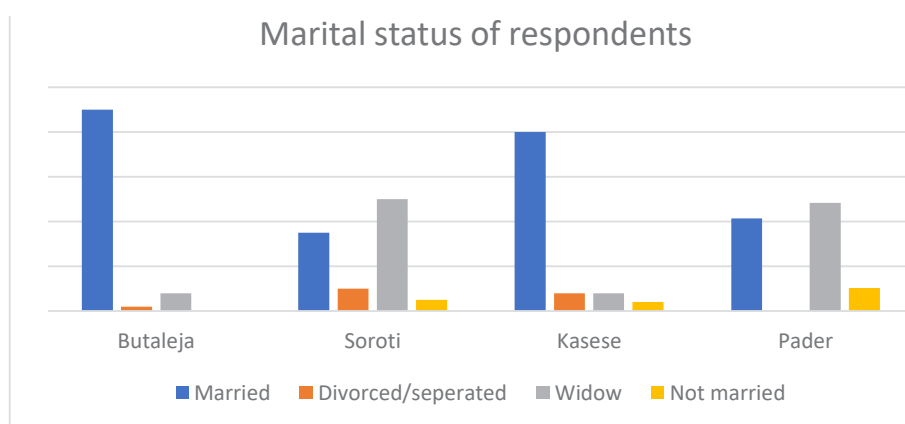


Figure 1: Marital status of respondents in each district

Only 33% of respondents were household heads, implying that those households are headed by female. 77% of respondents identified themselves as spouses of household heads. Uganda is a patriarchal society where married women do not regard themselves as household heads when their spouses are still alive. The highest proportion of respondents who said they are household heads were in Soroti district. This is consistent with the marital status of respondents in Soroti where widows constituted 50%.

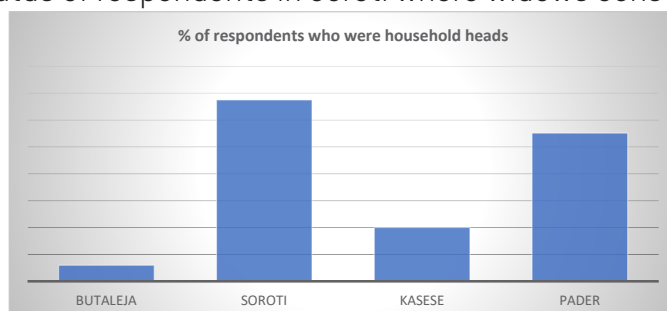


Figure 2: Percentage of Respondents Who Were Household Heads

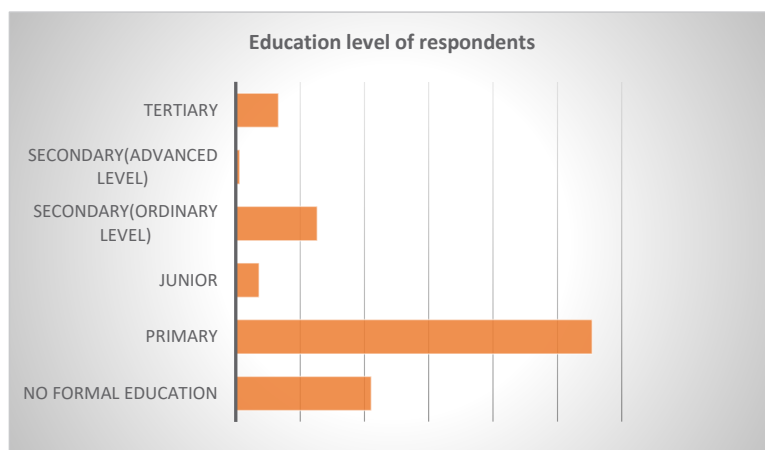
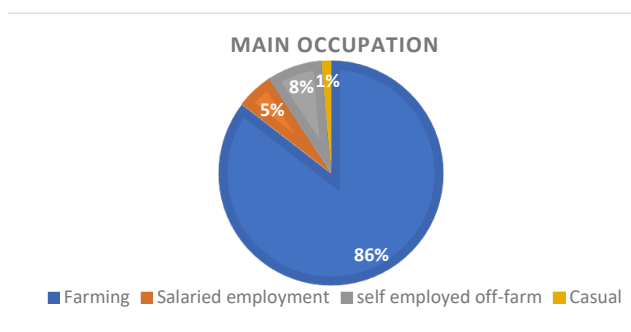


Figure 3: Level of education of respondents

The majority of respondents had primary education (55.4%) and a significant proportion had no formal education (21.1%). This means that the level of education did not have any significant contribution in driving people's interest to acquire CCO. Every member of the community, irrespective of the level of education, was able to get information and make a decision on acquiring CCO. However, the decision for acquiring CCO was mainly influenced by household heads, predominantly men.

Since the majority were married, the study did not establish the level of education of their spouses, which could have contributed to the decision making regarding CCO.



Farming Salaried Employment Self Employed off-farm Casual

The main occupation of the majority of respondents is farming (86%), with a few being self-employed. This demonstrates the significance of CCO to them as it secures the tenure of land, which is the backbone of their economic activities, upon which their households derive their livelihood.



## Sampling procedure

All the districts in Uganda where CCO have been issued were identified and clustered into Western, Eastern and Northern regions. One district was randomly selected from each region except in Eastern region where two districts were selected. This was to include Butaleja district, which has similar practices like Central region and thus, it acted as a substitute. Other districts included; Kasese in Western region, Pader in the North and Soroti in the East. The fifth district was Moroto, which was selected to study communal land association, which is not widely in other districts. From each district, except Moroto, which was subjected to only qualitative study, sub-counties where CCO were issued were identified, and two sub-counties were randomly selected. Women who acquired CCO were then identified and selected from each sub-county.

## Determining the sample size

The sample size for this study was based on Daryle W. Morgan formulae below:),

$$n = \frac{X^2 * N * P(1-P)}{(d^2 * (N-1)) + (X^2 * P(P-1))} * \left(\frac{1}{r}\right),$$

where

n = the required Sample size

$X^2$  = the table value of chi-square for 1 degree of freedom at the desired 95% confidence level (3.841).  $X^2 = Z^2_{\alpha/2} = 1.96 * 1.96 = 3.841$

N=Population size (400).

P= the population proportion (assumed to be 0.50, since this would provide maximum sample size)

d= Degree of accuracy expressed as a proportion (0.05),

r= response rate (assumed 80% response rate)

We used this scientific formula based on an estimated and accessible number of women who have CCO (study population). It is estimated that over 20,294 households have CCO, with 29% being women. Based on literature reviews, we used conservative estimation based on a population that can be accessed at a reasonable cost. We conservatively estimated that 100 women who have CCO in each district, where CCO is issued, can be accessed as a study population, from which the sample would be selected.

We used accessible study population and not the entire study population (all women

who have CCO) because of the recognition that the respondents of interest are highly scattered unlike in household surveys where any household can be a respondent, or any woman can be eligible to participate, hence highly accessible. Traceability of potential respondent was a factor and the main reason for using an accessible sample population than the entire study population.

As this study was conducted in four districts, where it was estimated that the accessible study population would be 400 women with CCO, with 100 in each district. But this was not possible in Soroti and Pader districts because the available records were not adequate to facilitate tracing the required number of women who acquired CCO. The estimated accessible population was then adjusted to 80 in Soroti and 75 in Pader district. Based on the above formula, and as calculated below, 196 women with CCO were proposed for the interview.

$$n = \frac{3.841 * 400 * 0.5 (1 - 0.5)}{(0.05^2 * (400 - 1)) + (3.841 * 0.5(1 - 0.5))} * \frac{1}{0.8} = \frac{384.1}{0.7475 + 0.96025} * \frac{1}{0.8}$$

$$= \frac{384.1}{1.95775} = 196$$

However, 169 women were interviewed due to the challenge of tracing respondents in Pader and Soroti districts. The above formula was applied separately for each district based on the accessible population. But this did not affect the level of significance of the findings, which made accurate generalisation possible.

For methodological clarity, in a mix-method, in which both quantitative and qualitative data is collected, the sample size was only for quantitative data. This is because it must be representative for valid and reliable generalisation of findings. This implies that the 169 women exclude other categories of participants who were selected to collect qualitative data.

The following sample selection techniques were used. First, a sample frame was compiled from the records at the DLB (Kasese district) and Sub Counties in the other districts. Then simple random sampling using lottery was applied until the required proportional sample in the sub-county was obtained. This technique limits biases that threatens the validity and reliability of results.

The second sampling technique - purposive sampling procedure - considered only those who have relevant information or some experience of interest to the study. They could have had relevant information because they were privileged to hold some positions and performed some roles in their organisations or communities. This technique could

generate rich information within a very short period. This technique was used to select participants for key informant interviews and Focus Group Discussions (FGDs).

## Data collection methods and tools

Both qualitative and quantitative data collection methods were simultaneously used as elaborated below:

### 1) Individual Interviews using a semi-structured questionnaire

A total of 169 women who have acquired CCO, from four districts of Butaleja, Soroti, Kasese and Pader answered the semi-structured questionnaire. This was administered by trained enumerators. These women were selected through simple random sampling procedure at the sub-county level. They were interviewed on the procedure of acquiring CCO, the extent to which it has provided security of tenure of their land, challenges, lessons and recommendations for improving management and implementation of CCO in Uganda.

### 2) Key informant interviews

17 Key informant interviews were conducted with selected respondents at district and local levels. The key informants included Secretary District Land Board/District Land Officer (3), Sub County Chief (2), Member of District Land Board (1), Chairpersons Area Land Committee (5), cultural leaders (2), chairperson Local Council III at Sub County (1), Parish Chief (1), Chairperson Local council II at parish level (1) and NGO supporting land rights in Soroti district (1). These key informants included key people involved in issuing CCO. We used key informants to gather information that might have not been in the knowledge of women with CCO and triangulating the methods and sources of data, which is a credible practice in social research. Key informant interview guides were designed for each category of informants.

### 3) Focus Group Discussion

There were 8 Focus Group Discussions (FGD) in the four districts, with a total of 85 (27 women and 38 men) participants. In each district of Kasese, Soroti, Pader and Butaleja, two FDGs were held. One FGD was held with women who have CCO and those who do not have, while another FGD was held with men. This one, mixed men who have CCO, those whose spouses have CCO and those who do not have CCO.

In Moroto district, there was one FGD for a communal land association. Gender in the FGDs was mainstreamed through separate meetings for women and men to allow free discussions on issues that affect different gender. On average, each FGD consisted of eight participants who had a similar background and socioeconomic characteristics. They were participants who were not selected to participate in individual interviews. The FGD guide was tailored to suit the discussion with men and women. The specifics of these tools will be divulged during the planning and inception phase. It was estimated that 80 persons would participate in the FGDs.

#### 4) Literature review

Documents were analytically reviewed to generate background information and ascertain the status of the issues that underpin the study objectives. Under this process, documents containing critical information related to land laws, land use and access, land ownership, procedure bottlenecks in processing CCO and how government agencies provide CCO services were critically analysed. Document analysis I puts the study within context and provides vital information that is largely in the public domain but might have not been contextualised to the study problem.

### Data processing

In the field, the questionnaires were edited for errors. Prior to entry, questionnaires returned from the field were re-edited before coding responses. A data base was developed in Microsoft Excel before exporting to Statistical Package for Social Scientists (SPSS) for analysis. Both quantitative and qualitative data analysis techniques were used.

In quantitative data, descriptive statistics (frequencies, and percentages) of different variables were generated. Different variables were also tabulated to assess the effectiveness of CCO. Quantitative data analysis was used to analyse the background socioeconomic information of the study population. On the other hand, the qualitative data collected through FGDs, document analysis and key informant interviews was analysed using thematic, content and discourse analysis. From the transcripts, emerging themes were extracted and divided into sub-themes. The findings were used to strengthen the interpretation of the quantitative results.

## Quality Control and assurance

Quality Control (QC) involves establishing measures that ensure the quality and accuracy of data collected using appropriate procedures and practices. Good quality control contributes to valid and reliable results and increases the credibility of the findings. QC measures were implemented prior to, during and after fieldwork. These measures were also used during data processing and report writing. Prior to fieldwork, a peer review of data collection tools was conducted to ensure precision and adequacy. The tools were also checked against the study objectives and other important elements. Though the data collection instruments were in English, the enumerators were fluent in the applicable local languages. During enumerator training, the team agreed on the appropriate translation of specific concepts and phrases which are not common. The interviews were conducted in local languages, but the responses were recorded in English.

During the fieldwork, the enumerators were supervised to ensure compliance (especially with the sampling strategy) and integrity. The filled questionnaires were reviewed, and enumerators were provided with technical support. At the end of each day fieldwork, the filled questionnaires were reviewed for completeness and corrected errors.

## Procedures for processing and issuance of Certificate of Customary Ownership of Land

In this section, the procedures for processing and issuing CCO plus the capacities of local institutions involved were elaborated. Women's knowledge of procedures of acquiring CCO, their perceptions on the procedures and the constraints they faced when processing CCO were presented in this section. The study also presented the categories of CCO issued classified as individual and family owned.

### Procedures in practice and law

The procedures for processing and issuing of CCO were similar across the districts where the study was conducted, and they were largely in line with the procedures prescribed in the Land Act (1998)<sup>10</sup>. The procedures begin from picking the application by the interested landowner through returning the application, inspection and verification, approval by DLB and issuance of CCO. Before the commencement of issuance of CCO, communities were largely not aware, others had misinformation and feared the cost. Non-governmental Organisations (NGOs) such as GIZ, Uganda Community Based Association for Women and Children Welfare (UCOBAC), Food and Agricultural Organisation (FAO) and others sensitised local communities on the importance of CCO,



the requirements and the procedures for acquiring them.

The NGOs also provided financial and technical support to local institutions mandated to process and issue CCO. The key institutions mandated by law from the lowest administrative level to the district level are; the Area Land Committees and the recorder who should be Assistant Administrative Secretary (SAS) at the Sub county, the Physical Planning Committees, and the District Land Board (DLB). As a result of sensitisations conducted by NGOs and local governments, some people became interested and applied for CCO.

The application process commences with an applicant filling in a triplicate of the prescribed application forms, which is in the English language, upon payment of the prescribed application fees of UGX 5,000 (approximately USD (\$)1.35) to the sub county local government (LG). Since the forms are in English and not translated, the applicant heavily relied on the assistance of ALC members, NGO officers and sometimes Local Council 2 (Parish level council) district; the forms were largely filled through interpretation and guidance of the project officers, in Soroti, Butaleja and Kasese the assistance was provided by the Area Land Committees who were trained by the project. But this is not sustainable beyond the projects.

The government should, therefore, devise ways of translating these forms into the local language. To explain this challenge further, a respondent during a focus group discussion said, 'I trusted my son and the officer not to sell me out, since I can neither read nor write....' (FGD, Pader district). Passport size photographs and identity cards of the applicants are attached to the forms.

All the applicants sign on the form before it is submitted to the Areal Land Committee of the parish, in which the land is situated. The consultants found that it is mainly the heads of families who determine whose name is included on the application form. The practice with most of the projects was that they impressed upon the men both during filling the forms and sensitisation, to ensure that their wives were included. The research also found that the female heads of households who were mostly widows faced resistance from the clan. This was mitigated through mainstreaming gender focused dispute resolution mechanisms to ensure the female applicants successfully acquired CCO.

Following submission of filled forms, the ALC publishes a notice of application for CCO in a prominent place within the parish where the land is located, clearly indicating intention to acquire CCO. The notice takes 14 days. The notice requires any person claiming any interest in the land or in any adjacent land which may be affected by the

application to attend a meeting of the committee at a specified date, time and place and put forward their claims. In case any dispute arises in respect to the land, the subject of the application, attempts are made by the ALC to mediate. In the event that the disputes are not resolved, the issuance process stalls. Although the quantitative questionnaires did not capture data on the percentage of CCO applications which did not proceed due to disputes, there was an attempt to discuss this issue during the key informant interviews and FGDs. In Pader, Butaleja and Soroti, this affected mainly women head of household applicants notably who returned to their natal homes with their children and, to a lesser extent, widows.

Mainstreaming dispute resolution into the processes of CCO acquisition mitigated this instance. The district and sub county officials were, however, sceptical about the sustainability of these dispute resolution committees set up and funded by the projects. In case of no dispute or when the dispute has been resolved, ALC inspects the land, marks boundaries using live boundary markers such as planting trees and shrubs, draws a sketch map or, with the help of NGO workers, take coordinates of the land using Global Position System (GPS). The ALC then prepares a report to the DLB, recommending the issuance of CCO to the applicant.

The District Land Board (DLB) upon receipt of the report and recommendations of the ALC, may approve, differ or reject the application for CCO. In some districts and more recently, the report of the District Physical Planning Committee precedes the DLB sitting. The District Physical Planning Committee inspects the land to ascertain whether it is in line with the physical plan and does not have public infrastructures and facilities such as roads and boreholes. The District Physical Planning Committee is composed of about five technical officers at the district, chaired by the Chief Administrative Officer or his designate.

The study found that, it is mostly the District Physical Planner who is a member of this committee who travels to the field to carry out physical inspection on behalf of the committee but not all committee members. The report of the District Physical Planning Committee informs the approval by the DLB. When the application is approved, in some districts like Butaleja, the files with CLIN/Parcel number are submitted to Ministry of Lands, Housing and Urban Development (MLHUD) for printing of certificates while in others like Kasese, have the certificates and they only type the names of the applicants. But this was before Kasese district run out of stock of certificates and has not issued any over the last year. At the ministry, there is no registry for CCO but there is a desk that handles it.

Once the certificates are printed by the ministry, the district receives them and hands them over to the Sub-County for seal by the SAS. The sub county then takes them to the district for signing. The applicants can check if their CCO are ready and can pick from the Sub County while others can pick from the district. This process takes between six months and three years for one to get a CCO. There is delay in issuing CCO especially when the process reaches the district and the Ministry level, which includes physical inspection, the sitting of DLB, printing and typing names on certificates. The delay is attributed to lack of government resources for financing processes for issuing CCO. The delays force people to frequent the sub county to follow up. Women in most cases do not have the opportunities to make frequent travels to the sub county and even the district to follow up due to social barriers, lack of transport money and their burden of domestic cores. The delays and hurdles involved in following up discourages other women from applying for CCO.

The procedures in the districts of study are largely in line with the procedures prescribed in the Land Act. The Act provides for the institutions and the roles of the ALC, a recorder at the Sub county level (SAS) and DLB. These are the main institutions facilitating the registration of customary land. The Land Act envisages drawing a sketch map by ALC but because of support from some NGOs and the involvement of the District Physical Planner, GPS coordinates are taken and used in calculating the size of the land. This increases accuracy in measurement of the size of land. The Act prescribes application fees of UGX5,000 and certificate fees of UGX5,000 payable on receiving the certificate, which are also the only the formal fees paid in all the Sub counties. Soroti District LG, however, proposed a fee of UGX200,000 per parcel of land. While this is not yet being operationalised, it is not prescribed in the Land Act thus appearing as a source for revenue generation.

There are, however, informal payments by applicants to facilitate ALC especially in the districts like Kasese where there was no facilitation for ALC, whether from government or NGOs. Every applicant pays between UGX80,000 and UGX 100,000 for facilitation of ALC during inspection. Such informal and undocumented payments provide a fertile ground for exploitation and corrupt tendencies. The issue of facilitating ALC and sometimes DLB sitting, mainly by NGO, is not provided for in the Land Act. While ALC should be facilitated, the amount of money required was not only a burden to poor people including women but also a barrier to acquisition of CCO. In Butaleja district, where UCOBAC paid monthly allowance of UGX60,000 and daily field allowance of UGX10,000 to ALC, there was no such informal payment.

Getting people including women to follow this procedure and register their customary

land without the support of NGOs is still difficult. The NGOs supporting projects for issuing of CCO in different districts have, however, adopted a number of approaches to achieving their key aims and objectives. These approaches include commencing CCO processes with general communities' awareness of CCO, capacity building for the key institutions involved in the process and strengthening and investing in the dispute resolution process which has included the CSO taking part in the dispute resolution processes to ensure disputes are settled immediately.

The approach of community awareness at the start of the process is very significant. It enabled majority of the female beneficiaries to appreciate the procedure and significance of the CCO towards protecting their land rights. Some NGOs conducted sensitisation to communities to include women and children, both boys and girls while others such as UCOBAC made it mandatory for a married applicant to include his or her spouse and children. This increased the inclusion of women and girls in CCO. Sensitisation has also been essential for introducing CCO to communities that have a high distrust of government over land or in locations where the demand for documentation or titling is affected by the low levels of awareness on the likely benefits. It is recommended the application process be gendered, to ensure inclusion of women, where they also have interest in the land- the subject of application. Government has not yet recognised women's equal right to accessing and inheriting land.



The promotion of mapping and documenting of land rights through social mapping tools such as the Land Inventory and Family Land Rights Tree in Soroti and Pader districts were important in enhancing agreement on who should be included in the application for

CCO thus eventually acquiring CCO. Additionally, although the 1998 Land Act proposes drawing of sketch maps, the NGOs' respective projects have invested heavily in using GPS such as the CRISP software used by GIZ to develop aero photos of demarcated pieces of land. It would be important that the Ministry adopts and standardizes these practices in all districts where CCO are issued.

The procedures as detailed above, however, present opportunities to provide an effective inclusion of women. Community sensitisation, capacity building, and social inventory are enriching as they enable women's inclusion in the forms of acquisition at their natal and marital homes. This must be made a pre-requisite to enable inclusion of women. But unless a respective NGO project makes women inclusion its key agenda, the men are deciding who appears on the application documentation, while discriminating women. In Pader District, a participant in FGD argued that "it is me who decides who I include in the tittle, that is why I have chosen to include my blood, my daughter, not my wife who might go away.....".

The initial processes of application are imbued with a lot of manoeuvring within households and clans to include or exclude women, often on account of culture. The inclusion of women is encouraged in most of the processes supported by NGOs and the beneficiaries had to comply, more on account of fulfilling a project participation requirement. This opens a window for inclusion of women in the titling process. Across the districts where CCO were issued, "the software was minimally present and hardware was completely absent" on how to deal with women's land rights, beyond the inclusion of names.

Although land may have been successfully demarcated and CCO issued, subsequent transactions are not being recorded and the mechanisms and procedures to do so are unclear. This will restrict the rights to sell and transfer ownership of land with CCO, especially of women as social norms and cultural practices take precedence. Clarity in mechanisms and procedures for subsequent transaction on land with CCO would be important. Additionally, this highlights the importance of investing in an active registry for CCOs, that can reflect all the changes in the CCOs.

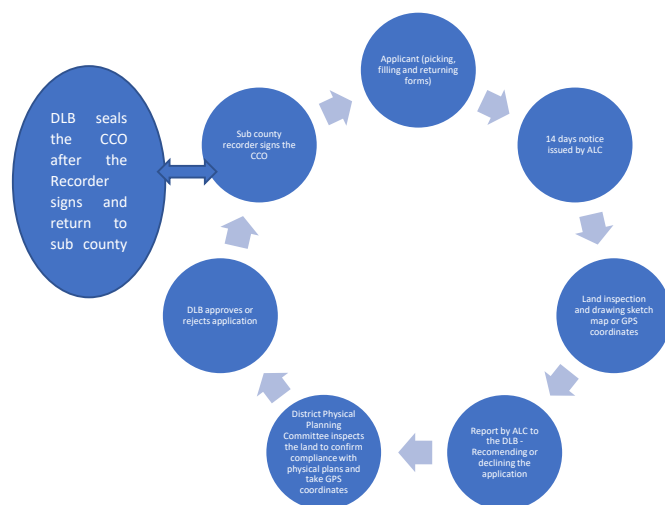


Figure 5: Summary of procedure for processing and issuing CCO

## Capacities of mandated institutions involved in processing and issuing of Certificate of Customary Ownership of Land

The study analysed the level of capacity of local institutions that are involved in issuing CCO. These are the sub county LG, with the SAS as the recorder of CCO, ALC, the Physical Planning Committee and the DLB. The information the study relied upon was gathered from officials and members of those institutions, local community and women who processed CCO. Much as the capacity of sub counties in terms of numbers of staff and technical knowledge is adequate, their commitment to supporting the process, especially field activities are lukewarm.

ALC members noted that the sub county technical staff were not providing adequate support to them especially in guiding the applicants in filling in the application forms as some of them needed help with translation, writing and coordinating mobilisation of local leaders. The lukewarm support could be attributed to inadequate funding for CCO activities as alluded to by both members of the District Land Board, Land Officers and the SAS who were interviewed. But even where NGOs provided considerable financial support, their participation in field activities were not recognised.

The ALC members have local knowledge of the areas and customary norms that govern and regulate governance of customary land tenure. For those that the consultants interfaced with, they were fairly informed of the statutory provisions especially relating to procedure for acquisition of CCO's, probably due to capacity building conducted by NGOs. However, there is no funding from government for the activities of ALC. They rely on NGOs or informal payment by applicants. Without NGO support, they have limited capacity to implement processing CCO (putting up notices, land inspection including



dispute settlement and writing of the report for consideration by the DLB) without burdening applicants to pay for their transport and lunch.

While ALC's work is voluntary, financing their activities is not only motivating but also reduces the burden of transferring this facilitation to applicants, which undermines the services. At the district level, there is technical but not financial capacity. There is an inadequate budget for financing CCO. The DLB is supposed to meet quarterly but hardly do they do so due of lack of funds. Yet the volume of work arising from the application for CCO in addition to other tenure systems such as leasehold and freehold requires more frequent sitting of DLB to approve the issuance of CCO. This is one of the main reasons for the delay in issuing CCO. Therefore, lack of financial capacity slows the process and issuance of CCO, which affects interested persons including women.

## Knowledge of procedures of acquiring Certificate of Customary Ownership of Land

Women who have CCO were asked to explain the procedures taken in acquiring one. Knowledge of procedures is important as it demonstrates whether there was effective and meaningful involvement of women in processing CCO. Lack of knowledge of the procedure shows that a woman did not experience the process and her name was simply included. While collecting data on knowledge of procedure, women with CCO were required to explain the procedures. If a woman mentioned at least three correct activities in the procedures for example pick forms from ALC, fill forms and take to sub county, call neighbours to witness inspection, then that participant knows the procedures.

At least 73% of women who have CCO know at least one step in the procedure, implying that they were informed about the process through community sensitisation and took part in processing it. 27% do not know any step in the procedures for acquiring CCO yet they have CCO. This implies that they may have not taken part in sensitisation, not involved or were not interested in the process. As a result of gender roles, some women ignore these activities under the illusion that processing land documentation is a role designated to men. One woman in Pader district said, 'It is my husband and my son who process those things.' Some men also believe that it is their role and not women to process CCO since it requires frequently travelling to sub county headquarters to follow up.

Most women in Soroti and Kasese districts know the procedures for acquiring CCO compared with women in Butaleja and Pader districts where the majority are ignorant.

While these could be attributed to sensitisation, marital status and mode of acquisition of land could also be important factors. A significant proportion of women who had CCO in Soroti were widows who believed that they must play all roles since they have no husbands.

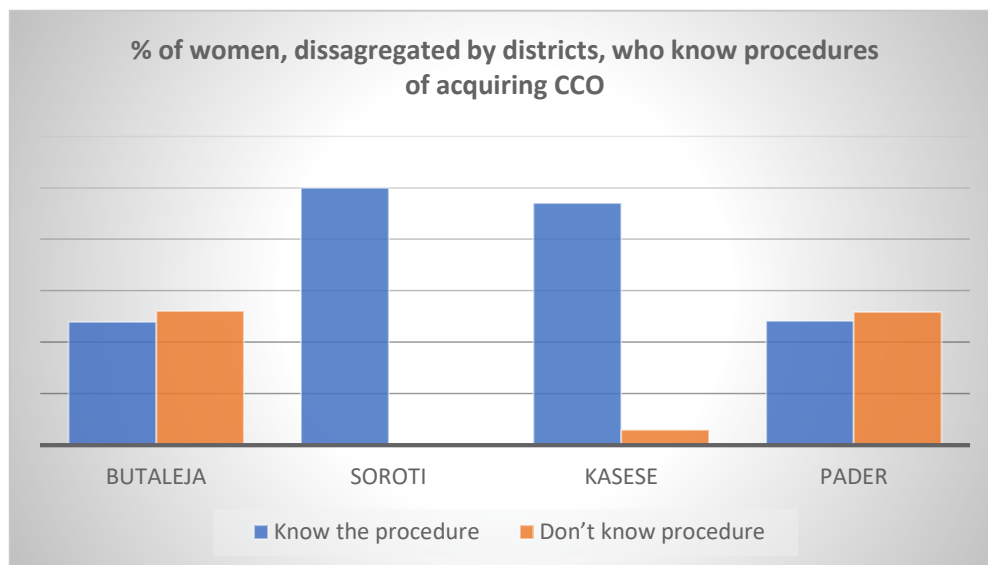


Figure 6: Percentage of women who know procedures for acquiring CCO

In Kasese district, a significant proportion of women acquired their land through purchase, devoid of social norms interferences associated with inherited land. Perhaps the money used to purchase the land was the proceeds of their economic activities and therefore it enables them to follow up.

There should be a deliberate effort to ensure women are effectively involved in the process. “When the procedures and significance is not clear or when deliberate effort is not made to include women, they take a back seat and only provide documentation such as taking pictures and let their sons and husbands do the follow up” (Key informant interview, Pader District).

## Perception on procedures of acquiring Certificate of Customary Ownership of Land

Positive perceptions signify people-centered procedures, and the reverse is true. The majority (44%) perceive that the procedures are good, but a significant proportion of women perceive they are lengthy in terms of time taken to get CCO (26%) and costs incurred (8%). Given the graph in figure 6, the procedures for acquiring CCO are lengthy.

Over 90% of respondents who experience the procedure of acquiring CCO were satisfied with it, irrespective of the challenges they faced. The respondents noted that they acquire the CCO at a fair cost and the land is largely free of dispute which also ensures that their land is not sold off secretly.

## Constraints women face when processing CCO

While getting CCO is very satisfying, there are major constraints women face when they are processing CCO. Lack of money/costly procedures and lengthy procedures were the most common constraints. Of great concern is that 6% of women who participated in the study were constrained by lack of involvement, mainly by husbands taking it all upon themselves to process CCO. In such instances, they could have provided limited feedback to their spouses on the progress in processing their CCO. Customary land in Uganda is also largely governed by societal traditions which are highly patriarchal.

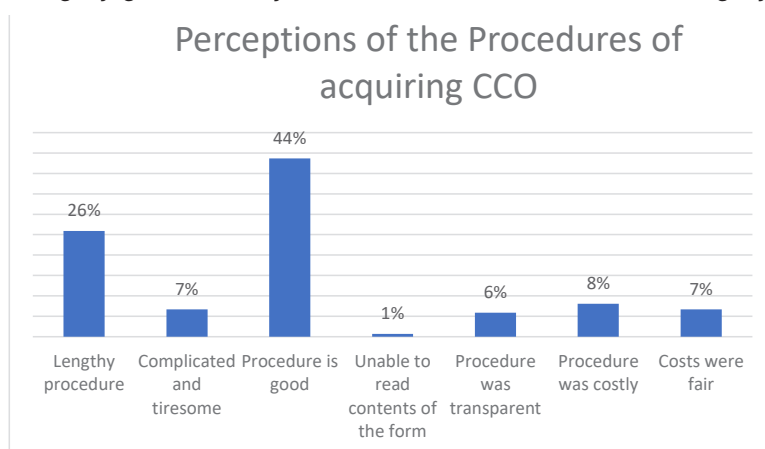


Figure 7: Perception on procedures for acquiring CCO

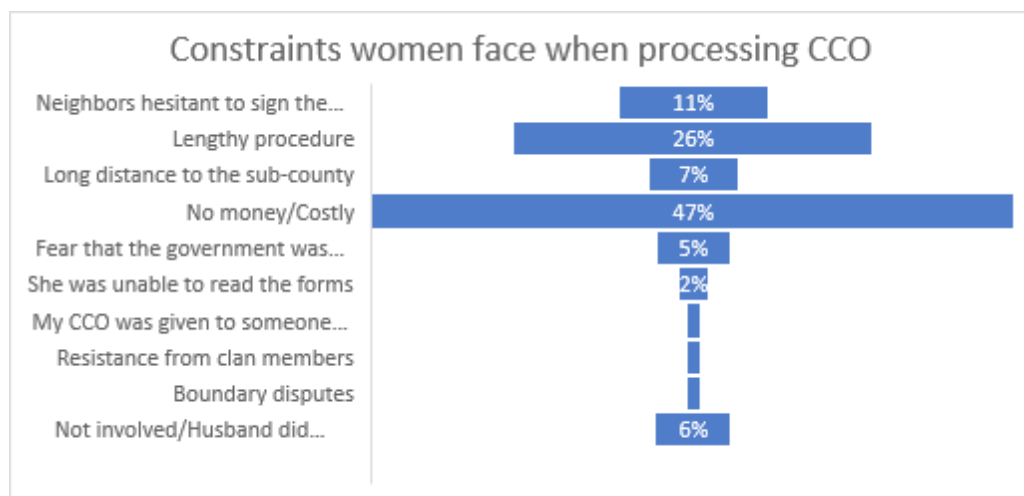


Figure 8: Constraints women face while processing CCO

## Categories of ownership of Certificate of Customary Ownership of Land

The CCO issued were categorised according to the number of people whose names are included in the CCO. Two main categories namely individual owned and family owned were identified. Individual owned means that an applicant applies alone and only one person's name is in the certificate. Family-owned means that the names of the members of the family are in the certificate.

Categories of ownership of CCO

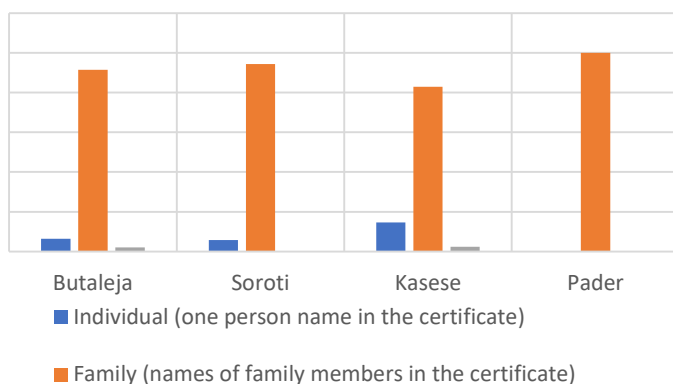


Figure 9: Categories of ownership of CCO

(This for a typical family includes the name of head of household, his wife or wives, and children) CLA is for the clan or community for communal use. In all the districts where the study was conducted, most of the CCO were family owned. This relates very well with the customary rules of land management. The figure below shows the percentage of women with the categories of CCO they have. This categorization is not in law but based on our analysis to deepen understanding of CCO.

## Security of Land Tenure for Women arising from acquisition of Certificate of Customary Ownership of Land

The main aim of CCO as conceived by Government of Uganda was to improve the security of land tenure of customary land. However, the extent to which CCO provided security of land tenure for women was not clear. This study reveals that CCO enhances security of land tenure of women on customary land but fails in many aspects. To understand the extent to which CCO has enhanced security of land tenure for women, the study presented, in this section, the implication of the mode of acquisition of land on which CCO was issued on the tenure security for women, rights of women on land on which they acquired CCO and increase in security of land tenure attributed to CCO. The study also presented women's experience of changes in security of land tenure and their perceptions on the security of land tenure arising from CCO.

## Mode of acquisition of land by women and implication on security of tenure

The study established that the mode of acquisition of land on which CCO was issued have implications on land tenure security for women. 66% of women said they acquired the land through inheritance and 34% said they acquired the land through purchase.

The main source of inheritance of land was through their husbands inheriting the land from their patrilineal lineages, making women beneficiaries as a result of marriage. Other sources were women inheriting land from their own fathers or mothers. In all the districts the study was conducted, except in Kasese district, inheritance was the dominant mode of acquisition of land on which CCO was granted.

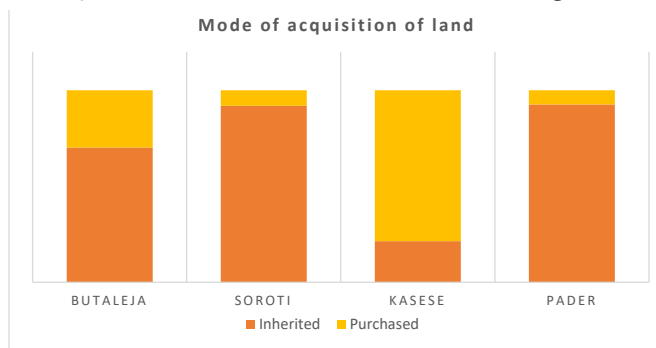


Figure 10: Mode of acquisition of land

In Kasese district, at least 78.6% of women reported that the land was acquired through purchase. Land acquired through purchase could have been purchased by the women themselves, the husband or together as a family.

Figure 10 shows the mode of acquisition of land in the four districts.

There are two widows who were co-wives (names withheld for lack of consent). Their husband died a long time ago, in 1990s. They demarcated and shared the land they inherited through their late husband. One got a CCO but the co-wife was still processing hers. In 2019, their brother-in-law died in a motor accident and because of the pre-existing land conflicts, the clan alleged that the two widows were behind the accident using witchcraft. The two widows were chased from their rightful inheritance despite having CCO. Their homes were burnt down. My office received this case and so did the police and the clan leaders. I took the widows refuge in my own home, but it drew bitter words and threats from the clan of their late husband, accusing me of hiding murders. I had to let them leave my home.

The clan still says that the widows were not married here with land from their parents and so they have no claim. The probable cause of this problem is the fact that when the widows lost their husband, they produced children with outsiders (non-clan members) whom the clan feel should not inherit their land. Two children were adopted by the relatives, the rest have remained idlers with no one responsible for their day-to-day livelihood.

Text Box 1: Documented case from Chairperson Local Council I in Soroti District

Inherited land has varying and competing interests from in-laws and brothers. CCO can protect inherited land from outsiders but not insiders. The insiders are the relatives who equally have claims and interest on the land. They can dictate rules of the game to

the effect of excluding women from enjoying certain rights, which would legally arise from CCO. The study documented a case from a chairperson of Local Council 1 (village level) in Soroti district, which justifies this finding.

The case in the text box describes the limitation of CCO on land which were acquired through inheritance along patriarchal linkages. CCO provides more security of tenure on purchased land because the relatives would not have a lot of competing claims. Perhaps the money used for purchasing the land was proceeds from the family's economic activities where both husband and wife earned the proceeds and people respect it.

### Rights of women on land they have Certificate of Customary Ownership of land

There are bundles of rights under five principles of land rights. These principles are: Usus which are the rights to use, access and withdrawal. Abusus which are the rights to change both management and transformation. Fructus which are the rights to make profit and loss and other economic rights. Transfer which are the rights to transfer the land, whether temporarily or permanently. Future interest bundles of rights which are the rights that can be realised at some future point including the right to inherit. The rights of women on land are a manifestation of the level of security of tenure. When a woman does not have rights on the land then she does not have security of tenure. This is why rights on land were used as a measure of the level of security of tenure.

The study developed a framework to analyse the bundles of rights women have in the five principles of land rights arising from the acquisition of CCO as presented in the table below.

**Table 3 Analysis framework of bundles of rights arising from Certificate of Customary Ownership of Land**

Principles of Land Rights	Description of Principles of Rights	Parameters of Bundles of Rights used in the study
Usus	The right to use land, for example digging, taking something from the land, such as firewood, water, wild plant.	<ul style="list-style-type: none"><li>• Right to farm on the land</li><li>• Right to permanent ownership of land</li><li>• Right to construct a house</li></ul>



Principles of Land Rights	Description of Principles of Rights	Parameters of Bundles of Rights used in the study
Abusus	The rights to change management, make an investment on the land and transformation (changing use or purposes)	<ul style="list-style-type: none"> <li>• Right to construct a house</li> <li>• Right to sub divide for any purpose</li> <li>• Rights to change management and purpose</li> </ul>
Fructus	The rights to make profit and or loss, and be an economic owner	<ul style="list-style-type: none"> <li>• Right to sell</li> <li>• Right to rent out</li> <li>• Right to use as security for loans</li> </ul>
Transfer	The rights to transfer land either temporarily or permanently	<ul style="list-style-type: none"> <li>• Right to sell</li> <li>• Right to transfer ownership to another person</li> </ul>
Future Interests	The rights that can be realised at some future point, for example, rights to inherit the land and determine who can inherit the land	<ul style="list-style-type: none"> <li>• Right to approve any activity to be implemented on the land</li> <li>• Right to permanent ownership of land</li> </ul>

In the analysis framework, some bundles of rights are crosscutting, located in more than one principle. For example, the rights to construct a house exists in Usus and Absus principles. The bundles of rights are not mutually exclusive. What is important is how they can explain the rights within a particular principle. If one has a right to construct a house, this implies that she has a right to use or access but constructing a house may entail change in purpose or making an investment on land. The study was not exhaustive in identifying the bundles of rights and grouping them in the different principles of land rights. The consultants selected the rights that people could easily understand and relate with. What matters is that the selected bundles of rights are adequate to explain the rights women enjoy, in all the principles of land rights, arising from acquisition of CCO, which explain whether or not women have of security of land tenure.

Using this framework, the study established the percentage of women with CCO who report enjoying the different bundles of rights. When a high percentage of women enjoy more bundles of rights, it means that CCO has ensured increase in enjoyment of the rights and security of tenure. The lower the percentage of women enjoying bundles of rights within a particular principle, the less it can be concluded that CCO has increased

the security of land tenure for women. The figure below presents the overall percentage of women in the study districts who report enjoying the bundles of rights disaggregated by the principles of land rights.

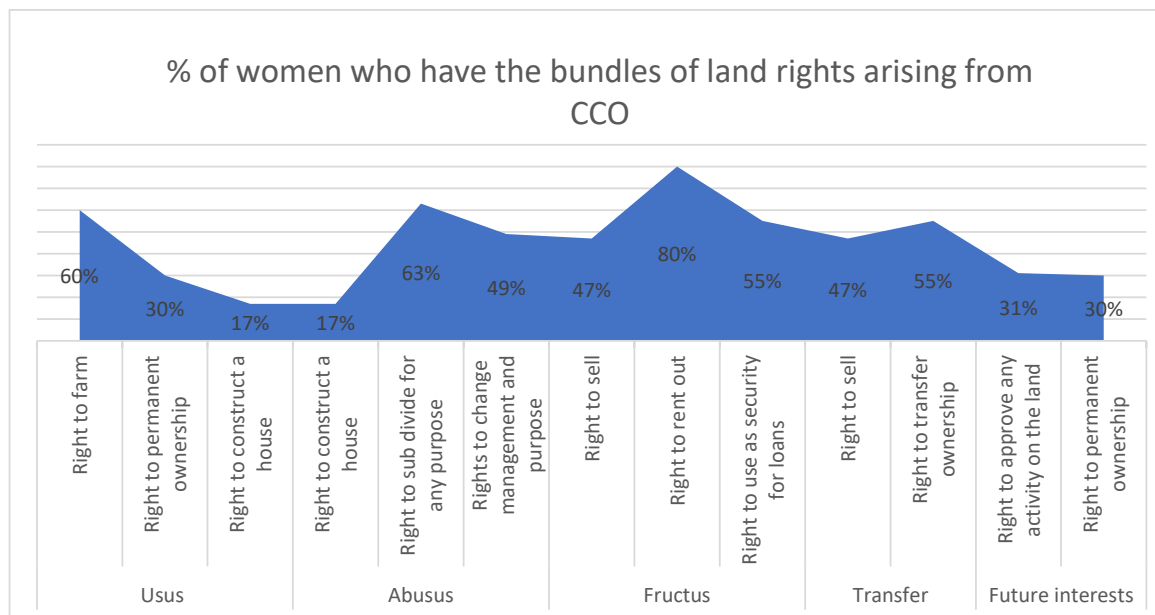


Figure 11: Percentage of women who have land rights arising from CCO

Figure 11 shows that more women have the bundles of rights in the fructus principles of land rights. This includes the right to sell (47%), rights to rent out (80%) and right to use as security for loans (55%). The study found that most women who have CCO do not trust that CCO can guarantee their future interests. (for further appreciation of transfer and future rights, see discussions under the section on implication of customary and traditional practices and beliefs on effectiveness and impact of CCO in next section). When CCO cannot guarantee women's future interest, it reflects limited security of land tenure for women. While 60% of women have the right to farm on the land, fewer women have other usus rights namely the right to permanent ownership (30%) and right to construct a house (17%). This means that women who have CCO have land tenure security in as far as they use the land for farming, which is an economic activity for family sustenance but not to be permanent owners and construct houses without permission from male members of their families.

The study found that barely half of women with CCO have the rights to transfer ownership of their land temporarily or permanently. Although 47% of women can sell their land, they are mainly those who acquired through purchase and those who processed CCO as individuals. In terms of rights, CCO has bestowed and increased some of the above-

mentioned rights though not tremendously. Before they acquired CCO, women had mainly rights to access land for farming, which is the main occupation of the majority of respondent in this study. The society and families gladly allow this right for purpose of production for the welfare of the family. Thanks to CCO, rights such as rights to rent out land for income, sub divide for any purpose, transfer ownership and sell are becoming prominent. The women's understanding of transfer of ownership was mainly from them to their children as one said, "When I die, my children can inherit my land and no one can chase them." (Interview, Butaleja district).

The marriage determines the right to permanent ownership of land, mostly for married women whose source of land was the husband's lineage. This perhaps explains why few women (30%) feel they have the right to permanent ownership of land. This discussion is corroborated with further explanation under discussion on implication of customary and traditional practices and beliefs on effectiveness and impact of CCO in the next section. The ownership is as long as marriage exists. The duration of marriage is consequently a very important factor. The longer the marriage, the more women feel they have the right of ownership. Their fear of security of tenure is in case of divorce or when the husband dies. It should be noted that the implication or legal effect of a woman being included in the CCO, puts her at the same standing as her male counterpart. As noted in the section of effects of CCO on rights of women, it provides them with a voice to counterculture that puts their equal rights to the said land in a passive position. Without a CCO, the family land can easily be sold off without their consent, an incidence that would not be ignored by a purchaser of land with a CCO.

The study made comparisons between districts to ascertain whether some districts have more women holding certain rights than others and whether there are districts that have very low percentage of women with the rights selected in the analysis framework. Indeed, there are differences between districts that could be attributed to several factors. A district with fewer women with rights arising from CCO has a low level of security of land rights for women that can be attributed to CCO. The figure below presents information disaggregated by districts.

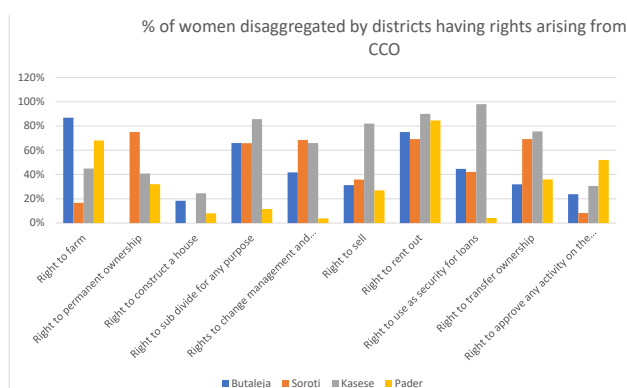


Figure 12: Percentage of women who have land rights disaggregated by districts

Kasese district had the highest percentage of women who have rights arising from CCO hence better security of land tenure for women. Kasese district had the highest percentage of women in at least six rights in a list of ten and had the second highest percentage of women in three rights. This could be attributed to the mode of acquisition of land on which CCO were issued, which is predominantly through purchase. The categories of CCO where names of family members are included instead of individuals constraints some rights. In Pader district, almost all CCO were issued to families and not individuals. CCO issued to families have names of family members and require family decisions on major activities or those with implications on land ownership. This partly explains why the district lags behind others on rights such as the right to use CCO as security for loan, change management and purpose of the land, construct a house, sub divide for any purpose and the right to sell.

## Increase in security of land tenure of women attributed to Certificate of Customary Ownership of Land

The study used two variables to measure increase in security of land tenure for women arising from CCO. They were incidences of encroachment on land and dispossession of land. The study found that CCO has resulted in reduced incidences of encroachment and dispossession of land. The women who participated in individual interviews were asked whether someone has ever encroached on their land before and after they acquired CCO. They were also asked whether someone has ever dispossessed them or tried to evict them from their land before and after acquiring CCO.

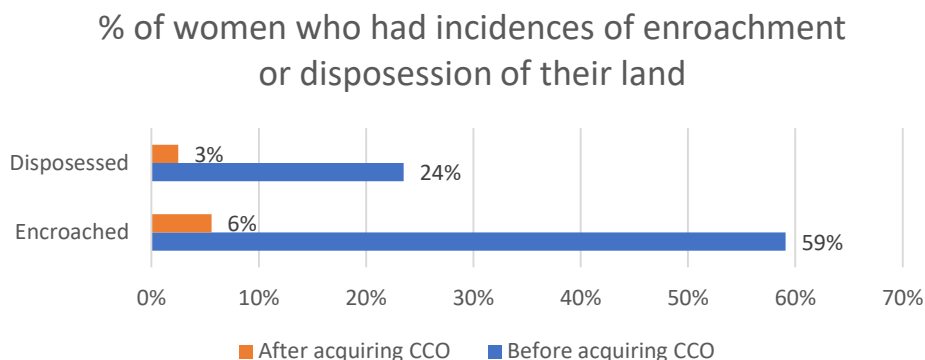


Figure 13: Percentage of women who had incidence of encroachment and or dispossession on their land

The women who had been dispossessed of their land or someone tried to do so reduced from 24% before acquiring CCO to only 3%. Women whose land had ever been encroached on reduced from 59% to only 6%. However, both protection against encroachment and dispossession are from without - outsiders (non-land rights holding groups), as opposed to what happens on the inside (land rights holding groups- family, clan), which in most cases relates to tenure security from outsiders. This finding therefore provides evidence of increased security of land tenure for women arising from CCO. When there is a certificate for land. "If someone has a certificate, the land dispute is not solved by the LC I (local council 1) but by the District Land Tribunal. The people around the land fear being taken to the district tribunal than being taken to LC I who they can influence." (Key informant interview, Kasese district). The findings were the similar across all the districts.

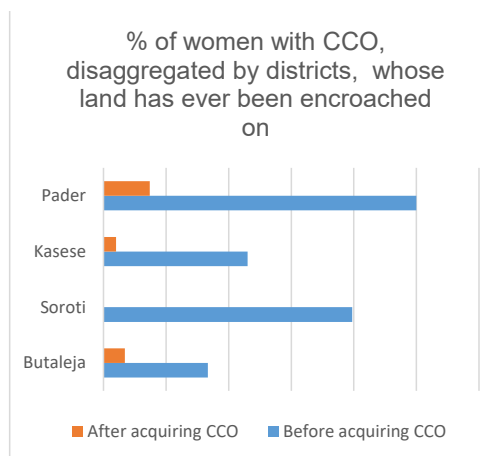


Figure 14: Percentage of women disaggregated by districts, whose land has ever been encroached on

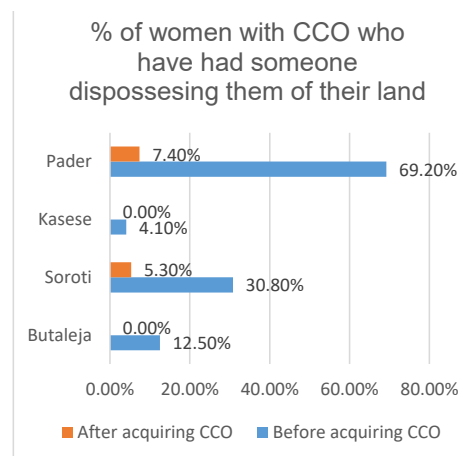


Figure 15: Percentage of women disaggregated by districts, who had ever been dispossessed from them of their land.

## Experience of changes in security of land tenure for women

Further, the study examined the experiences of women who have CCO on changes in security of tenure arising from acquisition of CCO. The consultants assessed the changes using two variables that have the same meaning. They are security of land tenure and protection of land as experienced by the women themselves. 53.7% of women experienced changes in the tenure security of their land that they attribute to acquisition of CCO. The study did not establish the specific changes the respondents referred to, but the consultants largely alluded to having some of the rights elaborated in the previous sections. The expression of changes in tenure security are well illustrated by women's responses during individual interviews and FGDs as the successes of CCO.

Women reported that CCO has given them a voice over land. They can now be consulted by men and be involved in any decision regarding the land. "My family has given me the opportunity to have a voice and power over my husband's customary land (individual interview, Pader district). There is a feeling of empowerment as a result of CCO. During individual interviews in Soroti district, a respondent said, "We have been recognised as women, the men know that anytime they exclude us in any land issue, they have violated the law". The certificate is evidence to defend my rights in court in case anyone wants to dispose me of my land." (Individual interview, Butaleja district). Women feel that their security of land tenure has improved than before. Women are usually victims of land grabbing by their in-laws and siblings in case of married women and unmarried women, respectively. CCO has provided certainty over land ownership and inheritance in case of the demise of the husband or father. "Women are not chased away from the land in case the husband dies as long as their name appears on the CCO." (Individual interview, Kasese district).

In deepening the understanding and appreciation of the changes in land tenure security, which women experienced, the consultants dissected this issue by asking whether the CCO has been able to protect women's land rights. At least 95.7% of women confirm that CCO has protected and promoted their land rights in several ways. It has protected women from land grabbers who targeted them under the illusion that they are weaker members of the society. More importantly, the demarcation with a sketch map and GPS coordinates (in some districts) makes land boundaries clear, which reduces disputes. It is also noted that inclusion of women's names on the certificates bequeathed to them joint ownership of land, which guarantees rights and security to the land. A participant in FGD in Pader district asserted, "My husband cannot sell land without my knowledge because I am also the owner. Unless I sign, no one can sell it."



The above narratives therefore confirm that CCO protects and promote women's land rights even though there are many instances where it fails, mainly arising from social norms and cultural practices. They may have a voice, but that voice cannot be loud enough for them to make certain decisions such as selling the land for whatsoever reason, even when they are the family head, without consent from male members of family including clan members. Although 47% of women said they have a right to sell land, such rights are often vetoed by male members of the family.

## Perception of security of land tenure arising from Certificate of Customary Ownership of Land

Perception of security of land tenure is as important as the security itself. When there are wide-spread negative perceptions, the usefulness of CCO diminishes. Positive perception of security land tenure for women arising from CCO can in fact influence transformation of communities' attitudes and practices. In assessing perception of women, the study explored two questions: Do you feel your land is secure after obtaining the Certificate of Customary Ownership of land? Do you believe that women who have a Certificate of Customary Ownership of land have enhanced the tenure security for their land?

Women have positive perceptions of CCO in securing the tenure security of their land. There were 98.7% of women who feel their land is secured as a result of obtaining CCO. Equally important, 97.9% of women believe that women who have CCO have enhanced tenure security for their land. While these women have CCO which influences their perception, discussions in the focus groups with women who do not have CCO confirm the same findings. The positive perceptions were influenced by their experiences of changes in land tenure security arising from CCO.

## Implications of Traditional Practices and Beliefs on Effectiveness and Impact of Certificate of Customary Ownership

Customary land tenure refers to a system that most rural African communities operate to express and order land ownership, possession, and access, and to regulate its use and transfer. Unlike introduced land-holding regimes such as Freehold, Leasehold, Mailo; the norms of customary tenure are sustained by the community itself, rather than from the state or state law. Although the rules which a particular community follows are known as customary law, they are rarely binding beyond the community. Customary Land Tenure in Uganda is regulated according to the norms and practices of a particular community. According to FGD and Key informant interviews for this study,

land ownership within the customary land can generally be defined as a collective clan or family affair that ensures access and enjoyment of rights to all members of the clan, the family, or the household, excluding non-members or strangers. Land apportioned to the use of the household or family is exclusive to them, and they have a right to exclude others. Accordingly, there are land managers at all levels (from the clan to the household) who are bestowed with the responsibility of administering the land. Across the districts studied, land is managed in trust by the head of family defined as a married man, a widow, divorced woman, and unmarried woman.

Generally, land rights within customary tenure are derived through membership to the clan, and membership to the clan is achieved by birth into the clan or marriage into the clan by a woman. Land apportionment is, however, done along family and clan lines, with sons apportioned land when they become of age, that is, when they bring a wife into the clan. On the other hand, women's land access and usage rights depend primarily on their dual identities as sisters in their families of origin and wives in their families by marriage. Prior to marriage, a woman is entitled to access and use of land at her homestead or family land, as long as she remains unmarried. However, unlike the boys who are allocated a piece of land upon marriage, the girls are not. The rationale here is that all girls will eventually get married, and in case a girl begot child but never leaves the fathers compound, she will be allocated land to feed her children, or she will continue to live with her mother and feed the children off her mother's land. In case her parents pass away, she may "inherit" the land. Upon marriage, a woman normally enters into the clan of her husband, thereby gaining rights not only to access but also to use the clan land and to protection from any sort of deprivation. Marriage is therefore an important basis for women's claims to land access and use. Separated and/or divorced women lose rights to access and use land in their husband's clan, and are expected to move back to their maiden home.

This creates a situation of vulnerability for women and points to the importance of identifying the members whose interests should be registered in the CCO during the process of identification, that all this information is captured very accurately, otherwise the women will remain vulnerable and will not benefit from the gains of having their name appear in the CCO. When women marry out of the family and attain the status of a wife, the land at her father's household is left vulnerable to acquisition by other family members. Therefore, the maiden's brothers are less willing to apportion any portion of land to the divorced and separated woman who returns to her maiden household.

But the norms that regulate customary tenure remain largely undocumented, resulting in a number of misunderstandings and misconceptions. Worse still, different people

have different understandings of the customs. Unfortunately, the elders who know the customs are dying out, hence leading to a distortion for personal gain. Efforts have however been made to document these norms into what has been called Principles Rights and Practices (PPRR), across regions of Acholi, Teso, Lango and West Nile. This is a commendable effort and a step forward. The documentation of these norms is important because it creates consistency, public awareness, and knowledge as well as the potential advantage of demystifying the myth in these customs.

Women hold secondary land rights on customary land, rights they risk losing in case a relationship with their male counterpart breaks down either through divorce, death or separation. Women may acquire customary land as a daughter before marriage or a wife in marriage. Some may have to reassert land rights in their maiden homes upon divorce or separation. The implication is that as compared to their male counterparts, women's land rights are highly dependent on a male affiliation. During the FDG and Key Informant Interviews (KII), it was observed that at the initial stages of application, it is the heads of the family who suggest names of persons to be included in the CCO. Consequently, if the head of family does not understand the legal implication, he might exclude other family members, believing still to hold the family land in trust for the family. In all the FDG and KII, men exclude some women who should have interest in the land being registered.

In Pader's FGD, a man excluded his wife from the CCO because they had had a disagreement and as a result, his wife had returned to her maiden home, waiting for a family meeting to resolve the dispute. The sentiment of most participants of both male FGD and female FGD pointed to the attitude that the men as heads of the family had the decision-making power on who is included and viewed women as visitors who could move at any time. Even in instances where the head of the family is a widow, the family must agree to her processing a CCO.

All the FGD's and KII with respective persons, participants were asked about the key obstacles of the norms regulating land tenure posed to women. The responses were unanimous across Soroti, Pader and Butaleja Districts, mainly pointing out to challenges women face at the respective land acquisition stages. In Kasese, 78.6% of the land was acquired through purchase as compared to 92.6%, 91.9%, 70.2% in Pader, Soroti and Butaleja. respectively where it is acquired through inheritance.

During the FGD and KII in Pader, Soroti and Butaleja, women who returned home from their marital homes are most affected especially when they return with their children. The children are viewed as "threats" to the customary land. The ALCs in both Pader and

Butaleja districts noted that this category finds stiff challenges in processing CCO and face resistance from not only their brothers but also sisters in law, who view that when they are included in the CCO, the children of another clan will also benefit.

Secondly, it was stated that widows face similar obstacles since brothers of her late husband and close family members may not have trust in them especially when they express interest to secure their land rights through obtaining CCO. The belief according to a key informant interview with the ALC of Soroti is that the widows would remarry elsewhere and sell off the land if she is allowed to process the CCO in only her names. There are women whose husbands died before they were customarily married by their late husbands, known as cohabiting. If such women decide to process CCO in their names, then the clan members will resist and invalidate their claims. Childless women who are married and have large land size are likely to face challenges in processing CCO because relatives may feel that once she dies, there should be someone to inherit that land.

During the pilot, the vast majority of these certificates have men's names listed first before the women's names that come in the middle and towards the end. The implications here are that these women do not have any say on the land, much as their names are included in the certificates. In fact, the way the names are arranged on the certificates reflect the patriarchal nature of customary land ownership.

Much as women have a right to use the land, the power relations within the family/social setting still pose a great challenge to issues of control and land use. The head of the household is male save for the case of widows. During the FGD, it was apparent that a woman's right to use the land at household level is often subjected to the authority of her husband, and before marriage to that of her father or brother. This places women in an unequal position vis-à-vis men. Women's claims to land are not considered 'first rank claims' and are generally held semi permanently whether on maiden or matrimonial property. These claims easily dissolve with a single change in matrimonial or maiden status. Women are not present in the realm of influence over customary land and their views lag in terms of priority and their voices are substituted by those of men as custodians and trustees of the land.

In the quantitative data collected, majority of the respondents indicated they had rights to access and use, with only very few with a right to ownership. This data can also be correlated to the mode of acquisition which majorly is through inheritance and inheritance from husbands. Whereas usus rights are more complete, the abusu, transfer and future rights however, by virtue of the norms regulating customary tenure

is less complete. The survey and FGD established that most women still have and perceive their roles as users and not managers of the land. Management is with the clan and the clan leadership is highly patriarchal hence the need to open up spaces for women to participate at that level.

Even those whose names are reflected in the CCO, cannot enjoy all the rights that are perceived to accrue. The women cannot make unilateral decisions when it comes to selling land. They must do it as a collective decision of the family. It was emphasised during FGD in Pader that, women with CCO have rights to use, access and can rent out land but not the right to sell off or use it to secure loans.

This according to the participants in the FGD is attributed to a number of reasons; selling customary land needs consent from all family members even if a woman's name came first in the CCO. KII interview with ALC in Pader and Soroti and the Clan leader in Soroti noted that the women experienced stiff challenges to initiate a family meeting with intent to sell the land. The women themselves noted that, they have never thought of using CCO to get loans because they believe it is always not easy for family members to accept them to take lead in initiating loans. The women believed that if they show intension to sell or use the CCO to acquire loans, it indicates that they want to leave the place after selling/disposing off their customary land.

In addition, the results on transfer and future interest rights cannot be understood without recognising the role of marriage, as explained in the paragraphs above. The transfers and future rights for the women are related to whether, the land is in their maiden or matrimonial clans. In their maiden clans, it depends on their fathers and brothers whereas in their matrimonial homes, it is dependent on their husbands.

## Gaps in the Certificate of Customary Ownership of Land in Securing Rights of Women on Land

### Procedure

- 1) There is a glaring gap in the procedure when it comes to whose name appears in the CCO. Since a huge percentage of the land is family owned, all the rights of the family as regulated by custom have to be reflected in the CCO. This process is left largely to the applicant to include the names of beneficiaries. whereas some applicants conduct family meetings, this is not a requirement under the law. The law requires the ALC posts a notice for any person (s) who have an interest to lodge a complaint. This is not a guarantee that the names of the women in their respective modes of acquisition is not left out. They are left to

the good will of the heads of the family; husbands, brothers and fathers, who are not always conscious to include them.

Different projects have adopted various methodologies, with some requiring that every application must have a name of a female and other projects intensively undertake the process of social inventory using the Family land rights Tree. It would be recommended that this process is standardised, and keen attention paid to a format of drafting a family land rights tree for all families that apply for a CCO. Additionally, family meetings should be compulsory, with signed minutes submitted as part of the application process. This will ensure an all-inclusive process for the women who are most vulnerable during this process.

- 2) In addition, when complaints are lodged before issuance of CCO, they are not issued. This is a good step to reduce fraudulent acquisition of CCO but very inhibitive when a complaint is not genuine. Some complaints are only informed by negative cultural practices, hence denying some people the opportunity to have CCO. The local mechanism of handling complaints that are embedded with the procedures cannot make binding decisions that allow genuine applicants to proceed and acquire CCO. "When I started applying for CCO for the land that once belonged to my father and I live there with my children, my Sister-in Law and her children stopped it. They said my children cannot be included in the CCO on the land we inherited from my father because they are not part of our family and they should go back to their father's land. As a result, I was denied a CCO." (Participant in FGD, Pader District). Since CCO cannot be processed once, there is a dispute over the land, the objection by the sister-in-law has succeeded in putting on hold the processing of CCO. Many women face such predicaments, which prohibits the realisation of their land rights. Such procedural constraints need to be revisited.

## Lack of a Registry and Capturing Subsequent Transactions.

- 3) Although the CCO issuance process was positive, land, where CCO was issued was successfully demarcated, and land rights comprehensively documented, provided women a 'voice' over the property to which their rights were documented, solved the majority of land conflicts experienced by households that applied for CCOs, and had high application rates by both women and families. One key challenge is the capture of subsequent transactions on land. The mechanism for doing this remains unclear, as there is no active register to capture these transactions. This will continue to impede proper documentation of what has been described as real-life shifts in power relations<sup>11</sup> and the possible abuse



of this process to the disadvantage of vulnerable persons in communities.

When the research team engaged with the Recorders in all sub counties where data was collected, they had no knowledge of whether any portions of land captured in the CCO had been subsequently sold. The Recorder in Pader, was sceptical, how such a transaction would even be reflected in the CCO. Since they processed, no buyer had ever consulted their office to validate the ownership or interest existing on the land. The wider implication of this is that the protection of the vulnerable against fraudulent sales and transfer is left to the vigilance of the local authorities to ensure they inform the potential buyer of the existence of a CCO.

- 4) Therefore, the MOLHUD should invest in an active registry for CCOs, that can reflect all the changes. Statement 39 of the National Land Policy makes provisions for this. "The state shall recognise customary tenure in its own form to be at par with other tenure systems (freehold, leasehold, and Mailo), establish a land registry system for the registration of land rights under customary tenure and issue certificates of Titles of Customary Ownership based on a customary land registry that confers rights equivalent to freehold tenure."
- 5) Additionally, there is little clarity on how ownership of the customary land in which women were included in the CCO on land inherited by their husband's family lineage can be handled after divorce. In the web of rights under customary land tenure, divorce becomes a subsequent transaction. Consequently, some men, especially young men, fear that they can lose their land to their spouses in case of divorce as the name would be on the certificate, yet the procedure of striking names is not clear. This hinders some people from registering their customary land when they are compelled to include their spouses. In a focus group discussion, a participant reported, "The reason why most people do not want to include their wives is that they are not legally married or in case of divorce, how would the person be treated". "We fear that our wives would take away our land in case of separation" (Focus group discussion, Kasese). The younger men were hesitant to include the names of their wives in CCO because of lack of clarity on how customary land is handled after divorce or separation.
- 6) For married women, the relevance of CCO on the land inherited from the husband's family lineage is as long as the marriage exists. In case of divorce or separation, the legal intricacies for any claim to access, control and ownership from her natal

home is obscured. Even if the law would guarantee her rights to access, control and own such land, the practicality of accessing such land is difficult, insecure and can breed conflict and violence. This arises because they are not included in the application documents at their natal homes, as expressed during the FDG with men in Pader and Soroti. As brothers, they fear their sisters will extend the benefit to their children, who should belong to another clan. This negates the possibility of using CCO to secure women the rights to land in perpetuity.

- 7) Addressing anomalies when CCO has been issued in error or fraudulently takes time, requiring persistent follow-up, a challenge for most women who lack the resources and knowledge of procedures to do so. When there are complaints on some CCOs that have been issued or application have been submitted, and it is in process, their complaints are not addressed immediately due to procedural delays. This may lead to dispossession of land, especially for women who are mostly socially and economically constrained to follow up on their complaints. Additional to the errors and the length of time it takes to follow up on the same, recorders also noted that the space provided to list names of beneficiaries is not enough, which has provided grounds for disputes or appeals against issuing the CCO. Although this can be typed on a blank paper sealed and attached to the certificate, the applicants prefer their names on the certificate itself.

## Underfunding of the key institutions

- 8) Insufficient budget allocation to the process CCO issuance. This
- 9) relates to the sittings of the ALC and the DLB. These, by law, are meant to be funded through District funds. All the districts in which the study was undertaken, do not prioritise the allocation of funding to both ALC and DLB sittings. The pilot projects by the CSO thus undertook to fund the sittings of these bodies. As a sustainability plan, some districts, like Soroti passed a resolution that the ALC be funded at a rate of UGX 200,000 (approximately 54 USD) by the applicants. In Kasese District, where there was no project funding, this was noted as a key reason for the delay in issuance of the CCO, with some respondents clearly pointing out that they had contributed money for the DLB to sit. Therefore, it is recommended that the government directly funds the ALC for consistency across the districts and further close a gap for corrupt tendencies that may crop up if the ALC is facilitated by the applicants directly.

## Value of CCO before the Financial Institutions

- 10) Financial institutions do not value CCO as collateral security for loans in the same ways they do for other certificates. Yet when you have the CCO, it means the land is yours unless you are the one surrendering your interest. Therefore, an individual or a group of people can use CCO to get a loan, but financial institutions are used to freehold and leasehold. Financial institutions do not give CCO the due respect. CCO are also certificates of ownership only that financial institutions do not recognise them as collateral in comparison to a freehold title. Therefore, women who have CCO may not easily use it in accessing credit facilities which they need for personal and economic development.

## Effects of customary norms

- 11) Customary rules persist over rights obtained from CCO. Selling of customary land, for instance, needs consent from all family members even if one's name came first in the CCO. Women experience stiff challenges to initiate a family meeting with intent to sell off the land or use CCO to acquire a loan. During the study, women reported that they have never thought of using CCO to acquire loans because they believe they are bound to face resistance from family members. CCO works well only if family members whose names are in the CCO are sensitised on the importance and management of the CCO. This would reduce family conflicts arising from negative cultural practices.
- 12) In case of a pressing problem that necessitates land sale, it is still difficult to agree to sell the land because families who have acquired CCO do not know how to deal with it since the land has been mapped and GPS coordinates taken. Besides, any transaction must be consented upon by all members whose names are in the CCO. It is usually very difficult to generate consensus and consent. While this protects the land from unnecessary sale, it also discriminates women because of the social norms regarding decision-making powers.
- 13) The family has stronger decision-making power, wielded by the family head, who is included in the CCO. Before applying for CCO, the head of the family should hold a family meeting to agree to process CCO. The family members then agree to acquire CCO for their family. The wider family can deny a person the right to process the CCO since the procedure requires consent from family members and neighbours. When family members agree to process CCO, the family head

decides on the names to be included in the CCO. "I am the head of the family. I have all the right to determine whose names appear in the CCO and who does not. Putting only the name of my first-born daughter is my decision, and I see no problem with it." (Participant in FGD, Pader district). Some women may be left out due to negative perceptions on women, especially the perception that a daughter will get married and get land from there and cultural practices that consider a married woman as a visitor. Lack of guidelines on who should be included in the CCO will make some women landless within the customary land management and in law.

- 14) In Butaleja, the NGOs supporting the implementation of CCO made it mandatory for married people to include the names of their spouses. This is, however, not backed by law. The names in the CCO guarantee inheritance and are expected to minimise confusion over the inheritance of land in case death strikes a family member. Instead, it can breed confusion when some people, especially women, are not included.

## Best practices from Certificate of Customary Ownership of Land in addressing issues of women's land rights

The study identified best practices from the implementation and management of CCO that organically evolved. Some originated from the legal procedures in the Land Act and other relevant laws. Some of the best practices and initiatives are:

The approach of community awareness is very significant, as demonstrated in the study finding. It enabled the majority of female beneficiaries to appreciate the procedure but also the significance of the CCO towards protecting their land rights. Community awareness has also introduced titling to communities where the demand for documentation or titling is affected by the low levels of awareness on the benefits of such a process, as noted by the Land Officer of Soroti District Local Government. Beneficiaries in some Districts such as In Soroti and Kasese, 94% and 100% of women, respectively, were knowledgeable about the procedures of CCO. This is a stark contrast to other districts where fewer women were informed about the procedures. Pader and Butaleja Districts had nearly half of the women (48% and 47%) informed about the CCO. During a focus group discussion with women in Soroti, they could easily explain what a CCO means, including the acquisition process. In Pader, on the other hand, members in the FGD could not establish the different steps in processing CCO. When the procedures and significance is not clear or when a deliberate effort is not made to include women, they take a back seat.

CSOs have invested in the dispute resolution processes to ensure disputes are settled immediately.

NGOs that have financed the processes for issuing CCOs have encouraged applicants to register as a family to boost women's inclusion as wives and daughters and bestowing to them inheritance rights that were previously ascribed to male family members.

Acquiring a CCO is affordable with minimal application fees of only UGX5,000 and certificate fee of only UGX5,000. This encourages many poor people, including women with low income, to apply for CCO. These fees are prescribed in the Land Act, giving little room for inconsiderate local governments to use CCO as a source of revenue at the expense and detriment of the local poor people who own small – fragmented pieces of customary land. The local government should not levy fees for CCO as a source of revenue for covering the cost of issuing CCO or other services.

Devolving the services of issuing CCO to Sub-county and District levels brought services nearer to the people, simplified the procedure for the local people. Sub counties issue and receive filled application forms and process them for submission to the DLB. They also receive sealed CCO from the district and hand them over to the applicants. At the district level, the DLB approves and issues CCO. Devolving these services up to the Sub County made people able to relate with these services and accept them, but more importantly, it is accessible to all, including women.

The involvement of ALC – local people as frontline duty bearers in the process of issuing of CCO, instead of government bureaucrats, endeared the process to the people. The people easily relate with ALC members, who are approachable and are part and parcel of their own villages and traditional systems. This has reduced suspicion that the government has hidden intention of taxing land but coming under the pretext of issuing CCO. Thus, women can relate CCO with their land rights. They can approach and get information from the ALC members.

Involving local leaders such as Local Council I and neighbours during inspection and drawing of a sketch map of the applicant's land, and resolving minor disputes, reduces fraudulent acquisition of CCO. No one can forcefully survey land and acquire CCO on land he or she does not own or entitled to because the role of local leaders and neighbours are entrenched in the procedure. This reduces land grabbing, commonly orchestrated against widows, and obtaining false ownership using CCO.

Involvement of physical planning committees whose role is to ascertain accessibility,

whether the land does not have public infrastructures such as boreholes, water-points, dams and roads among others ensured protection of public interest, including those of women.

## Lessons learned

To address women's land rights and expand CCO initiatives, here are some recommendations.

Allow people to complain and resolve their complaints at the initial stages of processing CCO. When people are allowed to complain, and the mechanisms for resolving complaints are in place, honesty and respect for people's land is promoted. This enhances the security of land tenure for families, especially women who are common victims of dispossession, as complaints are resolved prior to the issuance of CCO. However, there must be stronger mechanisms for timely and binding resolution of complaints. This should be followed with appropriate feedback that aids processing CCO.

Local authorities should be involved in issuing CCO to rule out clandestine registration of customary land while excluding rightful beneficiaries. When local authorities publicly display notices of application for CCO in the villages of the applicants, it limits negative habits of excluding rightful beneficiaries such as women.

Always involve cultural leaders and win them as allies to promote CCOs. Without the involvement of cultural institutions who hold significant powers in communities, guaranteeing and promoting women's rights who have CCO would be futile. If clan leaders are not involved in the registration of customary land, they cannot support promoting the rights bestowed in CCO.

Embrace positive customary rules on land management together with applicable laws for CCO. This is vital in conflict resolution and reducing dispossession of people's land especially women. Some customary rules are compatible with the objectives of promoting women's land rights and can be utilised effectively to achieve the desired objectives.

Inclusion of women – wives and daughters -- as part of the preconditions for application for CCO protects women's land rights. This is a landmark departure from the cultural practices which had left out women on issues of land inheritance and ownership.



## Challenges in implementing and managing Certificate of Customary Ownership of land

There is inadequate funding from the government to support the issuance of CCO. Both central and local governments have not prioritised budget allocations for CCO. For example, in Butaleja district, only UGX 4 million was allocated to the Lands Office in the financial year 2019/2020 and the realisation of the allocated funds was about UGX2.5 million. This was the budget for implementing all the programmes, including CCO. Sub Counties have a very small budget for CCO, yet they require funds for supervision, mobilisation and follow-up on submitted applications. For example, Kisenyi Sub County in Kasese district has an annual budget of only UGX100,000 to facilitate CCO. Consequently, the government does not facilitate ALC activities in processing CCO and cannot finance special meetings of DLB to approve CCO applications. DLB are supposed to sit once every quarter (four times a year), but because of lack of fund, they may take over 6 months without sitting, yet they must approve applications for CCO.

The programme of issuing CCO is heavily dependent on NGOs other than government funds, making it unsustainable. This is because NGO projects are short term. NGOs support community sensitisation, building local institutions' capacity and paying allowances of ALC members, technical officers, and DLB. Without NGO support, issuing CCO stops. For example, when FAO's project supporting issuing CCO in Kasese district, ended, issuing CCO stagnated for over two years.

Local Government technical staff at the Sub counties do not support the process of issuing CCO. They left most tasks to ALC who work voluntarily. The stewardship of CCO is left for ALC who are voluntary local community members appointed by the local council.

Especially in districts where there are no NGOs facilitating the ALC. High costs have discouraged women from processing their CCO as most of them cannot afford it. For example, in Kasese district, the ALC charged between UGX80,000 and UGX 100,000 for each application. In districts such as Butaleja and Pader where UC0BAC paid allowances of ALC, at least the cost was minimal, only to about UGX 20,000.

Delay in issuing certificates is a burden and discourages potential applicants. Applicants take between 6 months and 3 years to receive their CCO. Due to the delay, some applicants have to frequently travel long distance to Sub county and district headquarters to follow up, which is costly and time consuming. This is an additional burden to women who are overwhelmed by domestic roles. Women who would wish to apply are therefore put off.

There is limited access to the right information about CCO. Few communities' sensitisation meetings and radio talk-shows have been funded by NGOs. Some of the radio talk-shows also ended years ago. Therefore, communities have not been adequately sensitised to break the negative perceptions and practices surrounding women's land rights.

There is limited participation of women in processing CCO. Many women want to obtain CCO but are discouraged by the lengthy procedures which requires frequent visits to the sub county headquarters for follow-up. "Even if one goes to the sub-county, those officers are not always in their office." (Key Informant Interview, Soroti District). Consequently, some women have left the issue of processing CCO to their husbands and male children. Limited participation of women denies them the opportunities to understand the process and benefit from it.

Delays in resolving existing conflicts over land boundaries, ownership and beneficial rights is a key obstacle to women acquiring CCO. Binding local mechanisms for conflict resolutions are not very strong. Worse still, some of the mechanisms and resolutions are based on negative cultural practices that are unpalatable to women's land rights.

# RECOMMENDATIONS

Based on the findings, lessons learned, and challenges in CCO, these are the key recommendations:

1. The government should finance the cost of issuing CCO. They should facilitate the Area Land Committees to carry out their activities and increase funding to facilitate District Land Board (DLB) sittings to timely dispose CCO applications. The DLB should be funded to sit twice in a quarter to expedite the process of issuing CCO. The government should take up all the costs of issuing CCO rather than shifting to clients, who are mainly rural poor people. These can be through conditional grants for CCO to local governments.
2. District Local Governments should ensure adequate allocation of resources to the Natural Resources Department, where the Land Office falls. This will facilitate more sittings of the DLB and ALC and consequently expedite the process of issuing CCO.
3. Establish registry of CCO at the national level to coordinate and support the District Land Boards' activities.
4. The government should embed and strengthen local mechanisms for handling and expeditiously resolving disputes arising from interests and applications for CCO as formal courts are expensive and time-consuming.
5. The Ministry of Lands, Housing and Urban Development should develop local guidelines to support family decision-making on who should be included or excluded in the application for CCO. Guidelines will reduce arbitrary exclusion of rightful people from the application of CCO and avoid rendering some people, such as women, landless within the customary land management and in law.
6. The Civil Society Organisations should sensitise communities about CCO.
7. There should be neutral procedural rules in CCO processing and a CCO registry.

# Annex 1 Sample of Certificate of Customary Ownership of Land

Regulation 51

THE REPUBLIC OF UGANDA

THE LAND ACT, CAP 227

THE LAND REGULATIONS,

Form 31

DISTRICT LAND BOARD

CERTIFICATE OF CUSTOMARY OWNERSHIP

## PART 1: DESCRIPTION OF LAND

1. PIN (in codes)

District	County/Municipality	Sub-County/Urban Area Division	Parish/Ward	Village/Zone	Parcel No.

2. Location

District .....

County /Municipality .....

Sub-County/Division/Urban area .....

Parish /Ward .....

Village/Zone .....

3. Approximate area (ha.) .....

1

## PART II: OWNERSHIP

Date and time		Instrument number	Name and contact address of owner	Signature of recorder

**PART III: CONDITIONS, RESTRICTIONS OR LIMITATIONS**

Date, Time and Instrument number	Particulars	Signature of recorder

**PART IV: ENCUMBRANCES**

Date and Time		Instrument number	Particulars	Signature of recorder



# REFERENCES

<sup>1</sup> Rugadya, M. A., Kamusiime, H., & Kajumba, C. (2020). Titling Customary Tenure in Northern Uganda: Unintended Results and Lessons Learned from a decade of Pilot Projects;

Doss, C., Meinzen-Dick, R., & Bomuhangi, A. (2014). Who owns the land? Perspectives from rural Ugandans and implications for large-scale land acquisitions. *Feminist economics*, 20(1), 76-100;

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<sup>2</sup> Rugadya, M. A., Kamusiime, H., & Kajumba, C. (2020). Titling Customary Tenure in Northern Uganda: Unintended Results and Lessons Learned from a decade of Pilot Projects

<sup>3</sup> The Uganda National Land Policy, 2013, Pg.18

<sup>4</sup> Land Act 1998

<sup>5</sup> Rugadya et al (2020)

<sup>6</sup> Statement 39, National Land Policy 2013

<sup>7</sup> Rugadya, M. A., Kamusiime, H., & Kajumba, C. (2020). Titling Customary Tenure in Northern Uganda: Unintended Results and Lessons Learned from a decade of Pilot Projects

<sup>8</sup> Ministry of Land Housing and Urban Development (2020)

<sup>9</sup> Doss, C., Meinzen-Dick, R., & Bomuhangi, A. (2014). Who owns the land? Perspectives from rural Ugandans and implications for large-scale land acquisitions. *Feminist economics*, 20(1), 76-100;

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<sup>10</sup> See sections 5 to Land, Regulations

<sup>11</sup> Herbert Kamusiime and Paul M. Ntegeka (2019) Do Certificates of Customary Ownership as Currently Issued and Delivered Translate into More Secure Land Rights for Women and Men Involved: A Case Study of Nwoya Using Data Collected by the Ministry of Lands, Housing, and Urban Development, 2019

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