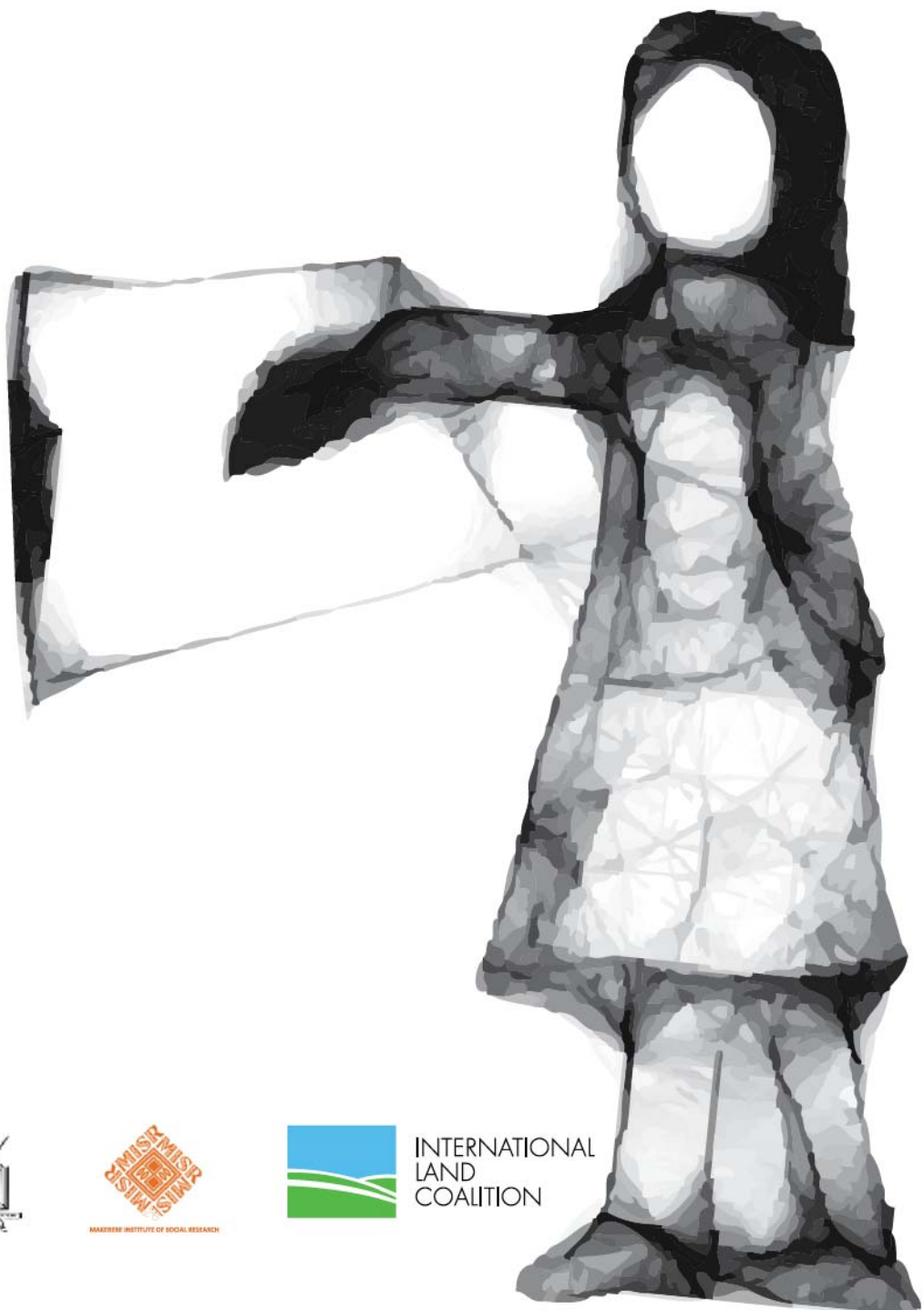


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RESEARCH REPORT

Women's gains from the implementation of succession law in Uganda: voices from Wakiso and Mpigi Districts, Uganda



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ILC wishes to thank the IDRC whose support made this Women's Land Rights Initiative research possible.

Women's gains from the implementation of succession law in Uganda: voices from Wakiso and Mpigi districts

A report submitted by
Uganda Land Alliance (ULA)
Uganda Media Women's Association (UMWA)

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List of acronyms

ACHPR	African Charter on Human and Peoples' Rights
AG	Administrator General
CAO	Chief Administrative officer
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CSO	Civil Society Organization
DCAO	Deputy Chief Administrative officer
EASSI	East and Southern Africa Sub-regional initiative
HIV/AIDS	Human Immune Virus /Acquired Immune-deficiency Syndrome
LC	Local Council
MISR	Makerere Institute for Social Research
NGO	Non-government Organization
T/C	Town Council
ULA	Uganda Land Alliance
UMWA	Uganda Media Women Association
SA	Succession Act

Executive summary

Poverty, particularly among female-headed households in Uganda, is strongly related to lack of access to and ownership of productive resources. Recent land reform necessitates inquiry to determine whether it has improved women's marginalized status with regard to land ownership and access. In Uganda, land rights are based on birthrights traced through patrilineal descent, a tradition that is particularly observed in rural areas and also documented in the statutory laws. The primary laws related to inheritance in Uganda are the Succession Act (SA) (Cap 162) and the Marriage and Divorce laws (Cap 248-253) of 2000. The former is enforced through the Administrator General's Act (Cap 157) while the latter is enforced through the courts of law.

The Succession Act identifies the persons eligible for inheritance and their respective entitlements. In an earlier evaluation of the effectiveness of the statutory law, the practices of the Administrator General's (AG's) office were studied, focusing on how they award women their inheritance rights. More women in the central region were bequeathed land and matrimonial homes than in the western region. This data is attributed to the fact that few of the deceased from other regions registered land. In addition, probate to administer estates is more likely to be granted to males than to females. On the other hand, among the intestate, females are more likely to become administrators of estates, which accords them control over property.

Findings show that more males (22 percent) obtained land than females (18 percent), though the AG grants a slightly

higher proportion of money to female children (19 percent) than to male children (17 percent). Research was necessary to establish whether current land reform has necessarily granted women any more ownership rights than traditional practices have accorded them.

The overall objective of this study was to document any gains for women resulting from the statutory provisions of equal inheritance rights between men and women. Female clients of the Administrator General were interviewed for insights into their experiences. The study findings would be the basis for recommendations that would enable implementing organizations to inform the ongoing reform process in Uganda. Key Informant interviews and Focus Group discussions were employed to collect data from these selected women. The study sample also included other women and men, selected to contribute data because of their occupations and their understanding of land issues.

Study findings indicate that 70 percent of the interviewed women were daughters of the deceased and were taking care of the homes visited. The study also established that 90 percent of the widows had died, while those who were still surviving were very old. The data in this study indicates that 45 percent of the women who had been granted letters of administration over property by the AG's office, still have the land; a percentage greater than that of men in similar positions who have chosen to sell their land. Similarly 60 percent of the women beneficiaries in the two targeted districts make decisions over that land.

Introduction

Background

In Uganda, land is the major productive resource because the economy is largely dependent on agriculture. Out of an estimated 26 million people, over 86 percent live in rural areas and derive their livelihoods from subsistence farming. Women constitute 50.9 percent of the population and supply 70-80 percent of the agricultural labour force (Horn of Africa Food Security Country Report 2008). Despite women's contributions, men largely own the land on which women work. Research has shown that women's rights are generally restricted to access rather than ownership rights, which makes them less secure.

Lack of control over land reduces women's access to and control of the proceeds from agricultural production, as well. While men can easily obtain loans with land as collateral, few women are able to do the same. This imbalance in opportunities is seen as an underlying factor in poverty among women that restricts improvement in their livelihoods and affects their status and decision-making in society (National Gender Policy 1997).

In many communities of Uganda it is presumed that women's rights to land are protected under customary arrangements, yet in these provisions most user rights to land are opposed to ownership rights. As such, there is justification for the specific legal provisions that have been put in place to give protection to women's land rights. Women's rights to land ownership should be viewed in the broader perspective of equality, human rights, good governance, poverty eradication and, indeed, development.

While women's property rights are enforced through marriage law in Great Britain, this is not the case in Uganda. In addition, the Succession Act (Cap 162) grants only 15 percent of the estate to the widow and accords more rights to children who are products of the marriage contract. The

same Act gives equal rights to offspring of a person who dies intestate, but authorizes the male testator to distribute family property as he pleases. Many widows often become the victims of their own children, the illegitimate children of their husbands from multiple relations or in-laws.

In rural areas, most land rights are acquired through patrilineal descent, but the primary laws related to inheritance in Uganda are the Succession Act (Cap 162), the Marriage and Divorce laws (Cap 248-253), the Customary Marriage Registration Act and the Administrator General's Act (Cap 157).

The Succession Act (SA) defines the persons eligible for inheritance and their respective share entitlements. The SA 162 provides a definition of consanguinity or kindred that transcends gender/sex. These are persons related to the male deceased through parental and/or sibling ties who are bound to benefit from the estate of the deceased. The widow/widower inherits a 15 percent share of the estate, The act defines children as lineal descendants and these include: legitimate children arising out of a statutory marriage, illegitimate children arising out of casual relationships and children adopted through recognized lawful adoption steps. The SA recognizes dependents as beneficiaries, among whom is a spouse (wife or husband), parent, brother, sister or grandchild, who, at the time of death, was wholly or substantially dependent on the deceased. A spouse becomes a legal heir in the absence of ascertainable lineal descent ties other than marital contract. All of the above categories are accorded equal inheritance rights, regardless of sex. On the whole, the SA provides legal grounds for equal inheritance rights between men and women kindred although there is usually preference for a male over a female heir. Marriage laws are thus vital in the assessment of women's land rights

because they are directly linked to inheritance entitlements (Mukwaya 1953; Sebina-Zziwa 1995).

The Administrator General Act (Cap 157) was instituted in 1933 and relates to the administration of estates of deceased persons. It is closely tied to other Estates, Trusts and Succession Laws (Cap 154-165), particularly the Succession Act (Cap 172) and the Marriage and Divorce Laws. The Administrator General Act (AGA) gives power to the presiding officer and describes the circumstances under which his/her office may administer an estate. The authorities of the SA and AG concern themselves with both testamentary and intestate succession cases. The AG implements the Succession Act.

Ideally, information about the death and particulars of the deceased should be communicated to the AG through any person in the public service, or of the rank of sub-county chief, or an equivalent rank in any area of Uganda appointed by the Minister of Justice. In practice, however, relatives and/or other persons concerned, report deaths to this office. The role of the AG is to ensure harmonious and legally acceptable distribution of the property among the deceased's next of kin. Thus, the office also functions as a dispute-resolution mechanism. The officer also assumes the responsibility of securing the deceased's benefits, such as gratuity and life insurance, and paying off the deceased's debts.

The AG assumes power to administer a deceased's estate if the following circumstances pertain:

- a. when the deceased has left a will appointing the office to administer his/her estate
- b. when the deceased makes a will and does not appoint an executor
- c. when the persons named as executors in the will die before the testator or when they renounce that responsibility
- d. when the letter of administration (the legal document granting powers to authorized persons to take care of the deceased property) has not been obtained within two months from the death of the testator, or
- e. if the deceased died intestate

The AG can also assume administration if a client brings their own claim to the office. Other responsibilities of the AG include accounting for every estate under their jurisdiction.

Currently, there is ambiguity about the implementation of the provisions of the SA and other laws that have a bearing on women's inheritance rights. Cultural practices favour boys over girls, including the perception that male children are more valuable as perpetrators of the lineage. There are no structured activities aimed at educating the public about the AG's office, while women testify that the AG's office is corrupt. This study was conceived in response to this ambiguity and the broader context of concerns about poverty eradication and the empowerment of women. Specifically, the study needed to assess women's gains in light of:

- i. Government's acknowledgement that one of the obstacles to poverty eradication is women's lack of productive resources (MFED-PEAP 2004/5-2007/8);
- ii. the public outcry about the way the AG's office was serving the public, which led to the interdiction of the presiding officer in 2001; and
- iii. the HIV/AIDS pandemic that has made widows and female orphans even more vulnerable in the face of inheritance disputes amidst discriminatory customary practices (EASSI 2003; Sebina-Zziwa 1998).

Examination of the AG's office as the conduit of inheritance rights can yield empirical evidence of the effectiveness of statutory bodies in restoring women's rights to property and to land, in particular. In 2007, the ULA commissioned a study on statutory laws and the realization of women's property rights in Uganda, focusing on the provisions in the AG's Act (CAP 157). The study evaluated the effectiveness of statutory law and the practices of the AG's office in protecting women's inheritance rights.

Analysis of archive information (1986-2005) revealed that the practice/incidence of will writing was low, though more prevalent among women (23 percent) than men (16 percent). Cases demonstrated that the AG was not discriminatory since there was limited discrepancy in the practices of the AG's office between inheritance rights of men and women. According to the ULA study, there are a growing number of

women inheriting registered land through the AG's office. However, it was not clear whether the decisions of the AG translated into women's control of this land. Based on these findings, the ULA decided to undertake the study reported here. The specific study objectives were:

- i. to provide a forum for legal dialogue for men and women, as well as communities, on inheritance rights;
- ii. to document views on the effectiveness of the AG's office in executing cases involving property of the deceased;
- iii. to document the women's experiences in securing, accessing and retaining land inherited through statutory structures; and
- iv. to document women's views on the effectiveness of the provisions for equal succession rights between men and women as a guide to reform of the AG's Act and the SA.

Research methodology

Study design

Both quantitative and qualitative methods were used. The qualitative methods allowed study participants to share their views freely. The researchers used various instruments to collect data. Data extraction forms were used to identify potential interviewees from the available records in the registry offices of the two target districts. A questionnaire and a household interview guide were used to obtain information from the women who acquired services from the AG's office. The researchers used a Focus Group discussion guide to collect data from sub-county chiefs who are responsible for handling cases from the AG's office at the community level.

Scope

The research was conducted in the two districts of Mpigi and Wakiso in the central region of Uganda. Wakiso district has a population of 407,790 in 15 sub-counties and Mpigi has 957,280 people in 16 sub-counties (2002 Census). Study participants engaged in narratives of their experiences to secure, access and retain land and expressed their views on the services they obtained in the AG's office.

Sample selection

The team discovered that Wakiso District began recording cases from the AG's office in 2003, two years after Mpigi had been split into the two districts of interest in this study. The files available for analysis in Wakiso spread over the period from 2003 to 2008. However, since the cases from 2008 were still ongoing, the research team decided to review cases registered over the period from 2003 to 2007. A total of 22 files were available from this period (See Table 1). The files available for analysis in Mpigi were from the period 1998 to 2008; however, no relevant information could be obtained from the files held for the period 1998 to 2002, the target years for comparison with the cases reviewed from Wakiso. Therefore, the team selected files from each of the years 2003, 2005, 2006 and 2008. The relevant information was obtained from the years 2003, 2005, 2006 and 2007 since most of the cases in these files had been cleared and closed. Sub-counties were then selected from the two districts to include those in which the identified potential women participants resided. The sub-counties selected for the study sample are shown in Table 2.

Table 1: Categories of cases selected for study

Category	Year that case was held at AG's office	Number in District		Total for 2 Districts
		Wakiso	Mpigi	
Files				
	2003	1	1	2
	2004	1	-	1
	2005	6	1	7
	2006	5	1	6
	2007	9		9
	2008	-	1	1
Interviewees				
Chief Administrative Officers (CAO's)		1	1	2
Chiefs		9	8	17
Women Beneficiaries		16	13	29

Altogether 39 respondents were selected from five of the sub-counties in Wakiso, including Busukuma, Ssisu, Nangabo, Wakiso Town Council and Kira Town Council. In Mpigi District, 23 respondents were selected from eight sub-counties including Maddu, Nkozi, Kiringente, Bbulu, Mutuba 1, Buwama, Kibibi and Mpigi Town Council. In Wakiso, a total

of 56 cases spreading over all sub-counties were selected for analysis; ten cases were selected from 2003 and 2004 as both years had a limited number of cases from which to select a sample. The team then selected 20 cases from each of the years 2005, 2006 and 2007. In Mpigi, the team selected a total of 50 cases spread over all sub-counties.

Table 2: Number of worthwhile cases in the districts by sub-county

	Wakiso District	Number of cases followed up	Mpigi District	Number of cases followed up
1	Makindye	4	Maddu	6
2	Nangabo	8	Nkozi	4
3	Busukuma	6	Kiringete	3
4	Nsangi	4	Bulo	2
5	Wakiso Town Council	16	Mutuba 1	2
6	Gombe	2	Buwama	2
7	Ssissa	5	Kibibi	2
8	Kakiri	4	Mpigi Town Council	2
9	Kira	4		
10	Katabi	3		
	Total	56		23

Data collection and analysis

The data collection process

Out of the 600 cases analyzed, 72 cases were from Wakiso, while 10 were from Mpigi. However, only eight cases could be traced to the community level, which were fewer than the intended sample size of 30 respondents. Therefore, the team decided to proceed to the district to consult records and ascertain from district officials how best to locate potential respondents.

Equipped with a letter of introduction, the research team informed the CAO of what was planned for the district in the Uganda Land Alliance (ULA) and Uganda Media Women's Association (UMWA) project and sought permission to conduct activities in the selected sub-counties. The team

also obtained the CAO's letter of introduction to the sub-county chiefs.

The team held discussions with the Deputy Chief Administrative officers to introduce the project's aims and objectives, and was granted permission to access information of the targeted sample from the available records.

Data obtained on the items in the Key Informant interview and Focus Group discussion was analyzed to yield categories based on the themes of the study, including: the challenges met in executing tasks in resolving property of deceased males; views on the effectiveness of the AG's office in executing cases; the women's experiences in securing, accessing and retaining land inherited through statutory structures; and women's views on the effectiveness of the

provisions for equal succession rights between men and women as a guide to reform of the AG's Act and the SA.

Extracting data from district files

By extracting relevant information through forms designed for this purpose, a total of 130 cases were selected and analyzed in both districts.

Formulating the interview guide and questionnaire

Facilitated by the technical support from MISR, researchers developed an interview guide and a questionnaire that were used to collect information from the sub-county chiefs and the women in the two districts.

Briefing the sub-county chiefs

With the letter of introduction from the CAOs, the team discussed the activities planned for the selected sub-counties and target villages, and requested the sub-county chiefs to identify community guides who were subsequently provided. The sub-county chiefs also wrote letters introducing the research team to the village chairmen.

Obtaining data from selected study participants

The team was guided to and conducted interviews in the homes of 24 women from Wakiso District and 9 women from Mpigi District. The team held discussions with persons who had obtained services from the AG's office and had been granted letters of administration. They specifically interviewed, as Key Informants, the women beneficiaries cited in the letters. A total of 23 beneficiaries were interviewed in Wakiso, 21 of whom were women beneficiaries from the AG's office. In Mpigi District, a total of six women beneficiaries were interviewed.

Limitations

The team faced various challenges during the extraction of the information from the records offices of each district. There was no systematic recording of information, which made the data extraction exercise considerably difficult. Most of the cases were still ongoing. Some of the files, especially in Mpigi District, contained few recorded cases with limited information, so they had to be excluded from the sample.

The sample size was further diminished by the time constraints on locating residences and interviewing participants.

Some respondents denied the research team permission to record their voices fearing that they would be used in criminal dealings relating to land issues. Some of the women respondents were too old to speak audibly for quality recordings, and interviews were subject to interruptions by grandchildren.

1. Findings

Effectiveness of the AG's office

The study evaluated the effectiveness of the AG's office, including its relationships with the sub-county chief's office to provide the necessary context for any recommendations for review of the implementation of the legal provisions meant to grant women effective control over land.

Relationship between sub-county chief's office and CAO's office

Data shows that 12 out of the 17 chiefs interviewed described a cordial working relationship between their offices and the CAO's office. Fourteen out of the 17 sub-county chiefs indicated that there is effective delegation of work and communication between the offices. Three chiefs felt that the CAO could better facilitate their jobs to make the process more efficient, particularly with regard to compensation for transportation costs. Four of the chiefs felt that the links between the offices were weak. They expressed a need for a follow-up mechanism to supplement the reports they make to the CAOs, which are sent after these chiefs meet with the family of the deceased. All expressed their dissatisfaction with the lack of feedback from the CAO's office and the AGO.

Challenges in handling cases from AG's office

The study participants described several challenges in the process of handling cases from the AG's office. Five out of 17 chiefs cited corruption. Eleven chiefs felt that they were powerless to challenge family members who were actively pursuing personal gain. Seven chiefs cited cases of impersonation in Wakiso in 2009. Forgery was considered to be one of the greatest challenges by ten chiefs, while lack of required documents presented problems that were identified by five chiefs. Failure to update wills was also mentioned as a problem by 14 chiefs. Nine of the 17 chiefs referred to cases in which illegitimate children were left out of wills. Six out of the 17 chiefs cited the problems faced when family members disagree with heirs who want to take full control of the estate

of the deceased, including instances involving land that was not included in the will, but was discovered after the death of the owner and is occupied by squatters. Out of the 17 chiefs, 11 mentioned that there are delays in processing claims from the AG's office that frustrate beneficiaries. In addition, the cost of transportation and processing is a burden to the service providers. Though evidently smaller than other challenges, the chiefs have experienced conflict between the traditional and non-formal systems of inheritance, on the one hand, and the conventional system, on the other. Four out of 17 explained that provisions in these two systems tend to contradict each other, often causing confusion and conflict among beneficiaries.

Efforts for mitigation of the challenges

The research team encouraged the sub-county chiefs to explain how they have tried to resolve these challenges. Their explanations dwelt on delegation, consultation and perseverance.

Eleven out of the 17 chiefs interviewed mentioned consultation with local and opinion leaders on some of the challenges that they face. Ten chiefs out of the 17 explained that sometimes they delegate work to parish chiefs, though they are often not well-versed in legal issues and must be consulted with caution. All of the chiefs said that in cases of severe conflict among family members they would hold additional meetings in an effort to resolve disagreements.

Benefits gained by women

Limited enlightenment on rights

Data indicates divided opinion on whether there have been any benefits to women from the implementation of the succession laws. While some chiefs claim there are no benefits, others claim there are some.

Seven out of the 17 chiefs were clear that the women have not benefited much from the AG's office. Because many of the deceased die intestate, relatives exclude women from both property and its administration. Some chiefs assume that because of low levels of education, women are unable to administer and manage land. They also cite traditional views that land matters belong to the male domain. While women may be aware of the benefits that could accrue to them, and actually pursue matters in the AG's office, the gender discriminatory view dominates the process.

However, ten chiefs claimed that women had been enlightened by the changes that have instituted equal inheritance rights, which also reflects the broader trend of empowerment of women by the current regime. CSOs/NGOs and other institutions, including the sub-county chief's office, have sensitized women about their rights.

While women should celebrate the creation of an enabling atmosphere with regard to their acquisition of information on their rights to access and own land, they have yet to be able to use that information effectively to secure land.

Limited use of land and responsibility for it

Table 3 and Figures 1 and 2 demonstrate that children, grandchildren and new tenants enjoy more use of and responsibility for land than widows. Furthermore, squatters enjoy almost the same use and responsibilities over land as do widows.

Table 3: Findings on use and responsibility for land

Category	Who uses the land	Who is in charge of the land
Children to deceased	17	14
Widows	3	3
Grand children	4	
New land owner	3	6
Squatter/tenant	2	2
Collective effort	-	4
Total	29	29

Figure 1: Use of land

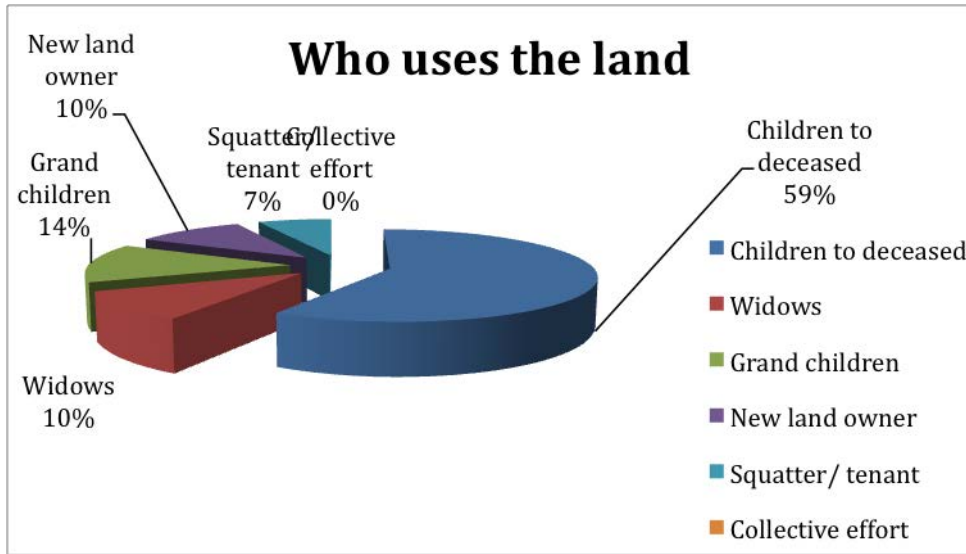
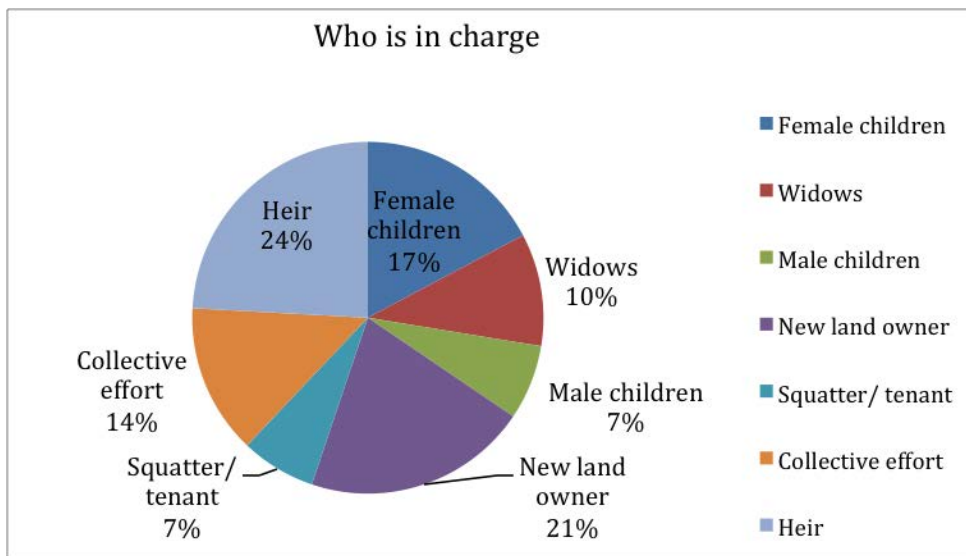


Figure 2: Responsibility for the land



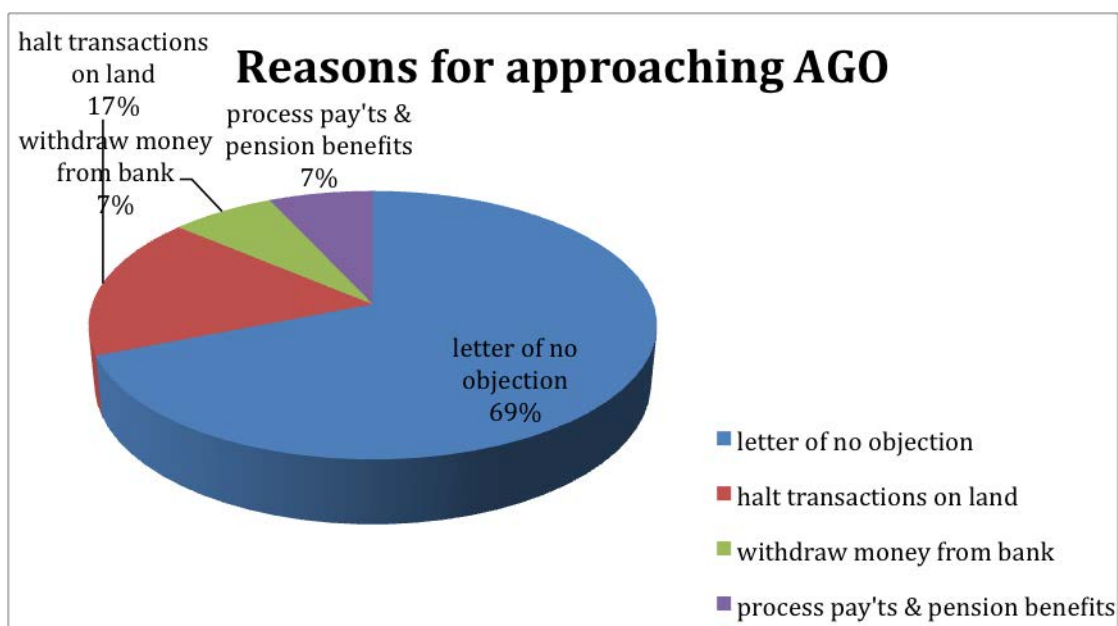
That women beneficiaries of the resolved cases of the AG use and are in charge of only ten percent of the land implies that they cannot exercise much control over it or improve their livelihoods. This is a significant finding given the assertion in SA 162 that a 15 percent share of the estate of the deceased should go to the widow/widower. It raises questions

about how the Act should be enforced to ensure effective implementation and change in the status of women.

Women's real decision-making powers

Data in Figure 3 shows that 68 percent of the study participants in the two districts reported that they went to the AG's office to acquire letters of no objection and letters of administration in order to transfer all relevant documents from the names of the deceased to the names of those persons granted letters of administration. A small proportion of 17 percent reported going to the office to stop their relatives from transacting business on the land before it was legally distributed among all the beneficiaries. Only 6 percent went to the AGO to be granted authority to withdraw money from the deceased's bank account, which they needed for completion of full rites of burial. Some 6 percent of the interviewed participants went to the AG's office to acquire letters that would facilitate the process of obtaining payments pertaining to the deceased's estate, such as pension benefits.

Figure 3: Reasons for approaching the AG's office



In spite of the demonstrated awareness and active participation of the women, only 27 percent of the reported cases had been concluded while 24 percent had not. Some of the would-be beneficiaries of the latter category had, indeed, opted to seek justice through other means.

Women's decision-making power is further weakened in relation to the status enjoyed by children of the deceased who have an advantage over widows. For instance, 72 percent of the study participants indicated that all of the children are consulted to reach a final decision concerning land, while 34 percent of the respondents indicated that children of the deceased make the final decisions.

Women's experiences in securing, accessing and retaining land inherited through statutory structures

Women report both positive and negative experiences when processing claims through the AGO. Asked about the procedure of acquiring letters of no objection and letters of administration, 34 percent of the participants said it was satisfactory and should continue. One beneficiary reported,

We went to the AGO to change names in the titles from the deceased to ours and from there we went to the high court which made announcement. Thereafter, we shared the property and everyone is doing his/her work on the piece of land they acquired. We don't have any problem and everyone is comfortable. We feel we were helped by the office and we just pray that it continues serving the people as it did to us when we went there.

Another commented:

"The AG himself came here and saw and then ruled the case and the children lost it."

Other women expressed dissatisfaction with the process that exposed them to great inconveniences and, sometimes, to injustice. Long queues and protocol made some claimants anxious. The physical location of the AG's office in the city is an inconvenience because it imposes transport costs above the administrative costs of photocopying and related reproduction of documents. Operations were too long and expensive according to 41 percent of the participants; a fact that led some beneficiaries to abandon their cases. Some 62 percent of the participants lacked the proper documentation to back them as rightful beneficiaries of the land. Faced with these obstacles, some women opted for the services of middlemen who often were simply conmen.

Some women cite injustice in relation to settlements involving family and imply the AG's responsibility. A significant proportion of participants, that is 55 percent, explained that the persons who acquired letters of administration sold off the land without their legal consent.

In the case of one elderly widow, a grandson had sold off a large proportion of land by simply forcing her to endorse the sales with her thumbprint:

He has sold the land and N is only remaining in a house that was built in the land that she received as her share from the deceased. Due to the unplanned sales by the grandson, N, who now lives with a granddaughter with five children, hardly has any food to eat or any land to cultivate.

Poor communication skills, ignorance of the law and lack of education hinder women's claims. It is evident from the narratives of the female participants that sensitization about inheritance rights has been inadequate, and that women have not been appropriately targeted. When Focus Group participants were asked what they knew about succession law, they had the following misperceptions:

- the will;
- Sharia law for Muslims;
- the succession law enabling people to distribute money and property of the head of the family;
- women don't own property;
- the inheritance law doesn't benefit everyone; and
- the law is there to benefit the rich and not the poor.

Beneficiaries, especially the grassroots women, are intimidated by the language requirements and structures at the AG's office and feel alienated and frightened. They feel local offices would be more accessible.

The above data indicates that the SA has not really been implemented. Much as there is a statement of equal succession rights, grassroots practices suggest that women are being defrauded. This reality raises the question of how far the AG's office pursues women's interests.

2. Recommendations

Dissemination of laws and sensitization

Lobby groups, including media organizations, need to work with law reform agents to sensitize women about the Administrator General's Act Cap. 157, the Succession Act, the Marriage and Divorce Laws and the Inheritance Law. They need to target women at all educational and socio-economic levels and to disseminate information in faith groups and other organizations. Information should be provided in an accessible form in various local languages besides English and should be easily distributable to groups. In addition, women should learn to make wills, understand what transpires when divorce occurs and know what steps to take in order not to lose out in matters concerning property ownership in the context of marriage and death. Similarly, local authorities need to be educated to enable them to support women and their claims.

Notice of application for letters of administration to be given to Administrator General (Section 5, AG's Act Cap 157)

The provision in the first clause of this section of the AG's Act has great potential to protect the widow against the claims of unscrupulous relatives should she seek to authorize someone to administer her late husband's estate, as long as she can prove that the AG or his/her agent has declined the responsibility. A facility for explaining the provisions for widows, in clear and full detail, needs to be built into the legal structures.

Grant to Administrator General may be revoked and grant made to another person (Section 7, AG's Act Cap 157)

This clause allows the AG to revoke a grant of the deceased's property to an illegitimate person, and could assist widows to counter the false claims of others.

Distribution on the death of a male intestate (Section 27 SA, Cap 162)

In this section of the Act, provisions are made for intestate estates. This provision is unclear with regard to its definition of what constitutes "capability" when referring to those who are entitled to proportions of the estate in question, including customary heirs, wives, dependent relatives, and lineal descendants. Dissemination efforts need to be attentive to possible misinterpretations of this term that might exclude women and their claims.

Review of the Succession Act

The Succession Act makes some helpful provisions, but also presents some loopholes, which could easily be exploited by illegitimate claimants.

Omission of a provision on distribution of a testate's property

The Act contains, in Part V, guidance on distribution of a person who has died intestate, but review of the SA should take into consideration the need to integrate a provision on distribution of a testate's property a) to ensure the public's recognition of the deceased's will as a legally binding document for as long as it satisfies all of the legal requirements stipulated in the Act, and b) to protect widows and other female beneficiaries against any possible defrauding by successors or other male aspirants for the property.

Omission of a provision on distribution of a testate's property (Part V- Distribution of an Intestate's Property)

Guidance on the distribution of property on the death of a female intestate is a significant omission in Part V of the Act, which needs to be revised in order to protect bequests from deceased female relatives. The omission suggests that either the law has no interest in providing guidance over female's property, which implies that such estates need no protection, or that females do not own property that is worth inclusion. Either way, the omission reveals the underlying influence of cultural values that relegate females to positions of secondary importance with regard to status and property.

Kindred or Consanguinity (Part III CONSANGUINITY, SA CAP 162)

The Act provides for consideration of lineal and collateral consanguinity for purposes of succession, and indicates no distinction between those who are related to the deceased by full blood or half blood, or those born during the deceased's lifetime and those born after the death of the father. This provision potentially grants freedom for persons of unlimited description to lay claims of rights to shares in the estate of the deceased, when they may not have contributed to the accumulation of the property in question. The data in

this study shows that kindred are most often those who are the perpetrators of violations regarding women's rights to property, while widows are left in the relatively secondary position of a limited 15 percent share in property regardless of the contribution she may have made to the accumulation of the property.

There is need to amend the clause on consanguinity, to limit it to the marital contract, and, thus, to protect the widow from what could be a large range of possible claimants on the estate.

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Annexes

Annex 1 - The media component

Eighty-two people met for this community dialogue which attracted the media such as NTV, WBS, Record TV, Super FM, Radio Simba, Mama FM, among others, and received input from FIDA-Uganda and Stock Consult. Seventy-six participants, including 65 women and 11 men, came from Mukono, Nabbale, Bamunanika, Luweero, Kamuli, Mityana, Mpigi, Wakiso, Kawempe, Komamboga, Kisaasi and Kikaaya, among other villages.

The facilitators started the dialogue by establishing how much the participants knew about the law of Succession and the AGO. Participants were sensitized about its operations. Barriers to women's access, control and ownership of inherited property were discussed and recommendations were made. The dialogue provided space for personal testimonies.

Radio and television programs

Fifteen programs on Mama FM and UBC were produced and broadcast. Two television programs on Record TV and a documentary were broadcast. In all of the media programs, women and local communities participated. Opinion leaders such as local officials and religious people contributed to panel presentations and various issues were discussed, including inheritance and succession, and will-making and its importance.

Results

- two planned meetings were held;
- one community dialogue attracting 76 participants was held (65 women, 11 men, attending; 12 villages and 5 districts, represented);
- 15 radio programs were broadcast on two radio stations;
- two television talk shows were broadcast on Record TV;
- four television stations covered the community dialogue and broadcast news bulletins; and
- a documentary was done to air on WBS TV.

Outcomes

The following outcomes were realized:

- Following the television programs and UMWA interaction with the Administrator General's Office, a plan to host officials from this office on Mama FM, has been agreed upon. It is expected that two programs per week over the course of three months will be broadcast with the theme, "Access and utilization of AG's office."
- AGO's initial wary reception of UMWA officials is changing, as the Deputy AG has called Mama FM for follow-up on the subject.
- Following the community dialogue and the subsequent radio programs done on property rights, succession, and the role of the Administrator General, Mama FM has since then provided more airtime for such issues.
- The local people who participated in the dialogue and the radio programs that followed have continued to search for information to overcome the hurdles they were formally experiencing with the office of the AGO.
- UMWA/Mama FM has become a point of reference on land issues. In only 30 days, UMWA had been approached by twelve members of the communities seeking assistance. These people were later linked to FIDA-Uganda, the area Local Councillors (LC's), and the Magistrates' Court in Entebbe.
- Community-based organizations in Mukono, Bamunanika, Luweero, and Wakiso have since then requested ULA and UMWA for sensitization sessions on rights, land, making of a will, the law of succession, property rights, and the operations of the AGO.

Recommendations for media assistance in improving access and utilization of the AGO:

- A nationwide education and sensitization campaign to be designed and implemented. Radio is seen as an ideal medium to convey these messages. Community drama is also viable.
- Special awareness and capacity-building campaigns and programs should be designed to address women.
- **There needs to be a simple booklet on how to access the AGO and its procedures.**

Annex 2 - Summaries of the narratives

Z.N.

Z.N. (74) is a widow living in Wakiso Town Council. She is one of the daughters of the late M.M. and a beneficiary of his property. As her father left "a good will" with clear indications of distribution of property, the process of administering the deceased's estate was presumed to be straightforward. After performance of the last funeral rites, it was agreed that the property was to be shared by the children, but the titles had to be transferred from the name of the deceased to the names of the heirs at the Administrator General's Office (AGO). As the daughter says:

We went to the AGO to change names in the titles from the deceased to ours and from there we went to the high court which made announcement. Thereafter we shared the property and everyone is doing his/her work on the piece of land they acquired. We don't have any problem and everyone is comfortable. We feel we were helped by the office and we just pray that it continues serving the people as it did to us when we went there.

N.M.

N.M. (50) is a daughter to the late S.P. She lives in Wakiso Town Council. She states that the deceased left a title with her paternal uncle and that she and her sister were to survey the land and distribute it. N., her sister, and brother had a home that was collapsing and they decided to renovate it by raising money through the sale of part of the land near the home. Their late brother's relatives objected and reported N. and her sister to the AGO without consulting any other authorities, a move that was questioned by the AG. The AG summoned them to report to his office. They came, along with their paternal uncle. The will was presented and a date was set for visiting and ruling on the disputed land. The ruling was in favour of the two sisters. The aunties forgave their relatives as they

said they were young and ignorant about legal processes and had not consulted the will. N. summarizes:

"We did not have any more conflicts and the grandchildren were also satisfied. Even up to now the money that comes from the house is theirs and it is used to pay school fees for the young ones who are still in school and we even gave them the house."

N. and her sister were happy with the services of the AG because he took initiative:

"The AG himself came here and saw and then ruled the case and the children lost it."

However, after surveying the land, they discovered that an unknown person has leased part of their land without their consent. The title was at the sub-county and not at the Mengo land board:

"Then we asked ourselves how he leased the land before telling us who are on the plot."

N., her sister, and one of the daughters are looking for the unknown person who leased their land.

K.C.

K. C. (72) is a widow who lives in Busukuma sub-county, Kinyogoga Village. She is a daughter to the deceased S.G. When he died, in 1944, C. was very young. He had left his property in the trust of her paternal uncle, who was responsible for the children and the last funeral rites:

"Then we had our paternal uncle who remained and this was a brother to our father and this uncle did not treat us well; even the last funeral took long to be held until people forced him."

Unfortunately, the deceased's wife had acquired a child from another man before his death and this son was older

than C. The uncle made this illegitimate son heir, but he left after some time. C's uncle died and left his own children on the land originally belonging to her father. C. tricked these children and came to stay on her father's land and to live in the family home, which was in a poor state. She also sold part of the land to construct a new house.

She is in full control of the ancestral home and makes all decisions, as the two sisters have sold their shares and are married. She acquired the title from the paternal uncle and changed the names on the document through the AGO. Now that she is aged and cannot do the hard work, she has chosen to sell chunks of land to survive. However, her ignorance of the law is leaving her vulnerable to the loss of the land, as purchasers process a title of their own:

"There is a young man up there who bought ekibanja (a plot) up on the hilltop and he takes care of me. I gave him two acres and to transfer the land ownership, I told him to make sure he gets the land title for his land and for the other person who bought part of the hill. But since he took the land titles to make those transfers, he has not returned them back."

By the time the research team visited her, she was anxious because four months ago, a person she sold land to, had taken her titles, lives abroad and has failed to return them to her.

K.N.

K.N. (85) is a widow. She lives in Busukuma sub-county, Nabitalo Village. She approached the AGO to acquire the letters of administration. She went to this office twice following the period when her father died and again when her brothers and sisters died. All of the deceased children received their shares allocated to them in the will and most of them sold their land (plots). She administered the estate with her brother and when he died she changed the names in the title so that she had full control over the land. On her second visit to the AGO, she went with a grandson who claims to be taking care of her health now that she is too old to move alone. During the processing of the documents in the AGO, the grandson included his

names on the titles of the land that belongs to N. and has begun to sell off land without first consulting with her. "Consult me how? I no longer know things" said N.. He informs N., "whenever he feel like", but only after making the decision and giving her some little money out of the sale:

"For I just look on, I don't remember those things; it's me who signs, he tells me, come and bring your thumbprint; fell sick and lost sight so I was putting on thumbprints and I go with that."

N. is now landless and has only the house where she lives with a granddaughter and her five children. They have very little land to cultivate or food to eat and relations with the grandson have soured. Nevertheless, N. expressed gratitude to the AGO for their treatment of her and the improvements she has observed in processing claims..

N.J.

N.J. (60) lives in Mbizzinya and is a daughter to the deceased N.M.. When her father died, J. was very young and living with a guardian who later died:

"As you know, things when you are young, I saw things taking place but I was not understanding anything by that time. I understood them later."

J.'s older sister explained that the will was burned in the ancestral home, but that some papers were discovered which indicated property entitlements. These papers did not include the name of M., who was a younger brother still in the womb at the time of N.M.'s death. J. consulted the clan with the documents she possessed and they granted M. some land that belonged to one of the late brothers. J. was married and M. took advantage of his residence in the ancestral home and sold off the land before it was surveyed and fairly divided amongst the children. He assumed that because he was the only remaining son that he was, therefore, the automatic heir. J. claims that M. is not the heir because when her father died he was not yet born: "By the time of the funeral, he was still in the mother's stomach I know that. If he is

denying, then we shall bring you about ten elders who even have grey hair and these will tell you the truth." J. reported him to the police in Buwama:

"I know where I was given. He sold some plots of my land and I took him to Buwama and filed a case against him and judgment was done and I won."

J. says that the squatters M. sold the land to are threatening to kill him for misrepresenting the land in the surveys:

"The land was surveyed three times when we were fencing it, and it was M. himself who was showing the surveyors the land. We first surveyed the land and it was him showing the surveyors where the land passes. Then we again surveyed each of these children's land. It was M. again directing the surveyors where each land passes. We did it the third when he had not accepted, and it was him showing the surveyors, that you pass here and here. For the three times, and those ones (girls) were not around. Even if you call the surveyors they can tell you that surveying the land was done three times. Now the problem he has is that when people turn against him, he says those people stole my land."

J. and the sister have tried to negotiate with the squatters over the land, but M. has evaded meetings despite being summoned by the clan leader. J. is determined to pursue the case. She is happy with the AGO and has found it helpful.

of the process. The relatives took advantage of the sad situation and took most of the land left by the deceased. S. lives with her children and is a widow, an orphan and the only surviving daughter of the deceased. But she is content with the little land that she has for subsistence farming. She is living in her late husband's home, and she is no longer bothered with the rest of their property

S.

S. (32) is a daughter of the deceased K.S., who left a clear will dividing his property equally among his children. The process of working on the letters of administration took a long time, as the children were very young and unconcerned to expedite the process. Some time later, the boys approached her to lead the process to acquire titles for the land through the AGO, but she refused, as they had sold part of the land without her knowledge and wanted to do the same with the remaining land. S. informed the paternal uncle and guardian about the boys' intentions. The uncle took action to survey the land to ensure fair distribution, but died before completion

Annex 3 - The community dialogues

Introduction

A community dialogue on legal inheritance rights was held at UMWA Training Centre, Kisaasi in 2009. Over 80 women and men from Kampala and neighboring areas of Wakiso, Mityana, Luwero, Mpigi, Entebbe, Gayaza and Mukono, among others, attended the dialogue. They included religious leaders, women members from Get Smart Rural Women's Group and individuals. Representatives from Women NGOs such as FIDA, and the media fraternity NTV, Record TV, WBS, Bukedde, New Vision, and Mama FM were also present.

The dialogue mainly focused on the issues below:

- sharing knowledge on succession law;
- brainstorming on whether women have benefited from the AGO;
- case studies on how women beneficiaries of the deceased property have interacted with the AGO and challenges encountered;
- sharing experiences of women in securing and retaining property inherited through statutory structures;
- barriers to women's access, control, and ownership of inherited property such as land and estates among others;
- procedures on public use of the AGO;
- drawing recommendations on easier access and utilization of the AGO;
- sharing lessons learnt from the dialogue; and
- way forward.

The media recorded women's voices and concerns that were later broadcast on radio and television.

Sarah Tibaidhukira welcomed participants and firmly pointed out that the dialogue was critical, as the succession issues concern all families and affect the nation's development. She urged participants to be open and to share their experiences concerning succession for the benefit of all present.

The dialogue was conducted in Luganda, using participatory and interactive approaches. It also employed various adult education methods such as participatory dialogue, testimonies, questions and answers, case studies, brainstorming, and intensive group discussions followed by plenary presentations and citation of most lessons learned.

It should be noted that the dialogue was a very heated one that evoked mixed emotions expressed, particularly, by women who felt disgruntled with the AGO. A few women who had received help from the AGO expressed their sense of luck. This report presents the highlights of that dialogue.

Knowledge of the succession law

The facilitator (Sarah Tibaidhukira) opened the discussion by assessing participants' knowledge on the succession law. While men have limited knowledge of succession law, women have even less. The factors responsible for this imbalance can be attributed to gender expectations that deny women access to knowledge about basic human rights.

The following is a reflection of popular misconceptions about the succession law:

- one participant said that he understood inheritance to include the will;
- Moslems recognize only the Sharia law to distribute property; the rest of the laws don't apply to them;
- the inheritance law is only there to distribute money and property of the head of the family;
- women do not own property;
- the inheritance law doesn't benefit every one; and
- the law is only there to benefit the rich and not the poor.

Reactions: questions and clarifications

Facilitator (**Goretti Mayiga**) from **FIDA-Uganda** clarified and reviewed some of the provisions within the succession law and asked participants to predict who would inherit property when a woman dies. Participants responded in favour of the children, only to be shocked to learn that the husband inherits the deceased's property. She articulated various obstacles that hinder women from right to property including cultural beliefs, work expectations, and lack of confidence in processing claims.

In response to the above insights, participants had the following concerns/questions:

- When do we use the succession law?
- What could happen if one dies without leaving a will?
- Should children of the female inherit property of their mother that she could have inherited from her father?
- What happens if one's will leaves out some of the dependents or obvious beneficiaries?
- What are the rights of non-biological children to property inheritance?
- What can we do to prevent those people who use the dead person's thumbprint to forge a will?
- What if the deceased forgets to mention one of his debtors?

One facilitator, (Ms. Mayiga), clarified that there are two ways to handle such instances, namely:

Testate (where there is a will) and **intestate** (where there was no will left behind). She explained that if a will is rejected by family members, the case falls under the intestate category and the Government, represented through the AGO, takes over the distribution of the deceased's property.

She explained that any person 21 years and older can make a will distributing their property as they wish. If the will is fair and uncontested, it is executed as it is. If contested, the office of the Administrator General takes over the deceased's property. Biological children are entitled to a percentage; likewise, dependents are provided with something. Children

of a female can succeed to their mother's property if the will explicitly states so. Creditors/debtors are advised to have written agreements.

She also urged participants, especially women, to be in charge, even in times of grief, and to stand up to opportunists, particularly those relatives who immediately demand car cards, land titles, keys and other things.

ANNEX 4 - Brainstorming session and case studies: Have women benefited from the AGO?

J.K. was bitter about her experiences with the AGO. She had been the nurse of her late father and he had promised that she would inherit his property on his death. Her case has been going on for 17 years and she claims that the AG “connived” with clan members who were richer and more powerful than she was, to take over her estate. Her file is not traceable and she is uncertain what to do next.

E.M. is also bitter about her experiences with AGO and claims there is corruption in the office. She is also unhappy about the urban location away from grassroots interests, the fraudulent claims of conmen and the office’s unhelpful atmosphere.

N.S., from Mulago, said that she lost both the property of her late father and husband to people who claimed to have been officers from the AGO. She believes the office is full of conmen.

M.K., from Busukuma–Wakiso, said that the AGO is very distant from the intended beneficiaries. In his opinion, the radio, and Mama FM, in particular, has done a better job of guiding and educating him on pertinent issues.

S.H. told fellow participants that he has an organization that gives services to property rights seekers that he started when he recognized the loopholes in the AGO. He feels it is a corrupt institution concerned with the rich, and too far from ordinary people to benefit them. He also argued that the religious law (i.e. the Sharia law) is better than this office.

One participant told the story of his late sister who made a will in favour of her only surviving daughter. He came to discover that the succession law only provides one to be the heir of the deceased, but not to inherit his/her property. His niece lost the case and greedy clan members took all of her late mother’s property.

Another participant also noted that the AGO is full of corrupt officials. According to him, this office has been abused and is now compromised by many conmen.

N.A., of Kommamboga central zone, described how she and others were ordered to vacate a 20-acre piece of land on which they were residing or else provide proof of ownership of the land. She and the others involved approached the Deputy AG who requested that they present documents they do not possess. She said that a tycoon connived with a Resident District Commissioner (RDC), operating outside of his jurisdiction, to obtain the land. Her own area RDC has done nothing to assist them.

S.K. says the AGO is unhelpful and actually creates more conflicts than it solves. He, too, saw it as an office for the rich and powerful and he urged Government to set up local offices as a means to limit interference by conmen.

N., of Mulago zone, had inherited property that was then sold off by her stepmother. When she went to the AGO, she found a falsified will in this office that made it difficult for her to reclaim her land.

Another case was also presented about a man who had three wives, each of whom had her own children. Upon her husband’s death, the housewife took all of the property, land title and the car, and was the first to go to the AG to report that clan members were forcibly taking her property. The AG took the side of the woman against that of the clan members.

N.A., of Nabbaale sub-county Mukono district, attributes current property wrangles to the failure of the AGO, which has not taken up its mandate of sensitizing people about access to its work. He felt the Government should be urged to do this.

R.K., a local woman activist from Nabbale S/C-Mukon, has, together with her Smart group members, stood up for their property rights and won various cases against property smugglers. She cited a case, in which she and her fellow community members confronted one officer who claimed to be an agent from the AGO. She said that they

apprehended him and took him to the police and that he has never threatened them since.

N.B.J., of Kitambuza-Kanyaya, is an LC leader. She said that one could get help if one goes to the AG with all of the required documents. Empowered by knowledge from UMWA's "Get Smart project", she approached the LC about a land dealer who issued eviction letters to squatters who were occupying land he had purchased. She defended her case in the Magistrate's court in Habweru, by pointing out that the accused had even used a mentally-impaired person as a witness. These land dealers had also claimed to be officials from the President's office, which she discovered to be false through her own investigations at Okello house.

Sarah Tibaidhukira, the facilitator, also gave her own experience with the AGO, which she said was positive. When her husband died four years ago, some of her in-laws asked her son for his father's car card and bank account details at the funeral. She added that she had to be strong and brave at that trying time to get possession of all of the important documents including a LC letter, death certificate and others that she later presented to the AG. She noted that although it took her about four months, she never had to pay any money to the AG, apart from the money for the newspaper announcement. She added that having full knowledge of all of her late husband's property and documents helped her to win the case. She advised that to benefit from this office one has to be aware of its existence and location, and to be prepared to be strong in pursuit of a claim. She went ahead to say that the AG only helps if one has full knowledge of all the documents left behind by the deceased regarding the property/estates as well as their location. She also noted that clan members can be tenacious in their appeals for land and she cited the fact that she had to present the AG with a letter of no objection again, in 2009, when her in-laws attempted to confiscate her late husband's land in the village. .

Procedures on accessing or utilization of the AGO

G.M., a representative from FIDA Uganda, led this session where she began with an insight into the operations and procedures of the AGO. It was an eye-opening session and

participants were very excited about receiving such useful information.

Below is a summary of her account:

She began by identifying the physical location of the AGO Amam House, behind the Central Police Station (CPS). She told participants to present their cases first to the LCs and to persevere. She pointed out the existence of an office at every local police post that deals with property issues. She also advised relatives in possession of wills to convene with the executor/overseer and to go to the AG, who issues a letter of no objection. This letter enables the family members and/or dependents to get an order to take the matter to court.

In addition, she also highlighted some of the offices that can help in this regard, including:

- FIDA – Uganda
- Legal Aid Project
- The AGO in Kampala
- The District Chief Administrative officer (CAO)
- Women's NGOs like FIDA, UMWA/Mama FM, UWONET, CEDOVIP, radio stations among others

She then outlined the steps and procedures required in the public use of the AGO:

Step 1: Reporting to LC

How can one access the AGO very fast?

Firstly, one has to report the death of a relative or loved one to the LC I with a copy of the death certificate in hand. One has to be in possession of the will and other important documents before proceeding to the AGO. At this point, she led participants into identifying the contents of a properly made will.

Contents of a will

The facilitator sought contributions from participants on the contents of a properly made will. The participants mentioned most of the contents of a will. These were then discussed together in a plenary and a few gaps were observed. The facilitator then guided participants on how to make a will.

A will should be made in at least three copies with the following contents:

- date of the making of the will;
- name of the owner of the will;
- age of the owner of the will;
- name of partner/spouse/s;
- number of children of the owner of the will (also stating children outside marriage or relationship);
- should state that this is my last will (to rule out any other will(s) that may have been made previously)
- physical address of the owner of the will;
- all particulars (including ancestral background i.e. clan, ancestral lineage etc.);
- physical location of official residence of the owner of the will;
- a detailed list of property and estates of the owner of the will (where and how much);
- list of all biological children;
- list of all dependents;
- identity of the Guardian and their roles as caretaker of the deceased's dependents and his property;
- identity of the Executor (who should have no attachment whatsoever to the family). Sometimes it is advisable to choose a partner who will take charge of distributing the property/estates;
- length of time you have spent with the partner(s) and number of children you have had together;
- clear distribution of the property/estates, specifying who is taking what;
- account of all debts and debtors of the owner of the will, if any;
- wishes i.e. time and place of burial, how you wish your last funeral rites to be handled etc.;
- there should be at least two witnesses to sign the will. These should not have any share in the deceased's property;
- identity of the person you have left the will with, as well as those who have copies of the same will;
- when making a will, one should be fair, just and truthful;
- a good will should be made by a person with a sound mind;
- a will can be made in any language and order does not matter;
- the law provides that the will should be made in secret. Thus, it should not be made in the presence of a partner, children or any other person of interest;
- people should carefully choose the right people to be present when making a will; and
- it does not matter who writes the will as long as the owner is present, and is of a sound mind and approves of it.

She urged both men and women present during this workshop to inform their colleagues back home to always make their will in private.

She advised women to start writing wills and to learn how to fight for and demand their property, including that which they have contributed to during their marriages or relationships. She urged the women present to change their approach by using non-aggressive language when requesting their property.

After making the will and death occurs:

Step 2: Filing a case with the AGO

- The will is read to the rest of the family and is agreed upon according to the deceased's wishes.
- The next step, is to go to the AGO and open up a file or follow up an existing file. At the AGO, family members will present the LC letter and death certificate.
- The family meets with the AG and agrees on the distribution of property

Step 3: Family meeting

At this point, she cautioned people to learn to sit together with the family members and tell them about details of their

property before they die so as to avoid later wrangles for the bereaved.

When is the family meeting called?

She made it clear that the AG bases their information on those who approached him (may be family members or relatives or any other person interested in the property) whether rightful beneficiaries or not. Normally, the notice of this meeting is announced privately at the AGO and is not made public.

The AG then calls a family meeting for all family members. She went further to explain that at this point, **letters of administration** can be used only if there are misunderstandings with the will; thus, making the will invalid. Otherwise, the AG will then discuss the contents of the will together with the family. She also noted that **letters of administration** are given to at least two or three executors, and if the dependents are below 18 years of age, the AG takes over the distribution of the property.

Step 4: The Probate

After the **letter of no objection** is issued to the family members, the AGO seeks court order to distribute the deceased's property.

Court gets involved with the letter of no objection. Normally, a notice appears in newspapers of choice and the petitioner(s) is/are responsible for the cost of this advertisement. The Probate or the power of administration of property is given to the executor by the Government.

However, for estates below 50 million Ugandan shillings, the family has to report the matter to the chief magistrate, while for those estates valued above 50 million Uganda shillings, the case is handled by the high court and the Administrator General (AG).

After probate, the guardian is authorized to distribute the property amongst family members and is required to give a full report about distribution to the AG.

Reactions: questions and clarifications

After that insight, participants expressed the following concerns:

One participant asked whether the AG has the authority to distribute property without hearing both sides of the story!

The facilitator responded by discouraging the use of middlemen. She advised concerned parties to approach the AG personally, given that the AG bases their case on the claims of those with whom they have contact. Therefore, she urged participants to persevere until justice is done.

Another participant asked: If one makes a will and commits suicide the next day, what happens?

The will is disqualified because it means it was not made in the right state of mind.

N.A. *sought clarity about what happens if one partner dies in cases of unofficial marriages like cohabitation, especially among the youth?*

The facilitator clarified that the law does not recognize cohabitation, but cohabiters can agree with clan members to share the property equally. If children are involved, then the property becomes theirs. However, she advised cohabiters to always share their property when they are still alive in order to avoid misunderstandings later.

One participant also warned that some people have gone to the extent of using the dead person's thumbprint to forge wills.

The facilitator also pointed out the types of marriages that are legally recognized. These include:

- customary marriage, particularly with proof of an introduction certificate and a letter from the girl's parents;
- religious marriage, i.e. church and mosque; and
- DC/CAO (government), normally performed in civil courts.

She noted that the fourth type, which is **Cohabitation**, is still debated under the Domestic Violence Bill, and has not yet been fully recognized by the law.

Mrs. S. *from Kasala Kyabakadde, Nabbale S/C Mukono district said that she is an orphan, and presently living on her late*

brother's land. She lamented that she was afraid of her sister-in-law who is also the heir to her late brother's land. She said that she had denied her access to or use of the land. She also added that the sister-in-law went to the extent of destroying all of her crops and even attempted to poison her food. She wondered what she could do, as she is scared that this woman might try to kill her again.

B.M., also from Nabbale S/C-Mukono district sought clarity about what would happen if the guardian fails to fulfill their duties?

The facilitator clarified that the property then goes to the rightful owners. However, the aggrieved is free to take the guardian to court. In law, this is called intermeddling in the process. When a guardian abandons their duty, the family members can agree to have another person take over the role.

The succession law formula on property/estate distribution

G.M. stated that when there is no will left behind, the succession law is applied to distribute the property among family members. In the case of the wife dying, property is distributed as follows:

- 75 percent goes to the children
- 15 percent to the husband
- 9 percent to the dependents i.e. grand parents, sister, brother, parents, niece or nephew and others
- 1 percent to the heir

If a man dies:

- 75 percent goes to all of the children
- 15 percent to all of the women i.e. it is shared equally among all the women
- 9 percent to the dependents
- 1 percent to the heir

Again, she explained that if a person dies without leaving behind biological children then:

- 75 percent goes to wife or spouse
- 15 percent to family relatives
- 9 percent to the dependents
- 1 percent to the heir

For those who die without making a will and without biological children, property goes to their immediate relatives or those people they have been living with before death. For those who die with no will, the government formula applies.

Reactions: questions and clarifications

One participant sought clarity about whether those children (especially those by the woman) from the previous marriage/relationship are entitled to any property?

The facilitator clarified that children from a previous marriage/relationship are also recognized as dependents. However, she urged participants to ensure that they clearly spell out the shares such children have, if any, in the will to rule out future misunderstandings.

Another participant, who pointed out that she was not legally married, asked what she could do since her in-laws took over her late husband's property.

The facilitator cautioned her that the law will seek to establish whether she was legally married or not. However, she reminded participants that brothers and sisters of the deceased are encroachers and are not legally recognized as rightful claimants of the deceased's estate.

S.N. also sought clarity about why she was denied her share of her late father's property when the will clearly indicated she was a dependent. When she presented her case to the clan members they advised her to consult her matrilineal relatives.

At this stage, the facilitator asked participants to advise her, and, following a debate, they suggested that she take the case to the AGO.

N.W. *enquired about what would be his wife's share in case he died after spending only five months in that relationship?*

The facilitator clarified that the wife, in that case, is entitled to a share of the property left behind. She also pointed out that if the wife has documents proving her ownership of property, she could stand a better chance of making a successful claim. Again, she appealed to the cohabiters to endeavour to share their property when they are still alive, so as to avoid future misunderstandings.

Another participant imagined a scenario about a man who has been involved with about five different women, each with her own children. When this man dies, what happens to the inheritance rights in the case of the last wife he has been living with, who has had no children with him, but has contributed a lot to the home?

The facilitator stressed that all of his children, irrespective of their mother, have equal rights. The five wives have to share the 15 percent. But she noted that this percentage only applies when there is no will left behind. Regarding the current wife's contribution to the home, she can only claim for that property for which she has proper documents bearing her names and not reading Mrs. "So and so".

She concluded the session by imploring all women to ensure that the properties they have acquired have ownership in their own names and not that of their husbands.

She also listed some of the organizations that women can approach to seek justice. These include:

- the AGO in Kampala;
- the District Chief Administrative officer;
- women's NGOs like FIDA, UMWA/Mama FM, UWONET, CEDOVIP, radio stations, among others.

Barriers to women's access, control, and ownership of inherited property

The unfriendly environment at the AGO

The urban location of the AGO, its intimidating physical structure for rural women, the cost of getting there or paying middle men as substitutes, the long lines, time investments

and administrative fees were identified as major problems for most. In addition, the staff of the AGO is not sensitive to village women; a factor that alienates them. Corruption and the presence of conmen posing as AGO officials were experienced by many. Most felt that local offices would improve accessibility and solve some of these other problems.

Cultural factors

The cultural practice of wife inheritance is an obstacle to women's inheritance and ownership of property as women are viewed as objects themselves to be passed from one man to another. Traditional practices also forbid women from inheriting property. Women also alienate in-laws by including their own family members in living arrangements following the death of a spouse.

Ignorance

Sensitization of people at the grassroots about succession law and basic human rights has been unsuccessful in targeting women effectively. Women do not feel able to articulate their cases well because of this lack of education and they are, therefore, afraid to approach the AGO.

Poor systems and political interference

Poor administrative systems laden with bureaucracy as well as political interference hampers the process of access to justice for women.

Poverty

Rural dwellers lack the economic resources to cover the costs of transportation, newspaper advertisements and other administrative fees required to process claims; hence, the need for local branches of the AGO.

Religion

Women suffer from biblical edicts that subordinate them to men.

Moral decay

Moral decay in the society is manifested in terms of neglect of proper child-rearing, which results in the general

ill-treatment of women. Women are also considered to be irresponsible when they allow their new lovers the use of the property of their deceased husbands.

Lack of assertiveness and stamina

Expectations of submissiveness in women result in their lack of assertiveness and stamina in pursuing justice, especially when they are hurt or exploited.

Recommendations on the public use of the AGO:

- the AGO should be decentralized and extended to the LC level for ease of access for all;
- people in administrative positions should learn to be empathetic to those who seek justice;
- there is a need to sensitize grassroots women about the AGO i.e. its physical address, operations and the procedures to follow;
- communities should be sensitized to do away with cultural practices that are oppressive to women and to adopt those that promote equality for all;
- women should register all of their property in their own names and not those of their husbands;
- women should learn how to question their husbands about property/estates;
- women should learn to be faithful and take charge of the property entrusted to them;
- parents should start giving equal opportunities to both boys and girls;

- UMWA and partners should bring such educative workshops closer to the people at the grassroots; and
- UMWA should also invite the AGO to be present at events regarding succession and property rights.

Lessons learned

Plenary discussions allowed participants to share what they have learned from the dialogue:

- participants learned that they should put aside grieving and immediately process their claims with the AG;
- partners/spouses should be open to each other regarding property/estates, and also involve their children in these issues;
- women should learn to exhibit vigilance and determination, so as to prove that they are able to take charge of the property entrusted to them;
- women should desist from selling off the deceased's property, even if they have the AG's letter of no objection;
- cohabiters should also learn to share their property among themselves while they are still alive, and should involve other relatives;
- people in high offices should learn to be empathetic and tolerant to people who approach them for support; and
- the majority, especially women, lack information on the law and have misconceptions which need to be demystified.

Appendix 1

Wakiso district

Wakiso district is located in the central region of Uganda with an estimated population of 957,280 people (Census 2002). It was created in 2000 and was carved out of Mpigi district. Wakiso district started receiving cases from the Administrator General's Office in 2003. Previously, cases were handled by the Chief Administrative Office in Mpigi district. Mpigi district was specifically included in the study to allow the team to trace cases handled before 2003.

Wakiso district has a total of 15 sub-counties from which 9 were selected to be part of the study. The selected sub-counties include: Wakiso T/C, Nangabo, Busukuma, Kiira, Ssisa, Nsangi, Gombe, Kakiri, Katabi and Makindye. Among the nine sub-counties, the following five sub-counties were selected as possessing cases worthy of follow-up: Wakiso Town Council (16 cases), Nangabo (8 cases), and Busukuma (6 cases), Ssisa (5 cases) and Kiira (4 cases).

Mpigi district

Mpigi district is one of the 48 districts of Uganda that were decentralized under the Resistance Council Statute No. 15 of 1993. It is situated in the central region of the country, often referred to as Buganda region. It borders with the districts of Wakiso in the northeast and east. The district has an estimated population of 407,790 people (Census 2002). It has a total of 16 sub-counties from which the following 8 were selected for inclusion in the study: Maddu, Nkozi, Kiringente, Bulo, Mutuba 1, Buwama, Kibibi and Mpigi Town Council. Unlike in Wakiso district, the cases worthy of follow-up in Mpigi District could not be limited to particular sub-counties. Researchers had to select the 23 cases they used from all of the sub-counties in this district.

In total, 62 targeted women beneficiaries were interviewed, but only 29 cases were identified as appropriate to the objectives of the research.

Those 29 beneficiaries of AGO services were interviewed in the two districts to establish how its practices translate into women's control and ownership of land. In addition, two Chief Administrative officers from the two districts and nine sub-county chiefs were interviewed. They reflected on their roles and offered their perspectives on how women beneficiaries accessed and retained their inherited land.

Description of the data collecting instruments

The research team developed several instruments that enabled it to collect the required information from the targeted groups of people, including the following:

An interview guide

An interview guide was developed and used to collect information from the study sample. The guide included the following variables:

- the personal profile (age and relationship to the deceased);
- gender of beneficiaries;
- relationship of the beneficiaries to the deceased;
- who is in charge of the land acquired;
- who is using the land;
- reasons for going to the AGO;
- whether the case was concluded or not;
- person who makes final decisions over the land;
- challenges faced;
- views on how the AGO handles cases; and
- how services of the AGO can be improved.

Figure 4: Questionnaire used to collect information for the study

PARTICULARS OF THE RESEARCHER

Name of Researcher

Date of interview

LOCATION OF THE ESTATE

Sub-county

Parish

Village

PARTICULARS OF THE RESPONDENT(S)

Tel:

1. Full names	2. Sex 1. Male 2. Female	3. Age	4. How were you related to the deceased? 1. Widow(er) 2. Son 3. Daughter 4. Father/Mother 5. Grandson 6. Sister/Brother 7. Parent 8. Other (indicate)	5. Tel. contact
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PARTICULARS ABOUT THE DECEASED

6. Full names

7. Age at death

8. Sex

9. Religion

10. Was the deceased married in church/civil court?

11. When did XXXX die?

12. What was the cause of death?

13. Did XXXX leave a will? (circle one) 1. Yes 2. No

14. Full names
(begin with 1st respondent)

15. Sex
1. Male
2. Female

16. Age

17. How were you related to the deceased?
1. Son
2. Father/Mother
3. Grandson
4. Sister/brother
5. Parent
6. Other

18. Tel.
Contact

All of the widows (begin with one in church/court)

19. How many pieces of land did the deceased have?

20. Give details about the land

Piece No.	21. Location	22. How big? (record as stated)	23. Who is in charge of this piece? 1. Children Male 2. Children female 3. All children 4. Widow (s) 5. Parents 6. Son to deceased 7. Other (specify)	24. Who is currently using this piece of land? 1. Children - male 2. Children - female 3. All children 4. Widow (s) 5. Parents 6. Others (specify)
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1.

2.

3.

4.

5.

INTERACTION WITH OFFICE OF THE ADMINISTRATOR GENERAL

25. What was the reason for approaching the AGO?

26. What is the case file number assigned to your case at the AGO?

27. Has the case been concluded? 1. Yes 2. No

28. Please explain why you think so.

29. Who is currently in position to make final decisions over the estate? (Full names)

30. How is s/he related to the deceased?

Child Male

Child Female

All children

Widow

Parents

Others (Specify)

31. What are your views on how the AGO handles cases like yours?

32. What do you think should be done differently by the AGO in handling of cases (services)?

Focus Group Discussion (FGD)

A Focus Group discussion guide was developed and used to collect information from nine sub-county chiefs from the two districts.

THE ULA and UMWA Focus Group discussion guiding questionnaire that was used to interview the chiefs in the two districts

1. What is the relationship between your offices and that of the CAO and the AGs?
2. When did you start handling cases from the AG's office ?
3. What steps/procedures do you use when handling the cases from the CAO's office?
4. Do you think women have benefited from your services in so far as the deceased's distributed property in particular land is concerned ? If yes, how ? If no, why?
5. What challenges do you face during the execution of your tasks at all levels?
6. What measures have you put in place to overcome the challenges you are facing?
7. Do you have a monitoring system for the cases that you handle?
8. Do you get feedback after your intervention?
9. How do you rate the relationship between your officers, and those of the CAO and the AGO?
10. What do you think can be done to improve your services and those of the AG's office?
11. Do you have any questions for the research team?

In-depth interview guide

An in-depth interview guide was also developed to collect data from the Chief Administrative officers of the two study districts. The in-depth interview guide included the following variables:

- the relationship between the CAO's office and that of the AG;
- period when the CAO's office started handling cases from the AG's office;
- procedure used to handle cases from the AG's office;
- number of women who have benefited from the CAO'S office and the AG's office;
- challenges faced in handling cases from the AG's office;
- measurements in place to mitigate the challenges;
- monitoring and feedback systems in place for the AG's office; and
- what can be done to improve the office's handling of cases from the CAO's office and the AG's office.

The ULA & UMWA in-depth interview guide used to interview the chief administrative officers in the two districts

1. What is the relationship between your office and that of the AG?
2. What is the relationship between your office and that of the sub-county chiefs?
3. What is the role of your office regarding the mandate of the AGO?
4. What steps does your office take when your office receives communication/letters from the AGO?
5. Have the women in the communities/at grass roots benefited from the AGO and your office services? If yes, how? If no, why?
6. What challenges does your office face when executing tasks from the AGO?
7. What measures have you put in place to overcome the challenges?

8. What can be done differently to improve the AGO services?

Results from the questionnaire used in the communities

Reasons for approaching the AGO:

Acquisition of letters:

Twenty respondents interviewed in the two districts reported that they went to the AGO to acquire letters of no objection and letters of administration in order to change the names of the deceased from all relevant documents to the names of those persons granted letters of administration.

Halting transactions on land:

Five respondents opted to go to the AGO to stop their relatives from transacting business on the land before it was legally distributed among all the beneficiaries.

Withdrawing money from the Bank and processing:

Two respondents reported to have gone to the AGO in order to be granted authorization to withdraw money from the deceased's bank account to utilize it to finish the deceased's graves. Otherwise, they went to this office to acquire letters to help them process payments.

Processing payments and pension benefits:

Two out of the 29 respondents went to the AGO to acquire the letters that would help them to process payments and pension benefits of the deceased on behalf of the beneficiaries.

Cases concluded:

Eight cases were concluded while the seven that had not been concluded chose to seek other mechanisms for justice.

Persons who make the final decisions concerning the land:

Twenty-one of the 29 respondents mentioned that the children are always consulted concerning land. All family members are consulted if the land is intended for use.

Ten out of the 29 respondents mentioned that children make the final decisions about land.

Challenges faced with the AG

None:

Nineteen out of the 29 respondents were satisfied with the process of acquiring letters of administration and no objection through the AGO's office.

Sale without consent:

Sixteen out of the 29 respondents mentioned that the persons who acquired letters of administration went ahead and sold off the land without their consent or without consulting them.

Process expensive:

Twelve out of the 29 respondents mentioned that much money was required to process and acquire the letters of administration.

Lack of proper documentation on land:

Eighteen out of the 29 respondents mentioned that there was no proper documentation to support them as beneficiaries of their land.

Views on how the AGO handles cases

Intervention helpful:

Twenty-four out of the 29 respondents mentioned that the intervention was helpful.

Operations take long and are expensive:

Twelve out of the 29 respondents mentioned that the operations in the AGO take a long time and are expensive.

How AGO services can be improved

Reduce bureaucracy:

Twenty-five out of the 29 respondents mentioned that the process of acquiring the letters of administration should be shortened.

Local language should be used:

Twenty-two out of the 29 respondents interviewed mentioned that there is need to use all languages to enable the illiterate to state their claim.

No necessary changes:

Ten out of the 29 respondents mentioned that the process was satisfactory and did not need reform.

Reduce amount required:

Twelve out of the 29 respondents mentioned that there is need to reduce the cost of different transactions.

The interview guides (transcribed pieces of recorded narratives)

Interview guides were used to collect narratives from 7 of the 17 women respondents in both districts. These women were selected based on the interesting testimonies they gave during interviews.

Variables considered in the interview guide included:

- challenges to the women's control of the inherited land;
- parties threatening their access and control;
- plots to deny women their land rights (access and control);
- collaborators in denying women their rights;
- defense mechanisms (agency);
- supporting entities (persons and institutions); and
- outcome of the case.

Procedure for selecting the rightful beneficiaries for the research

The research team paid courtesy calls to the CAO's offices and held discussions with the Deputy Chief Administrative officers. The purpose of the visits was to introduce the project, its aims and its objectives. In addition, the visits were also aimed at building a working relationship between the district and the two organizations that are conducting the research.

Discussions were also held with the Deputy Chief Administrative officers (DCAOs) of Wakiso and Mpigi who briefed the team on the relationship between her office and the Administrator General's Office, and the general operations of the office regarding succession issues. The DCAOs authorized the team to access the information and to work with the Records Offices where the relevant information was obtained. Further discussions were held with the four Records officers in each district to establish the best way of identifying the possible respondents to be traced. Researchers realized that it would not be easy to locate the sample cases obtained from the AG's office in the district records due to the manual filing system. These initial visits were followed by consultations with MISR where it was agreed that fresh analysis was needed at the district level to identify additional respondents to increase the sample size. While tracing respondents, the team decided to include the cases analyzed from the original study conducted by ULA.

Sample selection criteria

In Wakiso, selection criteria was as follows:

- 2003 and 2004: The team selected every twelfth case in each of the files i.e. 12, 24, 36, 48, 60, 72, 84, 96, 108, and 120;
- 2005 to 2007: The team randomly selected five files per year and out of these files, they selected the 25th number from each of the files i.e. 25, 50, 75, 100 etc.; and
- where there was not enough documentation on the selected cases, the researchers used their discretion to select the nearest relevant case.

In Mpigi, selection criteria was as follows:

- the research team selected every fifth case in each of the files i.e. 5, 10, 15, 20, 25, and 30.

Below is the tool that was used to obtain the sample for the study from the district records office:

Figure: The data capturing tools used at the district

File Vol.....

Date opened.....

Date closed.....

Record No.	Name of deceased	Reported date of death	Sex
S/C	Parish	Village	

Remarks: (Availability of widow, no. of children, any girls? AG's decision):

File Vol.....

Date opened.....

Date closed.....

Record No.	Name of deceased	Reported date of death	Sex
S/C	Parish	Village	

Remarks: (Availability of widow, no. of children, any girls? AG's decision):

Phase I:

Record No.	Name of deceased	Reported date of death	Sex
S/C	Parish	Village	
Particulars of beneficiaries Surviving biological children (indicate ages):			
Particulars of other dependents: (sex and relationship to deceased)			
Particulars of deceased's estate/ land			
Name and contact of person granted letters of administration.			

Phase II:

Record No.	Name of deceased	Reported date of Death	Sex
S/C	Parish	Village	
Particulars of beneficiaries Surviving biological children (indicate ages):			
Particulars of other dependents: (sex and relationship to deceased)			
Particulars of deceased's estate/ land			
Name and contact of person granted letters of administration.			

The table below shows the categories of the participants interviewed in the two districts and their totals

Category	Wakiso District	Mpigi District	Total
Chief Administrative officers (CAO'S)	1	1	2
Chiefs	3	6	9
Women Beneficiaries	16	13	29



Our Mission

A global alliance of civil society and intergovernmental organisations working together to promote secure and equitable access to and control over land for poor women and men through advocacy, dialogue, knowledge sharing and capacity building.

Our Vision

Secure and equitable access to and control over land reduces poverty and contributes to identity, dignity and inclusion.

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This work was carried out by **Uganda Land Alliance (ULA)** and the **Uganda Media Women's Association (UMWA)** as part of a 3-year collaborative project entitled "Securing Women's Access to Land: Linking Research and Action," coordinated by the International Land Coalition (ILC), the Makerere Institute for Social Research (MISR) of Makerere University in Uganda, and the Institute for Poverty, Land and Agrarian Studies (PLAAS) of the University of Western Cape in South Africa.

Its overarching aim was to learn from women and respond to their needs through action-oriented research. The purpose of the research carried out under this project was not only to provide an evidence-base for advocacy on women's rights, but also to strengthen the research and advocacy capacity of civil society organizations, and to build a platform to advocate for a transformative agenda that supports rural poor women to improve their access to and control over land and other natural resources, including the building of linkages with the wider advocacy relationships and programmes of the ILC.

This report is part of a wider initiative on Women's Land Rights (WLR). If you would like further information on the initiative and on the collaborating partners, please feel free to contact the International Land Coalition.